

UPDATED

ZONING CODE

Lowell, Massachusetts

With Supplements

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CHAPTER 31.

ZONING.¹

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¹ For law of the commonwealth as to zoning regulations, see G. L., C. 40A. As to planning board, see sections 2-37 to 2-39 of the City of Lowell Code. (Hereafter referred to as this code)

ARTICLE I. IN GENERAL.

Sec. 31-1. Definitions.

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

Accessory building. A building devoted exclusively to a use subordinate to the principal use and customarily incidental to the principal use of the lot.

Accessory use. A use subordinate to the principal use and customarily incidental to, and on the same lot as, the principal use.

Dwelling, multi-family. A building arranged, intended or designed to contain three or more dwelling units.

Dwelling, one family, detached. A dwelling with no party wall or walls arranged, intended or designed as the home or residence of one family.

Dwelling, one family, semi-detached. A dwelling with a single party wall, arranged, intended or designed as the home or residence of one family.

Dwelling, two-family. A dwelling arranged, intended or designed as the home or residence of two families, each family occupying a single dwelling unit normally situated one above the other.

Dwelling unit. A room or group of rooms forming a habitable unit for one family, used or intended to be used for living, sleeping, cooking and eating.

Floor area, gross,

(a) 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 center lines of walls separating two buildings, including:

(1) Roofed porches and balconies, whether enclosed or unenclosed, and unroofed porches and balconies, whether enclosed or unenclosed, and unroofed porches and balconies above the second floor.

(2) Elevator shafts and stairwells on each floor,
(3) Attic space, whether finished or unfinished, except as hereafter excluded,
(4) Interior balconies, mezzanines and penthouses,
(5) Basement and cellar areas not devoted exclusively to uses accessory to the operation of the building.

(b) The following areas are excluded from the gross areas:

(1) Areas used for parking garages, accessory parking or off-street loading purposes.

(2) Basement and cellar areas devoted exclusively to uses accessory to the operation of the building.

(3) Open or lattice-enclosed exterior fire escapes, and unroofed porches and balconies and no higher than the second floor.

(4) Attic space and other areas for elevator machinery or mechanical equipment accessory to the building.

Floor area ratio. The ratio of gross floor area of a structure to the total area of the lot.

Frontage. An uninterrupted distance measured between lot lines along a single way or along two intersecting ways of the angled intersection, the two ways are greater than one hundred twenty degrees.

Home occupation.

(a) An activity customarily carried on by the permanent residents of a dwelling unit, inside the dwelling unit, requiring only customary home or hobby type equipment, and not involving:

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

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

(3) The making of external structural alterations which are not customary in residential buildings.

(4) The production of offensive noise, vibration, smoke, dust or other particulate matter, heat, humidity, glare or other objectionable effects.

(b) Home occupations include but are not limited to:

(1) Fine arts studios.

(2) Dressmaking.

(3) Teaching of not more than four pupils simultaneously or, in the case of musical instruction, of not more than a single pupil at a time.

(c) Home occupations do not include such uses as:

(1) Barbershops, beauty parlors.

(2) Funeral parlors.

(3) Commercial stables or kennels.

(4) Real estate or insurance offices.

(5) Recognized professions.

Lot area. The horizontal area of the lot exclusive of any area in a public or private way open to public uses.

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

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

Open space, landscaped. The parts of a lot designed and developed for pleasant appearance in trees, shrubs, ground covers and grass, including other landscaped elements such as natural features of the site, walks and terraces, and also including open areas accessible to and developed for the use of the occupants of the building and located upon a roof not more than ten feet above the ceiling level of the highest story used for dwelling purposes. Such space may not include lot area used for parking, access drives or other hard-surfaced areas, except walks, and terraces as noted above, designed and intended for nonvehicular use. Such hard-surfaced walks and terraces may not exceed fifty percent of the total required landscaped open space.

Open space, usable. The parts of a lot designed and developed for outdoor use by the occupants of the lot for recreation, including swimming pools, tennis courts or similar facilities, for gardens or for household service activities such as clothes drying, which space is at least seventy-five percent open to the sky, free of automotive traffic and parking and readily accessible by all those for whom it is required. Such space may include open area accessible to and developed for the use of the occupants of the building, and located upon a roof not more than ten feet above the level of the highest story used for dwelling purposes. Open space shall be deemed usable only if at least seventy-five percent of the area has a grade of less than eight percent.

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

Parking garage or parking area, residential. A building, structure, part of a building or structure, lot or part of a lot designed or used for the shelter or storage of non-commercial motor vehicles used by the occupants or users of a lot or lots devoted to use of uses permitted in a residence district and in which no space is rented for casual or transient parkers.

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.

Sign. Any structure, device, letter, word, model, banner, pennant, insignia, trade flag or representation uses as, or which is in the nature of, an advertisement, announcement or direction, or is designed to attract the eye by intermittent or repeated motion or illumination.

Sign, area of.

(a) For a sign, either free-standing 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.

(b) 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.

(c) 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.

Street. The right of way, including sidewalks, of a public way, or private way open to public use, used or intended for use by automobile traffic, including highways, parkways, alleys, courts and squares used or intended for this purpose, to which owners of abutting land have a right of access.

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.

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.

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.

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. (Ord. No.9, 1966 & 9.)

Sec. 31-2. 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. (Ord.No.9,1966 & 9)

Sec. 31-3. Applicability of chapter.

The provisions of this chapter shall apply to all buildings, structures or land within the boundaries of the city. (Ord.No.9,1966, & 9.)

Sec. 31-4. Interpretation of chapter.

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. (Ord. No. 9, 1966, & 9.)

Sec. 31-5. Effect of chapter on covenants, agreements, etc.

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. (Ord. No.9, 1966, & 9).

Sec. 31-6. Districts - Established; enumerated.

For the purpose of this chapter, the city is hereby divided into five types of residential, four types of commercial and three types of industrial districts as follows:

	Initial	
Residence S1 District	S1	Single family dwellings
Residence S2 District	S2	Single-family dwellings
Residence M1 District	M1	Multi-family dwellings
Residence M2 District	M2	Multi-family dwellings
Residence M3 District	M3	Multi-family dwellings
Business B1 District	B1	Local business
Business B2 District	B2	Limited business
Business B2A District	B2-A	Intermediate business
Business B3 District	B3	General business
Industrial IA District	IA	Warehousing, storage and light manufacturing
Industrial IB District	IB	Heavy industry
Industrial IP District	IP	Industrial parks

(Ord.No. 9, 1966, &9;Ord.No.10, 1966, & 1.)

Sec. 31-7. Same - Boundaries.

The boundaries between districts are as shown on the zoning map. Where uncertainty exists with respect to the boundaries of the various districts as shown on the map, made a part of this chapter, the following rules shall apply:

(a) Where the district boundary is a street or waterway, the boundary line shall be the center line of the street or waterway.

(b) Where the boundary line is indicated approximately parallel to the street, it shall be taken as parallel thereto and unless otherwise indicated, one hundred feet distant from the nearest street line. If there is any variance between the scaled distance from the boundaries to the street line and the distance as market in feet upon the map, the latter shall govern.

(c) Where the districts designated on the map are bounded by lot lines, the lot lines shall be construed to be the boundary lines, unless they are otherwise indicated on the map.

(d) Where a boundary line between districts divides a lot in single ownership upon the effective date of this ordinance, or upon the effective date of this ordinance, or upon the effective date of any amendment changing the boundaries of one of the districts in which the lot lies, the regulations controlling the less restricted part of such lot shall be applicable to as much of the lot within the more restricted part of such lot as lies within twenty-five feet of the district boundary.

(e) When a lot in one ownership is situated part in the city and part in an adjacent city or town, the regulations and restrictions of this chapter shall be applied to that portion of such lot as lies in the city in the same manner as if the entire lot were situated therein. (Ord. No. 9, 1966, & 9.)

Sec. 31-8. Zoning map.

(a) The boundaries of each of the districts are hereby established as shown on the map entitled Zoning Map of the City of Lowell, April 6, 1966, as or hereafter amended, which map is made a part of this chapter. The zoning map and all boundaries, notations and other data shown thereon are made by this reference as much a part of this chapter as if fully described and detailed herein. The map shall be in the custody of the city clerk but filed in the office of the division of buildings of the department of public works. (Ord. No. 9, 1966, & 9.)

Sec. 31-9. Permits and licenses to comply with chapter.²

The inspector of buildings shall not grant a permit for the construction or alteration of any building or structure if such construction or alteration would be in violation of any of the provisions of this chapter, whether by the applicant for the permit or by any other party associated with the property involved; nor shall any municipal officer grant any permit or license for the use of any building or land if such use would be in violation of any of the provisions of this chapter. No building permit or certificate of occupancy or other permit or license shall be issued for land or for a building or structure to be erected on land which at the time of application is designated for the pro-

²As to licenses generally, see ch. 18 of this Code.

vision of off-street parking, as required by this chapter, unless such new construction or use shall continue to make available the required number of off-street parking spaces in addition to the off-street parking facilities required for such new construction or unless substitute parking facilities which meet the requirements of this chapter have been first provided. (Ord.No.9,1966, & 9.)

Sec. 31-10. Reasons for refusal of permit to be stated in writing.

Whenever a permit is refused, because of the violation of some provision of this chapter, the reason for such refusal shall be clearly stated in writing within five days. (Ord.No.9,1966, & 9.)

Sec. 31-11. Filing of plans, specifications, etc., with application for permit.

Every applicant for a permit for any construction, alteration or use of any building or land for which a permit is required by law shall file such written information, plans, specifications or other such data as shall be deemed necessary for the full and accurate exposition of the proposed construction, alteration or use with relation to the regulations of this chapter. Such material shall be kept on file in the records of the office of the inspector of buildings. (Ord.No.9,1966, & 9)

Sec. 31-12. Construction under permits issued prior to amendment of chapter.

Nothing in this chapter, or in a subsequent amendment thereof, shall affect any permit issued or any building or structure lawfully begun before notice of hearing for the adoption of the amendment has been given; provided, that construction work under such permit is commenced within six months after the issue of the permit; and the work, whether under such permit or otherwise lawfully begun, proceeds in good faith continuously to completion within two years from the date of the permit, so far as is reasonably practicable under the circumstances. The issuance of a permit or the beginning of work upon a building or structure or a change of use, after such notice has been given shall not justify the violation of the ordinance or amendment thereto subsequently adopted as the outcome of such hearing and in substantial accord with such notice; provided, that the subsequent steps required for adoption of the ordinance or amendment are taken in their usual sequence without unnecessary or unreasonable delay. (Ord. No.9,1966, & 9.)

Sec. 31-13. Alteration, enlargement, etc., of nonconforming use in business or industrial district.

The inspector of buildings shall issue a building permit and a certificate of occupancy for the alteration or enlargement of a nonconforming structure or the enlargement of a nonconforming use in a business or industrial district; provided, that the conditions are met as set forth in section 31-14. (Ord.No.9,1966, & 9.)

Sec. 31-14. Certificate of occupancy.

(a) No land shall be occupied or used, and no building or structure erected or struc-

turally altered, shall be occupied or used, in whole or in part, for any purpose until a certificate of occupancy has been issued by the inspector of buildings stating that the building and use comply with the provisions of the chapter and the Building Code of the city in effect at the time of issuance. No such certificate shall be issued unless the building and its use and its accessory uses and the uses of all premises are in conformance with the provisions of this chapter and of the Building Code at the time of issuance.

(b) A certificate of occupancy shall be required for any of the following in conformity with the Building Code and this chapter:

- (1) Occupancy and use of a building hereafter erected or structurally altered.
- (2) Change in use of an existing building to a use of a different classification.
- (3) Change in character or the intensity of the use of land.
- (4) Change in use of a nonconforming structure or use.

(c) In cases where a building permit is required, a certificate of occupancy shall be applied for at the time of the application for a building permit, and shall be issued within five days after the lawful erection or alteration of the building is completed if the proposed use of the building is permitted by this chapter. In cases where a building permit is not required, a certificate of occupancy shall be applied for prior to the happening of any of the events specified in subsection (b) of this chapter, and shall be issued prior to any such change of use. Such certificates of occupancy shall be posted forthwith by the owner of the property in a conspicuous place on the premises involved for a period of not less than ten days after issuance and shall be available for inspection by any city agency thereafter. (Ord. No. 9, 1966, & 9.)

Sec. 31-15. Special permits.

(a) Certain uses are designated in this chapter as exceptions, requiring a special permit. The board of appeals may, in accordance with chapter 40A of the General Laws, grant special permits for such exceptions without any finding of hardship. A special permit is a permit to use property for the purpose specified and shall not waive, vary or relax any provision of this chapter applicable thereto. In acting upon special permits, the board shall take into account the general purpose and intent of this chapter and, in order to preserve community values, may impose conditions and safeguards deemed necessary to protect the surrounding neighborhood, in addition to the applicable requirements of this chapter, such as, but not limited to, the following:

- (1) Front, side or rear yards greater than the minimum required by this chapter.
- (2) Screening of parking areas or other parts of the premises from adjoining premises or from the street by specified walls, fences, planting or other devices.
- (3) Modification of the exterior features or appearance of the structure.
- (4) Limitation of size, number of occupants, method or time of operation or extent of facilities.
- (5) Regulation of number, design and location of access drives or other traffic features.
- (6) Requirement of off-street parking or other special features beyond the minimum required by this or other applicable codes or regulations.
- (7) Control of the number, location, size and lighting of signs.

(b) Each application to the board of appeals shall be transmitted forthwith to the planning board accompanied by any material, maps or plans, to be provided by the applicant,

to aid the planning board to make a sound recommendation to the board of appeals. Within twenty days of the receipt of such application, the planning board shall transmit to the board of appeals a report accompanied by any material, maps or plans that will aid the board of appeals in judging the application and in determining special conditions and safeguards. The board of appeals shall not render any decision on an application for a special permit until such report has been received and considered or until the twenty-day period has expired without receipt of the report, whichever is earlier.

(c) The board of appeals may grant a special permit for the issuance of a building permit and a certificate of occupancy for the use of an existing nonresidential building for a nonconforming use in a residence, business or industrial district and for the alteration of a nonconforming structure in a residence district; provided, that certain conditions are met as set forth in section 31-14.

(d) Where the zone line divides a lot in a single ownership at the time of the effective date of this ordinance and more than one-half the area of such lot is in the less restricted district, a use permitted in the less restricted district may extend to the entire lot; but in no case may the regulations of the less restricted district extend more than twenty-five feet within the more restricted district. (Ord. No. 9, 1966, & 9; Ord. No. 2, 1970, & 1.)

Sec. 31-16. Variances.

(a) A variance from the specific requirements of this chapter may be authorized by the board of appeals only for reasons of practical difficulty and demonstrable and substantial hardship, financial or otherwise, to the applicant, and only where the board finds that:

(1) There are special circumstances or conditions applying to the land or building for which the variance is sought (such as, but not limited to, the exceptional narrowness, shallowness or shape of the property in question, or exceptional topographical conditions), which circumstances or conditions are peculiar to such land or building but not affecting generally the zoning district in which it is located, and the application of the standards of this chapter would deprive the applicant of a reasonable use of the property.

(2) The specific variance as granted by the board is the minimum variance that will grant reasonable relief to the owner, and is necessary for a reasonable use of the land or building.

(3) The granting of the variance will be in harmony with the general purpose and intent of this chapter, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare. In addition to considering the character and use of nearby buildings and land the board, in determining its finding, shall take into account the number of persons residing or working in such buildings or upon such land, and the present and future traffic conditions.

(b) In any of the following cases, each application to the board of appeals for a variance shall be transmitted forthwith to the planning board accompanied by any material, maps or plans, to be provided by the applicant, to aid the planning board in making a sound recommendation to the board of appeals. Within twenty days of receipt of such application, the planning board shall transmit to the board of appeals, a report accompanied by any material, maps or plans that will aid the board of appeals in judging the application and in determining special conditions and safeguards. The board of appeals shall not render any decision on an application for a variance until such report has been

received and considered, or until the twenty-day period has expired without the receipt of the report, whichever is earlier:

(1) Erection or alteration of a building to a height greater than otherwise authorized under the provisions of this chapter.

(2) A change involving a nonconforming use of land in excess of twenty thousand square feet.

(3) A change involving a nonconforming use of an existing building or buildings with a gross floor area in excess of two thousand square feet or a floor area ratio more than fifty percent greater than that permitted in the district in which it is located.

(4) A change involving a commercial or industrial use in a residential district on a parcel of land not previously used for a commercial or industrial purpose.

(5) Any other application for a variance with respect to which the planning board certified to the board of appeals no later than the date of the public hearing, that the granting of such application would materially conflict with the planning principles and policies adopted by the planning board.

(c) In approving a variance, the board may attach such conditions and safeguards as are deemed necessary to protect the surrounding neighborhood in addition to the applicable requirements of this chapter, such as, but not limited to those listed in subsection (a) of section 31-15. (Ord. No. 9, 1966, & 9; Ord. No. 2, 1972, & 2.)

Sec. 31-17. Procedure for amending chapter and zoning map.

(a) The city council may from time to time amend this chapter or a district boundary indicated upon the zoning map in the manner prescribed in sections 6 and 7, chapter 40 A, of the General Laws and all amendments thereto.

(b) In all cases, notice of a proposed amendment shall be given by the city clerk to the planning board at least twenty days prior to final action to the city council. If a proposed amendment involves a change in district boundaries and if the planning board shall fail to approve the amendment prior to such final action, it may be granted only by a three-fourths vote of all the members of the city council; otherwise it may be granted by a two-thirds vote of all of the members of the city council.

(c) No proposed amendment to this chapter which has been unfavorably acted upon by the city council shall be considered on its merits within two years after the date of such unfavorable action unless such amendment is recommended in the report which the planning board is required to make to the city council. The granting of "leave to withdraw" after a proposed amendment has been advertised for a hearing before the city council shall be considered as constituting unfavorable action.

(d) A person making application to the city council for a change in this chapter shall pay to the city clerk at the time of filing of such application such fee as may be required by the city clerk for payment to the city treasurer, to the credit of the funds to the city. (Ord. No. 9, 1966, & 9.)

Sec. 31-18. Applicability of chapter of existing buildings, uses, etc.

This chapter shall not apply to existing buildings or structures, nor to the existing use of any building or structure or of land, to the extent to which it is used at the time

of first adoption of applicable provisions of this or any prior ordinance, but it shall apply to any change of use thereof and to any alteration of a building or structure when the same would amount to reconstruction, extension or structural change, and to any alteration of a building or structure to provide for its use for a purpose or in a manner substantially different from the use to which it was put before alteration, or for its use for the same purpose to a substantially greater extent. (Ord. No. 9, 1966, & 9.)

Sec. 31-19. Lot frontage; reduction of lot area.

(a) No building shall be erected on a lot which does not have at least twenty-five feet of frontage on a street or way.

(b) 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 paragraph shall not apply where a portion of a lot is acquired for a public purpose. This paragraph shall not apply in regard to lot size, lot width and side yards in the event of sale of an individually owned semi-detached or attached dwelling units. (Ord. No. 9 1966 & 9.)

Sec. 31-20. Nonconforming uses, buildings, etc.

(a) Any nonconforming structure or use which existed at the time of the first passage of the applicable provisions of this or any prior ordinance or any amendment thereto may be continued or changed to be conforming, but when so changed, it shall not be made nonconforming again.

(b) Building permits and certificates of occupancy for the alteration or enlargement of a nonconforming structure or use may be granted when all of the following conditions are met:

(1) The alteration of a nonconforming structure, or the enlargement of a nonconforming use is not in further violation of the dimensional requirements in this chapter or of the off-street parking and loading requirements for the district in which such structure or use is located.

(2) The nonconforming structure or use is not increased in area or volume by more than twenty-five percent since it first became nonconforming.

(3) The nonconforming use is entirely within the structure when located in a residence district.

(4) Certificates of occupancy shall be issued by the inspector of buildings when the board of appeals authorizes the substitution of one nonconforming use for another. The board may authorize such substitution when the new nonconforming use is substantially the same as the last former nonconforming use, such as one type of retail store for another type, a restaurant for a lunchroom, a beauty parlor for a barbershop, etc., and the new use is no more detrimental to the neighborhood than the last one.

(c) If a nonconforming structure or use shall have been destroyed or damaged by fire, explosion or other catastrophe to such an extent that the cost or restoration would be less than seventy-five percent of the replacement value of the building at the time of the catastrophe, such building or use may be rebuilt or restored and used again as previously. Such rebuilding or restoring shall be completed within twelve months after such catastrophe, and the building as restored shall not be greater in volume, lot

coverage or floor space, and if the yard requirements are not met shall not extend further into the required yards, than the original nonconforming structure. If destroyed to such an extent that the cost of restoration would exceed seventy-five percent of such value, such building or use shall not be restored and may be replaced only by a conforming building or use.

(d) A nonconforming use of a structure or land which has been abandoned for a continuous period of two years shall not thereafter be returned to a nonconforming use. A nonconforming use shall be considered abandoned when the premises have been devoted to another use, or when the intent of the owner or tenant to discontinue the use is apparent, or when the nonconforming use has been discontinued for a period of two years, or when the characteristic equipment and furnishings of the nonconforming use have been removed from the premises and have not been replaced by similar equipment within the two year period. (Ord. No. 9, 1966, & 9.)

Sec. 31-21. Accessory uses.

(a) An accessory use shall be permitted but only on the same lot as the building or use to which it is accessory, except as provided in subsection (a) of section 31-20.

(b) Customary home occupations are defined in section 31-1.

(c) In a detached or semi-detached one family, or two-family dwelling, the renting of rooms or the furnishing of table board by a resident family to not more than three non-transient roomers or boarders shall be considered as an accessory use provided no separate cooking facilities are maintained, and no sign or name-plate is displayed.

(d) Provision of garage or parking space for occupants, employees, customers or visitors shall be considered as an accessory use; provided, that where accessory to residential uses in Residence S1 and S2 districts such garage or parking space shall be limited to the accommodation of five passenger vehicles, or two passenger vehicles for each dwelling unit, whichever is greater. The storage of any unregistered vehicle or repair of a vehicle is prohibited unless otherwise permitted by the respective use district.

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

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

(g) The inspector 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 chapter, where reasonably required for such development. Such permit may be issued for an initial period of not more than one 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

inspector of buildings for successive periods of not more than one year each, not to exceed a total of three years.

(h) In a residence 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 section 31-22.

(i) No accessory building shall be used as a dwelling except in an industrial district for the accommodation of a night watchman or janitor.

(j) An accessory building in a residence district shall not exceed fifteen feet in height above the ground level. (Ord. No. 9, 1966, & 9.)

Sec. 31-22. Signs³

(a) 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.

(b) In any residence district, signs or advertising devices are permitted on any lot only as follows:

(1) One sign displaying the street number or name of the occupant of the premises, or both, no exceeding two square feet in area. The sign may be attached to the building or may be on a rod or post not more than four feet high and at least three feet from street line. Such sign may include identification of an accessory professional office and, except in Residence S1 and S2 districts, may also identify other permitted accessory uses including a customary home occupation.

(2) One bulletin or announcement board or identification sign for a permitted non-residential building or use, not exceeding ten square feet in area. For churches and institutions two bulletin or announcement boards or identification signs are permitted on each building, one of which may not exceed twenty square feet in area and one of which may not exceed ten square feet in area. No such sign may be located nearer to a street line than one-half the depth of the required front yard, or in Residence M1, M2 and M3 districts two signs for a permitted non-residential use, neither of which may exceed one hundred square feet in area, or extend more than twenty feet above ground level, or one sign in connection with a lawfully maintained nonconforming use, not exceeding twenty square feet in area, except that in a Residence M1, M2 and M3 district two such signs may be maintained.

(3) "For Sale" or "For Rent" signs, not exceeding a total of ten square feet in area and advertising only the premises on which the signs are located.

(4) One building contractor's sign maintained on a building while the same is actually under construction, not exceeding twenty square feet in area.

(5) All signs or advertising devices shall be stationary and may not contain any visible moving or moveable parts. No sign or advertising devices shall be of the neon type. Any lighting of a sign or advertising device shall be continuous, indirect and installed in a manner that will prevent direct light from shining onto any street or adjacent property.

(c) In all other districts signs or advertising devices are permitted only as follows:

(1) As allowed in residence districts.

(2) Other signs and advertising devices, subject to the requirements hereinafter set forth and subject to such further rules and regulations relating to the fabrication

and erection of signs as may from time to time be promulgated by the agency of the city having jurisdiction thereover.

(3) In all business districts the following restrictions shall apply: .

a. Signs visible from any street shall not exceed in the aggregate a total sign area of ten square feet for each lineal foot of lot-line parallel or substantially parallel to the face of the building on which it is located.

b. No sign shall project more than twenty-feet above the roof line or wall coping of the building upon which it is located.

c. Signs which are free-standing structures on the ground shall not exceed twenty feet in height measured from the average level of ground of the lot to the top of said structure.

(d) The following requirement with respect to illuminated signs and advertising devices shall apply to all zoning districts:

Signs or advertising devices with flashing, animated or intermittent illumination shall not be erected within one hundred feet of any residence district.

(e) A billboard, sign or other advertising device which does not advertise or indicate the person occupying the premises on which it is located, the merchandise on sale or the business transacted thereon shall be considered an off-premises billboard, sign or advertising device. 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 therefor has been granted by the outdoor advertising authority in accordance with section 29 through 33 of chapter 93 of the General Laws, as from time to time amended, and such permit is valid and outstanding.

(f) The provisions of this section shall not apply to signs or advertising devices maintained upon the effective date hereof, provided such signs or advertising devices have been erected and maintained in conformity with applicable ordinance and regulations. (Ord. No. 9, 1966, & 9.)

Sec. 31-23. Illumination.

In a residence 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. (Ord. No. 9, 1966, & 9.)

Sec. 31-24. Transition requirements.

(a) Front yard. In a business or industrial district no building shall be erected nearer to the street line or established building line than is permitted in the adjacent residence district within a distance of fifty feet from the residence district boundary line, except where such building is separated by a street from the residence district.

(b) Side yard. In a business, or industrial district, no building shall be erected within ten feet of the side lot line of any abutting lot, all of the major portion of which is in a residence district. (Ord. No. 9, 1966, & 9.)

³As to advertising of signs generally, see ch. 3 of this Code

Sec. 31-25. Removal of material.

(a) Notwithstanding anything contrary in any other ordinance, no person shall remove for the purpose of sale any soil, loam, sand, or gravel from any land not in public use in any part of the city, without first obtaining written permission therefor from the board of appeals after a public hearing except as provided in subsection (c) of this section.

(b) Before granting any such permit the board of appeals shall give due consideration to:

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

No permit for removal of material granted by the board of appeals shall be valid for a period in excess of three years from its date of issue.

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

- (1) The duration of time for which the permit may be exercised.
- (2) The extent, depth and contour of the area of removal.
- (3) The grade of the slope of the banks of the area of removal and the specification of showing and reinforcement of the banks of any excavation.
- (4) The proximity of such removal to any public way.
- (5) The hours of the day during which such removal may be permitted.
- (6) The hours of the day during which the material may be trucked away from the location of removal.
- (7) The conditions under which the removal trucks may be operated.
- (8) The replacement of top soil and the replanting of the area of removal and screening the same from public view.

(c) This section shall not apply to the removal of soil, loam, sand or gravel incidental to and reasonably required in connection with the construction on the premises of any buildings or roads for which a permit has been issued by the inspector of buildings. (Ord. No. 9, 1966, & 9.)

Sec. 31.26. Board of appeals.

(a) The board of appeals under the Building Code shall also be the board of appeals under this chapter and shall have all the powers and duties of boards of appeals under the statutes relating to zoning.

(b) The board may adopt from time to time such rules of practice and procedure as it may deem necessary to carry into effect the provisions of this chapter and shall keep

minutes of its proceedings.

(c) Any person aggrieved by any order, requirement, decision or determination made by the inspector of buildings in the enforcement of this chapter may appeal to the board of appeals as provided in chapter 40A of the General Laws and all amendments thereto. Within ten days after an applicant is notified in writing of a refusal by the inspector of buildings to grant a building or occupancy permit, he may file with the inspector and with the board of appeals a notice of appeal specifying the grounds thereof and shall pay ten dollars to the inspector of buildings at the time the notice is filed, which the inspector shall forthwith pay over to the city treasurer to the credit of the funds of the city. Prior to the expiration of twenty-one days after the initial posting of a building permit which has been granted by the inspector of buildings, any aggrieved person may file with the inspector and with the board of appeals, a notice of appeal specifying the ground thereof and shall thereupon pay the fee above provided in the subsection. Any person aggrieved by a violation of any portion of this chapter, and the inspector shall act upon request within ten days thereafter written notice to the person submitting the request and to the owner of each parcel of property specifically affected by the ruling. If the inspector of buildings has not so acted upon such request within ten days after its receipt, such failure to act shall be considered a denial of the request for the enforcement. Any person aggrieved by action taken or determination made by the inspector of buildings upon such request for enforcement may appeal within ten days thereafter to the board of appeals in the manner and upon payment of the fee above provided in this paragraph. The inspector shall transmit to the board of appeals all the papers constituting the record upon which any action appealed from is taken. The remedies provided in this subsection for an aggrieved person shall be in addition to any other remedy which may now or hereafter be available to him.

(d) The board of appeals shall consider any appeal or any petition for a variance, or other matter properly before it, at a public hearing and shall fix a reasonable time for the hearing. The board shall cause the notice of the time and place of such hearing thereof and of the subject matter, sufficient for identification, to be published in a newspaper of general circulation in the city. The notice shall be published in such paper once in each successive week and the first publication to be not less than fourteen days before the day of the hearing. The board shall also send notice by mail, postage prepaid, to the petitioner and the owners of all property deemed by the board to be affected thereby, as they appear in the most recent tax list, and to the planning board. At the hearing, any party, whether entitled to notice thereof or not, may appear in person or by agent or attorney.

(e) The board of appeals shall have the following powers and duties.

(1) To hear and decide appeals by aggrieved persons for interpretation where it is alleged that there has been an order or decision made by an administrative official in violation of this chapter.

(2) To hear and decide applications for special permits for exceptions upon which the board is required to pass under section 31-15.

(3) To authorize upon appeal or petition with respect to a particular parcel of land, or to an existing building thereon, a variance from the terms of this chapter where owing to conditions especially affecting such parcel or building, but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of this chapter would involve substantial hardship, financial or otherwise to the appellant, and where

desirable relief may be granted without substantial detriment to the public good and without or substantially derogating from the intent or purpose of this chapter but not otherwise.

(f) Every decision of the board of appeals shall be by resolution adopted by the concurring vote of all except one member. Each resolution shall be filed with the documents pertaining thereto by case number in the office of the inspector of buildings under one of the following headings: Interpretations, special permits or variances. Copies of each resolution shall be filed simultaneously in the offices of the city clerk and the planning board.

(g) No appeal or petition for a variance from the terms of this chapter, and no application for a special permit under the terms of this chapter with respect to a particular parcel of land or building thereon which has been unfavorably acted upon by the board of appeals, shall be considered on its merits by such board within two years after the date of the unfavorable action, except with the consent of all but one member of the planning board. The granting of "leave to withdraw" after application for a variance or special permit has been advertised, shall be considered unfavorable action.

(h) Any person aggrieved by a decision of the board of appeals, whether or not previously a party to the proceeding, or any municipal officer or board, may appeal to the superior court sitting in equity for the county; provided, that such appeal is filed in the court within twenty days after such decision is filed with the city clerk. (Ord. No. 9, 1966, & 9; Ord. No. 11, 1970, & 1.)

Sec. 31-27. Enforcement of chapter.

The inspector of buildings, appointed under the provisions of the Building Code of the city, is hereby designated and authorized as the officer charged with the enforcement of this chapter. (Ord. No. 9, 1966, & 9.)

Sec. 31-28. Proceedings to prevent, correct, etc., violations of chapter.

The inspector of buildings, upon accurate information in writing from any citizen, or upon his own initiative, shall institute any appropriate action or proceedings in the name of the city to prevent, correct, restrain or abate violations of this chapter. (Ord. No. 9, 1966, & 9.)

Sec. 31-29. Right of entry of inspector of buildings.

The inspector of buildings shall, after proper identification, have the right to enter any premises for the purpose of inspecting any building or structures, at a reasonable hour and at such times as may be reasonably necessary to enforce this chapter. (Ord. No. 9, 1966, & 6.)

Sec. 31-30. Penalty for violation of chapter.⁴

Any person, trust or other enterprise who violates or refuses to comply with any of the provisions of this chapter may upon conviction, be fined a sum of twenty dollars for each offense. Each day, or portion of a day that any violation is allowed to continue shall constitute a separate offense. (Ord. No. 9, 1966, & 9.)

⁴ As to general penalty for violation of Code

ARTICLE II. USE REGULATIONS.

Sec. 31-31. District uses.

(a) In each district, the use of land, buildings and structures shall be regulated as set forth in section 31-32 and as provided elsewhere in this chapter.

(b) A use listed in section 31-32 is permitted as a right in any district under which it is denoted by the letter "Y" subject to such requirements as may be specified in section 31-32. 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 exception only if the board of appeals determines and grants a special permit therefor as provided in section 31-15, subject to such further restrictions as the board may establish.

Sec. 31-32. Table of use regulations.

PRINCIPAL USES	ZONING DISTRICTS										
	RESIDENCE					BUSINESS			INDUSTRY		
	S1	S2	M1	M2	M3	B1	B2 & B2A	B3	IA	IB	IP
1. RESIDENCE USES											
a. Detached dwelling occupied by not more than one family	Y	Y	Y	Y	Y	Y	N	Y	N	N	N
b. Semi-detached dwelling occupied by not more than one family	N	N	Y	Y	Y	Y	N	Y	N	N	N
c. Two family or semi-detached	N	N	Y	Y	Y	Y	N	Y	N	N	N
d. Multi-family dwelling	N	N	N	N	N	N	N	N	N	N	N
e. Trailer	N	N	N	N	N	N	N	N	N	N	N
f. Non-family accommodations	N	N	Y	Y	Y	Y	SP	Y	N	N	N
1. Tourist home	N	N	Y	Y	Y	Y	SP	Y	N	N	N
2. Lodging house, fraternity	N	N	SP	SP	SP	SP	SP	SP	N	N	N
3. Dormitory	N	N	SP	SP	SP	Y	Y	Y	N	N	N
4. Hotel	N	N	SP	SP	SP	Y	Y	Y	N	N	N
5. Motel	N	N	SP	SP	SP	Y	Y	Y	N	N	N
2. CONVERSION OF DWELLING STRUCTURE											
a. Existing one-family detached dwelling converted for not more than three families, where all dimensional and other requirements are met provided that in Residence S1 and S2 Districts the exterior design of the structure is not changed, and the house being converted is more than forty years old and has a minimum of 3000 square feet of floor space used for living purposes.	SP	SP	Y	Y	Y	Y	Y	Y	N	N	N
b. Other dwellings converted for more than two families; where all dimensional and other requirements are met.	N	N	Y	Y	Y	Y	Y	Y	N	N	N
3. INSTITUTIONAL, RECREATIONAL AND EDUCATIONAL USES											
a. Places of Worship	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
b. Religious, sectarian, denominational private or public school or college not conducted as a gainful business	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
c. Licensed day nursery school or kindergarten	SP	SP	SP	SP	SP	N	N	N	N	N	SP
d. Library or museum open to the public or connected with a permitted educational use and not conducted as a gainful business	SP	SP	Y	Y	Y	Y	Y	Y	SP	SP	SP
e. Recreational facility owned or operated by a non-government agency, subject to the following provisions: 1. the use shall not be conducted as a private gainful business; 2. Indoor or outdoor activities such as bowling or gymnasium shall be at least 100 feet from any lot line in residential districts.	SP	SP	SP	SP	SP	Y	Y	Y	SP	SP	N
f. Entertainment and recreational facilities operated as a gainful business including, but not limited to, bowling alley, theater, concert hall	N	N	N	N	N	SP	Y	Y	Y	Y	N
g. Community center, adult educational center, settlement house, humane society, or other similar facility operated by an educational, non-profit, or religious institution subject to the same restrictions as in "e" above	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP
h. Private non-profit club or lodge operated for members only	N	N	SP	SP	SP	SP	SP	Y	SP	SP	SP
i. Licensed hospital or other licensed establishment for the care of sick, aged, crippled or convalescent persons, except that no such establishment conducted as a private gainful business shall be permitted in single residence districts	SP	SP	SP	SP	SP	Y	SP	Y	N	N	N
j. Undertaking or funeral establishment	N	N	SP	Y	Y	SP	SP	SP	N	N	N
k. Cemetery	N	N	SP	SP	SP	SP	SP	SP	N	N	N
4. RETAIL BUSINESS AND CONSUMER SERVICE USES											
a.1 Stores 5000 square feet or less of gross floor area per establishment, primarily serving the local retail business needs of the residents of the vicinity, including but not limited to grocer, food, package, dry goods, clothing, hardware, florists, drug stores	N	N	N	N	N	Y	Y	Y	SP	SP	N
a.2. Stores as in 4. a.1. but when they are greater than 5000 square feet of gross floor area per establishment	N	N	N	N	N	SP	Y	Y	SP	SP	N
b.1. Stores 5000 square feet or less of gross floor area per establishment where manufacturing assembly packaging of consumer goods is conducted provided at least fifty percent of such merchandise is sold at retail on the premises and that all display and sales are conducted within a building	N	N	N	N	N	Y	Y	Y	SP	SP	N
b.2. Stores as in 4. b.1. but when they are greater than 5000 square feet of gross floor area per establishment	N	N	N	N	N	SP	Y	Y	SP	SP	N
c. Eating places of 5000 square feet or less, of gross floor area per establishment, primarily serving local needs including but not limited to lunch room, restaurant, cafeteria, places for sale and consumption of beverages, ice cream, etc., primarily in enclosed structures with no dancing or entertainment other than music	N	N	N	N	N	Y	Y	Y	Y	Y	N
d. Place for the sale and consumption of food and beverages exceeding 5000 square feet of gross floor area, or providing dancing and entertainment	N	N	N	N	N	SP	Y	Y	Y	Y	N
e. Bar or other establishment where alcoholic beverages are sold and consumed and where no dancing or entertainment is permitted	N	N	N	N	N	SP	Y	Y	SP	SP	N
f. Bar or other establishment where alcoholic beverages are sold and consumed and where dancing or entertainment is provided; dance hall or similar place of entertainment	N	N	N	N	N	SP	Y	Y	SP	SP	N
g. Service business primarily serving the local needs, including 1. barber, beauty shop, laundry and dry cleaning pick-up agency, shoe repair, self-service laundry or other similar use 2. hand laundry, dry cleaning or other similar use, provided personnel on premises is limited to five employees 3. printing shop, photographers studio, caterer, or other similar use, provided personnel on premises is limited to five employees	N	N	N	N	N	Y	Y	Y	SP	SP	N
h. Stores serving the general retail needs of a major part of the city, including but not limited to general merchandise department store, furniture household goods.	N	N	N	N	N	SP	Y	Y	Y	SP	N
i. Office, display or sales of a wholesale, jobbing or distributing establishment, provided that not more than twenty-five percent of floor space is used for assembling, packaging and storing of commodities	N	N	N	N	N	SP	Y	Y	Y	Y	SP
j. Office or clinic for medical or dental examination or treatment as out-patients, including laboratories incidental thereto except as provided in Article VI, Section 4	N	N	N	N	N	Y	Y	Y	SP	SP	N
k. Place of business of a bank, trust company	N	N	N	N	N	Y	Y	Y	Y	Y	SP
l. Veterinary establishment, kennel or pet shops or similar establishment provided that in Business Districts all animals are kept in-doors and there are no noise or odors perceptible from adjoining establishments or buildings	N	N	N	N	N	SP	SP	Y	N	N	N
m. Trade, professional or other school conducted as a gainful business	N	N	N	N	N	SP	SP	Y	SP	SP	SP

PRINCIPAL USES	ZONING DISTRICTS										
	RESIDENCE					BUSINESS			INDUSTRY		
	S1	S2	M1	M2	M3	B1	B2 & B2A	B3	IA	IB	IP
5. OPEN-AIR OR DRIVE-IN RETAIL AND SERVICE											
a. Sales place for flowers, garden supplies, agricultural produce conducted partly or wholly outdoors, commercial greenhouse or nursery	N	N	N	N	N	Y	Y	Y	Y	Y	N
b. Drive-in restaurant or refreshment stand	N	N	N	N	N	SP	Y	N	Y	Y	N
c. Place for exhibition, lettering or sale of gravestones	N	N	N	N	N	SP	SP	N	SP	SP	N
d. Drive-in bank, other than a bank, retail or consumer service establishment where motorist does not have to leave his car	N	N	N	N	N	Y	Y	SP	SP	SP	N
e. Open air or drive-in theater or other open air place of entertainment or athletics conducted for profit	N	N	N	N	N	N	SP	N	SP	SP	N
f. Open lot storage of new building materials, machinery and new metals but not including junk, scrap metal, rags, waste paper and similar materials provided the area so used is enclosed by a 6 foot high wall or tight fence	N	N	N	N	N	N	N	N	SP	Y	Y
g. Open lot storage of used lumber or other building materials, provided that the area so used is surrounded by a 6 foot high wall or tight fence	N	N	N	N	N	N	N	N	SP	Y	N
h. Open lot storage of coal, coke, sand or other similar materials, or such storage in silos or hoppers, provided the area so used is surrounded by a 6 foot high wall or tight fence	N	N	N	N	N	N	N	N	Y	N	
6. AUTOMOTIVE AND RELATED USES											
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	N	N	N	N	N	SP	SP	Y	Y	Y	SP
b. Sales and 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	N	N	N	N	N	SP	SP	N	Y	Y	N
c. Automotive service station (filling station) where no major repairs are made and provided that all lubrication and minor repairs are carried out within the building	N	N	N	N	N	SP	SP	N	Y	Y	N
d. Automotive repair garage provided all servicing and repairs are carried out inside the building	N	N	N	N	N	SP	SP	Y	Y	Y	SP
e. Car washing establishment using mechanical equipment for purpose of cleaning automobiles and other vehicles	N	N	N	N	N	SP	SP	N	Y	Y	SP
f. A private garage or parking area, whether as a principal use of a lot or as a secondary use, solely for the storage of cars of residents of other lots located within 400 feet and within the same district, when found by the Board of Appeals to be necessary in residence districts to provide off-street parking for such vehicles	N	N	N	SP	SP	N	N	SP	N	N	N
g. Parking area, abutting or across the street from a non-residence district, for the parking of passenger cars of employees, customers or guests of establishments in the adjoining non-residence district, provided no charge is made for parking, and no sales or service operations are performed.	N	N	N	N	N	N	SP	SP	Y	Y	SP
7. UTILITIES AND PUBLIC SERVICE USES											
a. Public utility or service facilities including but not limited to transformer stations, sub-stations, 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	SP	SP	SP	SP	SP	Y	Y	Y	Y	Y	SP
8. GENERAL OFFICE AND LABORATORY USE											
a. General offices for commercial or professional use	N	N	N	N	N	Y	Y	Y	Y	Y	SP
b. Radio or television studio	N	N	N	N	N	SP	Y	Y	Y	Y	SP
c. Radio or television transmission stations including towers	N	N	N	N	N	N	SP	Y	Y	Y	SP
d. Laboratories or research facilities, provided any manufacturing is incidental to the operation of the facility, does not exceed fifty percent of the gross floor area of the building and is not injurious to the surrounding area by nature of dust, noise, smoke and odors	N	N	N	N	N	SP	SP	Y	Y	Y	Y

PRINCIPAL USES	ZONING DISTRICTS										
	RESIDENCE					BUSINESS			INDUSTRY		
	S1	S2	M1	M2	M3	B1	B2 & B2A	B3	IA	IB	IP
9. INDUSTRIAL USES											
a. Light industry, wholesale business and storage:											
1. Distribution center, delivery center, warehouse	N	N	N	N	N	N	N	N	Y	Y	Y
2. Steam laundry or dry cleaning plant	N	N	N	N	N	Y	Y	Y	Y	Y	SP
3. Food and beverage manufacturing, bottling or processing and commissary	N	N	N	N	N	N	N	N	Y	Y	Y
4. Storage warehouse, cold storage plant, storage buildings but not including open storage or bailing of junk, scrap metal, rags, waste paper or used rubber	N	N	N	N	N	N	N	N	Y	Y	SP
5. Wholesale business and storage in a roofed structure, but not including wholesale storage or flammable liquids or gases	N	N	N	N	N	N	SP	Y	Y	Y	Y
6. Manufacturing, assembly, reconditioning and processing plant for the following type industries: Food and kindred products, apparel, textiles and related products, electronics 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.	N	N	N	N	N	N	N	N	Y	Y	Y
b. Heavy industrial											
1. RR freight terminals, shops and yards	N	N	N	N	N	N	N	N	SP	SP	N
2. Rendering or preparation of grease tallow, fats and oils, manufacture of shortening, lard and other food oils but not including garbage, dead animals, offal or refuse reductions	N	N	N	N	N	N	N	N	N	Y	N
3. Stone cutting, shaping and finishing in completely enclosed buildings	N	N	N	N	N	N	N	N	Y	Y	SP
4. Dismantling or wrecking of used motor vehicles and storage and sale of the parts provided that open lot storage shall not exceed 12 feet in height and that the area so used shall be enclosed by a tight wall or fence of at least the same height of the material so stored, provided that in a IB District the height of the stored material shall not exceed 20 feet.	N	N	N	N	N	N	N	N	N	SP	N
5. Truck or bus terminal, yard or building for storage or servicing of trailers, trucks or busses and parking lot for trucks	N	N	N	N	N	N	N	N	Y	Y	SP
6. Processing of sand and gravel and the manufacture of bituminous concrete	N	N	N	N	N	N	N	N	N	Y	N
7. Open lot storage of junk, scrap, rags, paper, junked vehicles and other similar salvage articles provided that open lot storage shall not exceed 12 feet in height and that the area so used shall be enclosed by a tight wall or fence of at least the same height of the material so stored, provided that in a IB District the height of the stored material shall not exceed 20 feet.	N	N	N	N	N	N	N	N	N	SP	N
8. 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 subsection 9, or as hereinafter prohibited, provided that (a) all dust, fumes, odors, smoke or vapor are effectively confined to the premises or so disposed of as to avoid air pollution, and (b) any noise, vibration or flashing are not normally perceptible without instruments at a distance of 500 feet from the premises, but the following are expressly prohibited:											
a. stockyard or abattoir											
b. petroleum refining											
c. smelting of zinc, copper or iron ores											
d. incineration or reduction of garbage, offal or dead animals except as conducted by the City of Lowell											
e. cement, lime or gypsum manufacture											
f. explosives or fireworks manufacture	N	N	N	N	N	N	N	N	N	SP	SP

ARTICLE III. DIMENSIONAL REQUIREMENTS.

Sec. 31-33. District regulations.

(a) No building or structure shall be built nor shall any existing building or structure be enlarged which does not conform to the regulations as to maximum ratio of floor area to lot areas, minimum lot sizes, minimum lot area for each dwelling unit or equivalent, minimum lot width, minimum dimensions of front, side and rear yards, and maximum height of structures, in the several districts are set forth in section 31-34, except as hereinafter provided.

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

(c) In the case of multiple buildings on a lot in single ownership, the distance between such buildings measured from the midpoint on any facing walls shall not be less than the sum of the height of each facing wall plus twice the horizontal length of the shorter facing wall divided by six.

(d) For residential uses permitted in residence and business districts which are not divided into dwelling units, each one thousand square feet of gross floor area of the building shall be considered equivalent to one dwelling unit for purposes of computing minimum lot area. (Ord. No. 9, 1966, & 9.)

Sec. 31-34. Table of dimensional requirements.

District	Max.	Min. Lot Size (sq. ft.)	Min.	Min.	Min. Yard (FT)			Usable Open Space		
	Floor Area Ratio		Lot Area Per D.U. (sq. ft.)	Lot Width (FT)	Front	Side	Rear	(% of gross floor area)	Max. Hgt.	Max. Stories
S1	0.5	10000	7000	75	25	10 (sum of 25)	25	—	35	2 1/2
S2	0.5	7000	5000	65	20	10 (sum of 25)	25	—	35	2 1/2
M1	0.75	5000	2500	50	15	10	20	30	35	2 1/2
M2	1.75	5000	1000	50	15	10	20	25	35	3
M3	3.0	5000	500	50	15	10	20	20	65	7
B1	1.0	—	—	25	25	—	20	—	40	3
B2, B2A	1.5	—	—	25	25	—	*40	—	—	—
B3	4.0	—	—	25	—	—	—	—	—	—
1A	2.0	—	—	25	—	—	—	—	—	—
1B	4.0	—	—	25	—	—	—	—	—	—
1P	2.0	—	—	25	40	20	40	—	50	4

* Rear Yard in B2A district is ten feet.

A dwelling in any business district shall be subject to the same dimensional and usable open space requirements as a dwelling in a Residence M2 district, except for height.

In no district shall the building coverage for a residential dwelling exceed thirty-five percent of the lot area.

(Ord. No. 9, 1966, & 9; Ord. No. 10, 1966, & 1, 2,)

Sec. 31-35. Lot area and width.

Any lot lawfully laid out by plan or deed duly recorded, as defined in section 81L of chapter 41 of the General Laws, or any lot shown on a plan endorsed with the words approval under the subdivision control law not required, pursuant to section 81P of chapter 41, which complies at the time of such recording of such endorsement, whichever is earlier, with the minimum area, frontage, width and depth requirements of the zoning regulations in effect in the city on April 7, 1966, may, therefore, be built upon for residential uses according to the provisions of section 5A of chapter 40A of the General Laws. (Ord. No. 9, 1966, & 9.)

Sec. 31-36. Building bulk.

(a) For any building or group of buildings on a lot the ratio of gross floor area to lot area shall not exceed the maximum specified in section 31-34; except, that in a Residence M3 district, the gross floor area of any residence building may be increased, not to exceed a floor area ratio of 3.1 by one square foot of floor area for every one square foot of open, landscaped area supplied on the same lot as the principle use in addition to the required minimum yard area of twenty-five percent as specified in subsection (a) of section 31-38. Gross floor area shall be defined as in this chapter.

(b) Where a lot in a residence or business district abuts on a street or public open space more than one hundred feet wide, one quarter of the excess over one hundred feet but not more in any case than forty 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 section 31-34. (Ord. No. 9, 1966, & 9.)

Sec. 31-37. Height exceptions.

The provisions of this chapter governing the height of buildings and structures in all districts, shall not apply to chimneys, water towers, air conditioning equipment, elevator bulkheads, skylights, ventilators and other necessary features appurtenant to buildings which are usually carried above roofs and are not used for human occupancy, nor to domes, towers or spires above buildings if such features are not used for human occupancy and occupy less than ten percent of the lot area, nor to wireless or broadcasting towers and other like unenclosed structures which occupy less than ten percent of the lot area. (Ord. No. 9, 1966, & 9.)

Sec. 31-38. Yards.

(a) In all residence districts at least twenty five percent of every lot area shall be yard area. Every part of a required yard shall be open to the sky and unobstructed except for ordinary projections of the belt courses, cornices, sills, skylights and ornamental features projecting from the building not more than twelve inches. Awnings, arbors, fences, flagpoles, recreational and laundry drying equipment and similar objects shall not be considered obstructions when located within a required yard. Open or lattice-enclosed fire escapes for emergency use only are permitted. The flat roof of an accessory parking garage attached to a residential building may be counted as

yard area; provided, that it is directly accessible to all residents on the lot by a passageway from a building and that the garage roof has no dimension less than twenty-five feet. In measuring a yard for the purpose of determining the width of a side yard, the depth of a rear yard, or the depth of a front yard, the minimum horizontal distance between the corresponding lot line and the building shall be used.

(b) Projecting eaves, chimneys, bay windows, balconies, open fire escapes and like projections which do not project more than three and one-half feet, and which are part of a building not more than thirty-five feet in height, and unenclosed steps, unroofed porches and the like which do not project more than ten feet beyond the line of the foundation wall and which are not over four feet above the average level of the adjoining ground, may extend beyond the minimum yard regulations otherwise provided for the district in which the structure is built.

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

(d) Exceptions to the yard regulations set forth in the table governing the yard requirements for buildings are as follows:

(1) In a Residence S1 and S2 district, a dwelling need not set back more than the average of the setbacks of the buildings, other than accessory buildings, on the lots adjacent thereto on either side, but in no case may any part of a building or accessory building extend nearer to any street line or building line if such has been established, than twenty feet. A vacant lot or lot occupied by a building set back more than twenty feet in Residence S1 district and more than twenty feet in a Residence S2 district shall be considered as though occupied by a building set back twenty-five feet and twenty feet respectively.

(2) In a Residence M1, M2 or M3 districts, a dwelling need not set back more than the average of the setbacks of the buildings, other than accessory buildings, on the lots adjacent thereto on either side, but in no case may any part of a building or accessory building extend nearer to any street line, or building line if such has been established, than fifteen feet. A vacant lot or a lot occupied by a building set back more than fifteen feet shall be considered as though occupied by a building set back fifteen feet.

(3) In a Residence M1, M2 or M3 district, if a building is hereafter erected on a lot adjacent to a building having a blank wall directly on the side lot line, the new building may be so designed and erected that it will be flush with that portion of the blank wall of the former building which extends along the lot line; otherwise, however, not less than the required side yard shall be provided; in any case, the required side yard shall be provided for the remainder of the full lot depth. In case a side wall contains windows or in case any part of a side blank wall or an existing building shall be set back from the side lot line, than a building hereafter erected on the lot adjacent to such an existing building shall be set back from the side lot line in accordance with the provisions hereof. (Ord. No. 9, 1966, & 9)

Sec. 31- 39 Open Space.

(a) Every lot in any residence district shall include landscaped open space having a total of not less than ten percent of the gross floor area of all buildings on the lot.

(b) 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 provided at the rate specified in section 31-34.

(c) Where open space is provided to serve more than one family, it shall be deemed usable only if:

(1) Each dimension is at least fifteen feet.

(2) Such space is at least ten feet from any lot lines. (Ord. No.9,1966, & 9.)

ARTICLE IV. OFF-STREET PARKING AND LOADING.

Sec. 31-40. Intent and application of parking requirements.

(a) It is the intention of this chapter 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. 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 to comply 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 only to the area added to the existing structure.

(b) Buildings and land uses in existence on the effective date of this ordinance are not subject to these parking requirements, but any parking facilities thereafter established to serve such buildings or uses may not in the future be reduced below these requirements.

(c) Where a building or land area is used by two or more activities that fall into different classes of use under section 31-41, the facilities required shall be the sum of the requirements for the individual establishments.

(d) Where the computation of required parking spaces results in a fractional number, only the fraction of one-half or more shall be counted as one.

(e) 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. (Ord. No.9,1966, &9)

Sec. 31-41. Table of parking requirements.

Off-street parking facilities shall be provided as follows:

CLASS OF ALLOWED USE

Number Square Feet of Gross Floor Area
Requiring 1 space, by Type of Use

Zoning District	Residence (a) Minimum Number spaces per group of dwelling units	Public			Retail and Office		Factory and Warehouse
		Assembly (b) Number seats requiring 1 space	Institution (c)	Ground Floor	Other Level		
S1	1 per 1.0	5	600	----	----	----	
S2	1 per 1.0	5	600	----	----	----	
M1	1.5 per 1.0	8	600	----	----	----	
M2	1.5 per 1.0	10	1000	----	----	----	
M3	1.5 per 1.0	10	1000	----	----	----	
B1	0.8 per 1.0	8	1000	500	1000	----	
B2 & B2A	1 per 1.0	8	1000	150	500	----	
B3	0.6 per 1.0	--	----	----	----	1600	
IA	-----	10	1000	500	1000	1600	
IB	-----	15	1000	900	1800	2000	
IP	-----	10	1000	900	1800	2000	

(a) Where residence uses are not divided into dwelling units, as in the case of hotels, dormitories, lodging houses, etc., each two guest sleeping rooms, each four dormitory bed beds, or each motel unit shall be considered the equivalent of one dwelling unit.

(b) Where no fixed seats are used in a place of assembly, each twenty square feet of public floor area shall equal one seat.

(c) Institutions shall include public and nonprofit schools, colleges and all institutional uses listed in section 31-32. Schools intended primarily for children under sixteen years of age need not provide more than one-half the requirements specified in the above table. Where an institution provides dormitory residence accommodations, the number of parking spaces furnished for that purpose may be deducted from the requirements established for the educational buildings normally used by students in residence. (Ord. No. 9, 1966 & 9)

Sec. 31-42. Location and layout of parking facilities.

(a) Required off-street parking facilities shall be provided on the same lot as the principal use they are required to serve with the following exceptions subject to approval by the board of appeals.

(1) In the case of new construction of a multi-family apartment building in a Residence M3 district, the required parking facilities may be provided on lots not more than two hundred feet away from the building to be served.

(2) In Industry A and B 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 feet away from the building to be served.

(3) In the case of a dormitory of a nonprofit educational institution, the required parking facilities may be provided on lots not more than two thousand feet away, measured along a travelled way, from the dormitory to be served.

(b) In all cases off-site parking facilities shall be under 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. Parking spaces satisfying these requirements need not be in the city.

(c) Parking required for two or more buildings or uses may be provided in combined facilities on the same or adjacent lots, subject to approval by the board of appeals, where it is evident that such facilities will continue to be available for the several buildings or uses.

(d) 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 non-dusting paving, drained and suitably maintained to the satisfaction of the inspector of buildings to the extent necessary to avoid the nuisances of dust, erosion or excessive water flow onto public ways or adjoining property. In a residence, business or in other districts abutting or facing a residence district or abutting or facing a church or public property, any such open parking facilities for more than five automobiles shall be screened from abutting residence, church or public property in a manner which will provide an effective visual screen, either by planting or by a screening device such as a fence or wall not less than five feet nor more than six feet in height, except where detrimental to public safety or otherwise controlled by law, and such planting or screening device shall not be less than fifty percent opaque when viewed from directly in front. In a residence district any such open parking facilities shall be landscaped with trees and shrubs.

(e) Each required car space shall be not less than nine feet, six inches in width and twenty feet in length exclusive of drives and maneuvering space, and the total area of any drives and maneuvering space, and the total area of any parking facility for more than five cars shall average at least three hundred square feet per car. Except in industrial district no driveways or curb cuts shall exceed twenty-five feet in width. The board of appeals may grant a special permit modifying the provisions of this paragraph in case of a mechanical garage or in case the board is satisfied that the parking facility will be used by cars of less than standard size, provided the total number of spaces conforms to section 31-41.

(f) An open-air parking space shall be at least ten feet from any building, and shall be at least five feet from any property line or street line unless a special permit to park nearer is granted by the board of appeals.

(g) 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.

(h) 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. (Ord. No. 9, 1966, & 9.)

Sec. 31-43. Intent and application of loading requirements.

(a) It is the intention of this chapter that all building and uses requiring the delivery of goods as part of their function be provided eventually with necessary space for off-street loading. 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.

(b) 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 square feet or more, only the additional gross floor area shall be counted in computing the off-street loading requirements.

(c) Where a building or land area is used by two or more activities that fall into different classes of use under section 31-44, the facilities required shall be the sum of the requirements for the individual establishments.

(d) 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. (Ord. No. 9, 1966, & 9.)

Sec. 31-44. Table of loading requirements.

Off-street loading facilities shall be provided for the following specified uses:

TABLE OF OFF-STREET LOADING REQUIREMENTS

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

(Ord. No. 9, 1966, & 9.)

Sec. 31-45. Location and layout of loading facilities.

(a) Each required loading bay shall be no less than ten feet in width, thirty-five feet

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

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

(c) All accessory driveways and entranceways shall be graded, surfaced, drained and suitably maintained to the satisfaction of the inspector of buildings to the extent necessary to avoid nuisances of dust, erosion or excessive water flow across public ways.

(d) 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 hazard or unreasonable impediment to traffic. (Ord. No. 9,1966, &9.)

ARTICLE V. LAND WITHIN FLOOD PLAIN.

Sec. 31-46. Applicability of article.

These regulations shall be applicable to all use districts as defined by section 31-6, with the exception of Commercial and Industrial Property as identified by the following districts: B-1, B-2, B-2A, B-3, IA, IB, IP, if such district or portion thereof is in the flood plain areas which are shown on the flood plain map hereinafter defined. (Ord. No, 29, 1972.)

Sec. 31-47. Purpose of article.

The purpose of these regulations is to provide that lands deemed subject to seasonal or periodic flooding shall not be used for residences or other purpose in such a manner as to endanger the health or safety of the occupants or users thereof. (Ord. No.29,1972)

Sec. 31-48. Flood plain map and flood plain profile.

The location of lands within districts subject to seasonal or periodic flooding are as shown on a plan entitled "Lowell Flood Plain Map and the Lowell Flood Plain Profile" on file in the office of the city clerk and also the buildings department at City Hall. Such flood plain map and flood plain profile is based on the one hundred-year flood plain data prepared by the United State Army Corps of Engineers. (Ord.No.29,1972.)

Sec. 31-49. Relation to zoning districts.

The land defined as the flood plain may be included within one or more of the zoning districts defined in this chapter. These regulations are, in addition to the existing regulations are, in addition to the existing regulations of whatever zoning district may include the land within the flood plain. (Ord. No. 29, 1972.)

Sec. 31-50. General regulations; "substantial improvement" defined.

Within a flood plain as defined above, any use otherwise permitted by this chapter shall be permitted; except, that no new building or other new structure or "substantial improvement," as defined below, to an existing building or other existing structure shall be erected or placed on lands in a flood plain, and no filling or dredging or excavation shall occur, unless a variance for such building, structure, filling, or dredging or excavation has been granted by the board of appeals in accordance with section 31-51 and applicable General Laws of the state after a hearing with due notice given. Such variance shall absolutely state the conditions under which such building or structure and filling, dredging or excavation may be erected or placed or may occur within the flood plain. "Substantial improvement" means any repair, reconstruction or improvement of structure, the cost of which equals or exceeds fifty percent of the actual cash value of the structure either: (a) Before the improvement is started, or (b) if the structure has been damaged and is being restored, before the damage occurred. Present structures in the flood plain zoning areas shall be allowed to expand up to twenty-five percent of the floor area of the present building without being required to come under the regulations of this article. (Ord. No. 29, 1972)

Sec. 31-51. Variance-Application; prerequisite to issuance of building permit.

(a) Any person desiring a variance for any use set out in section 31-50 within the flood plain area, shall submit an application to the board of appeals, and copies thereof to the departments set forth in the following subsection (b) of the section, in accordance with the provisions of chapter 40A of the Massachusetts General Laws as amended, and a copy thereof to the building inspector. The application shall be accompanied by plans of any construction and of the premises on which it is to be situated. All plans shall show existing and proposed finished ground contours at two-foot intervals. Contours shall be delineated within two hundred feet of the proposed construction.

(b) Copies of the application for variance to the board of appeals with accompanying plans shall also be sent forthwith to the buildings inspector, board of health, commissioner of public works, engineering office, planning board and conservation commission for their recommendations to the board of appeals as to the approval, disapproval or appropriate recommendations. Notification that an application for a variance has been submitted to the board of appeals shall be sent to the members of the city council.

(c) All such plans shall be certified by a registered land surveyor or a registered professional civil engineer. No building permit shall be issued by the buildings department until the board of appeals has granted a variance under these regulations and restrictions. (Ord. No. 29, 1972)

Sec. 31-52. Same-Grant by board of appeals; required conditions of grant.

The board of appeals may grant a variance under this article only if it finds that the proposed use of the premises will not adversely affect the public health or safety, or endanger the health, safety or welfare of the occupants of the land in the flood plain, all in accordance with state General Laws chapter 40A. In its consideration of applications for a variance under this article, but without limiting the generality of the foregoing, the board of appeals shall absolutely include in the event of the granting of a variance as to the use of the land, as conditions thereof, the following as minimum conditions:

(a) That the basement floor or the first floor if no basement, of buildings or structures to be occupied by human being shall not be below the elevation shown on the flood plain map and the flood plain profile as indicated on section 31-48.

(b) That furnaces and utilities are protected from the effects of flooding.

(c) That the structure will withstand the effects of flooding. The ground level around and extending twenty-five feet outward from any building or structure in a flood plain shall be raised as necessary so that no part of the ground area so defined shall be below the elevation shown on the flood plain map and the flood plain profile as defined in section 31-48. Embankments subject to possible scouring by flood waters shall be properly stabilized and protected to prevent erosion by flood waters.

(d) That other lands in the flood plain will not be adversely affected by the proposed development, through increased height or velocity of future floods.

(e) That the containment of sewage, safety of gas, electric fuel and other utilities from breaking, leaking, short circuiting, grounding, igniting, electrocuting, or any other dangers due to flooding will be adequately protected. (Ord. No. 29, 1972.)

Sec. 31-53. Effect of article on authority of city agencies and other laws.

Nothing contained in these regulations shall contravene the authority of the board of health, department of public works or any local ordinance or state law with respect to premises in a flood plain, or affect the applicability of the Building Code to any building or structure in a flood plain. (Ord. No. 29, 1972.)

ARTICLE VI. PLANNED UNIT DEVELOPMENT -INSTITUTIONAL (PD-I).

Sec. 31-54. Severability of article.

If for any reason any section of this article would be held invalid or unconstitutional by any court of competent jurisdiction, it would not affect the validity of any other existing portion of this chapter. (Ord. No. 1, 1973.)

Sec. 31-55. Purpose of article.

This article will establish within this chapter a new zoning district to be called "Planned Unit Development - Institutional (PD-I)," the purpose of which is to promote the economical and efficient use of land, an improved level of physical amenities, appro-

priate and harmonious physical development, creative and imaginative design and the overall improvement of the urban environment for the welfare of the entire community. More specifically, this article is intended to promote and encourage the planned and orderly development and expansion of educational institutions and acute medical care facilities. (Ord.No.1,1973.)

Sec. 31-56. Qualifications required for PD-I zoning.

To qualify for PD-I zoning, the following specifications must be satisfied:

(a) The institution must be:

(1) A licensed acute care hospital facility, providing medical care and treatment to the sick, aged or crippled.

(b) Any proposed planned development shall contain not less than five contiguous acres adjacent to the existing institution.

(c) The institution shall have a comprehensive development plan for the entire zone, to include all sanitary facilities as required by the health and building codes of the city, and shall be designed, constructed and maintained in accordance with the statutes, ordinances and regulations of the city and the Commonwealth of Massachusetts.

(d) Such a comprehensive development plan must be submitted to the planning board for its approval and be in accord with the stated or implied development objectives as listed in approved planning reports and studies of the city. Such approval is required prior to the issuance of a permit to build.

(e) Financing for the development is guaranteed. (Ord. No. 1, 1973)

Sec. 31-57. Use regulations.

The following describes primary and auxiliary uses to be allowed in the PD-I zone:

(a) Primary uses.

(1) An acute hospital care facility which provides accommodations and services for the observation, diagnosis and care of individuals suffering from illness, injury, deformity or abnormality, or from any condition requiring obstetrical, medical or surgical services. This article requires that the facility must be capable of providing such services for a minimum of one hundred fifty individuals for periods of not less than twenty-four hours.

(b) Accessory uses. All commercial uses are to be excluded from PD-I zones. The following accessory uses will be permitted accessory uses in such district:

(1) Gift shops oriented to hospital patients and visitors.

(2) Cafeteria and food services designed to serve hospital or educational institutional employees, students and visitors.

(3) Book stores oriented to students and faculty of educational institutions.

(4) Educational or medical research facilities, either publicly or privately financed.

(5) Professional services necessary to provide complete medical or educational facilities for the exclusive use and in connection with the primary use and not competing with businesses in the adjacent neighborhood.

(6) Dormitories and residences for students, nurses and other staff members of the institution.

(7) Parking structures for the accommodation of patients, employees, visitors and students of the institution.

(8) Development of open spaces for passive and active recreation, and gymnasiums and sports facility as elements of the educational or rehabilitation program of the institution.

(9) Extended care facilities as defined by the Commonwealth of Massachusetts, department of public health. (Ord. No.1, 1973.)

Sec. 31-58. Setback, landscaping, open space, parking etc., standards.

(a) The development may harmonize with existing adjacent land uses and not interfere with the privacy and amenity of adjacent properties. To achieve these objectives, the following dimensional requirements may be met:

(1) Setback requirements: A minimum fifteen-foot setback may be provided on all exterior lot lines for structures up to five stories or fifty feet in height, a twenty-foot setback may be provided on structures housing six and seven stories and a thirty-foot setback may be provided on structures with eight or more stories.

(b) Adequate provision for landscape, site, design and style may be incorporated in the project plan. To achieve these objectives, the following minimum requirements may be met:

(1) Screening: All undesirable visual elements may be properly screened including, but not limited to, the following:

Trash storage - Solid screening required.

Open storage -- Solid screening required.

Utility equipment and structures.

Parking as required in this chapter.

(2) Landscaping: Ten percent of required parking spaces may be required for landscaping. Such landscaping may be distributed evenly throughout the entire parking area. This landscaping requirements is in addition to the parking requirement.

(c) Land within this district may be subdivided, but consistent with this original approved plan. Density and intensity may be determined by the percent of usable open space within the zone. To achieve these objectives, the following minimum requirements may be met:

(1) Usable open space may be ten percent of lot area.

(d) All structures may have vehicular access to a public street and parking requirements for residential uses may be one and one-half stalls per dwelling unit; for public assembly may be one stall per eight seats; for institutional may be one stall for each one thousand square feet of gross floor area; for retail and office use, one stall for each five hundred square feet of gross floor area on ground floor and one stall for each one thousand square feet on other levels and other requirements as outlined in this chapter may apply.

(e) Height and bulk restrictions may relate to the design and relationship of structures to the environment. (Ord. No.1, 1973.)

Sec. 31-59. Rezoning procedure.

(a) Prior to the granting of a PD-I zone, the applicant must submit to the planning board, with copies to the buildings department, the following:

(1) A description and map of the area to be rezoned, showing existing land use and

ZONING CODE

PREPARED

for

701 ZONING STUDY

by

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