



ZONING BOOK

City of Lowell, Massachusetts

Approved by the Lowell City Council July 24, 2001.

This pamphlet is a reprint of Appendix A, Zoning: of the Code of Ordinances of the City of Lowell, Massachusetts, published by order of the City Council.

This document includes all approved amendments through July 2001.

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ZONING*

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***Editor's note** – Printed herein is the zoning ordinance of the city formerly codified as Chapter 31 in the Code of Ordinances. The source of this appendix is the pamphlet compiled by the city entitled "Lowell Zoning Code" certified as a true copy of the Zoning Code of the City of Lowell in effect on October 25, 1982, and supplemented through March 22, 1984. All ordinances amending the zoning code since March 22, 1984, have been included in the appropriate sections and are indicated in the history notes immediately following the amended sections. The absence of a history note indicates the section remains unchanged from the pamphlet. Style and capitalization have been made uniform. Obvious misspelled words have been corrected without notation. Words added for clarity have been inserted in brackets [].

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

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ARTICLE I. IN GENERAL

Sec. 31.0. Title "Lowell Zoning Code."

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

Sec. 31.1. Definitions.

For the purpose of this chapter, certain words and terms are hereby defined. The definitions set forth in the state building code of the city are also applicable, where appropriate, with respect to words and terms not defined herein. Words used in the present tense include the future; the singular number includes the plural and the plural the singular; the word "lot" includes "plot"; the word "building" includes "structure"; the word "occupied" includes the words "designed, arranged or intended to be occupied." Where the verb "use" is employed, it shall be construed as if followed by the words "or is intended, arranged, designed, built, altered, converted, rented or leased to be used"; the word "shall" is mandatory and is not directory. However, all definitions must be in conformity with chapter 803 of the Acts of 1975 and 40A M.G.L.A., as amended.

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

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

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

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

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

(Ord. 7-14-98)

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

created or executed for industry oriented distribution or related production.

(Ord. 12-1-98)

Artist Live/Work Space: the use of all or a portion of a building for both art use and the habitation of artists.

(Ord. 12-1-98)

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

(Ord. 12-1-98)

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

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

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

Building code: Building code herein shall refer to the Massachusetts State Building Code.

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

Cars: as the term is used in Section 31-32 Table of Use Regulations under this Zoning Code shall mean motor vehicles of any kind, including but not limited to automobiles, trucks, sport utility vehicles, motorcycles, mopeds, recreational vehicles, snowmobiles, travel trailers, etc.

(Ord. 8-11-98)

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

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

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

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

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

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

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

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

Family: An individual, or two (2) or more individuals related by blood, marriage, or adoption living together, or not more than four (4) individuals not related by blood, marriage, or adoption living together.

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

Floor area, gross:

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

- a. 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.
- b. Elevator shafts and stairwells on each floor.
- c. Attic space, whether finished or unfinished, except as hereafter excluded.
- d. Interior balconies, mezzanines and penthouses.
- e. Basement and cellar areas not devoted exclusively to uses accessory to the operation of the building.

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

- a. Areas used for parking garages, accessory parking or off-street loading purposes.
- b. Basement and cellar areas devoted exclusively to uses accessory to the operation of the building.
- c. Open or lattice-enclosed exterior fire escapes, and unroofed porches and balconies and no higher than the second floor.
- d. 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.

Home occupation:

(1) 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:

- a. The sale of articles produced elsewhere than on the premises for the purpose of sale.
- b. The storage of materials or products outside of a principal building.
- c. The making of external structural alterations which are not customary in residential buildings.
- d. The production of offensive noise, vibration, smoke, dust, or other particulate matter, heat humidity, glare or other objectional effects.

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

- a. Fine art studios.
- b. Dressmaking.

- c. Teaching of not more than four (4) pupils simultaneously or, in the case of musical instructions, of not more than a single pupil at a time.

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

- a. Barbershops, beauty parlors
- b. Funeral parlors.
- c. Commercial stables or kennels.
- d. Real estate or insurance offices.
- e. Recognized professions.

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

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

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

Lot area (I.P.H.R. district): See section 31-35 (b).

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

Lot frontage: A continuous line between side lot lines measured along the edge of a street. On any lot bounded on more than one (1) side by a street or streets, frontage requirements shall apply for at least one (1) of the abutting streets.

Lot line, front: A line dividing a lot from a street.

Lot line, rear: Except for triangular lots, corner lots, and other such lots, the lot line opposite the front lot line.

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

provisions of this or prior zoning ordinances became effective.

Nonconforming use: A use of a building, structure or lot that does not conform to the use regulations of this 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 cover and grass, including other landscaped elements, such as natural features of the site, walks and terraces. Such space shall not include rooftops or areas of lot used for parking, access drives or other land-surfaced areas except walks, and terraces as noted above, designed and intended for non-vehicular use. Such hard-surfaced walks and terraces shall not exceed twenty-five (25) percent of the total required landscaped open space.

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

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

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

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

Planned unit development: A mixed use development on a plot of land containing a minimum

of the lesser of sixty thousand (60,000) square feet or (5) five times the minimum lot size of the zoning district or as otherwise indicated in this Code, in which a mixture of residential, open space, commercial, industrial or other uses and a variety of building types to be allowed by special permit as provided for in this Code.

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

Sign, area of:

- (1) For a sign, either freestanding or attached, the area shall be considered to include all lettering, wording and accompanying designs and symbols, together with the background, whether open or enclosed, on which they are displayed, but not including any supporting framework and bracing which are incidental to the display itself.
- (2) For a sign painted upon or applied to a building, the area shall be considered to include all lettering, wording and accompanying designs or symbols, together with any background of a different color than the natural color of the building.
- (3) For a sign consisting of individual letters or symbols attached to or painted on a surface, building, wall or window, the area shall be considered to be that of the smallest rectangle or other shape which encompasses all the letters and symbols.

Sign, on premises: Sign or other advertising device which advertises or indicates only the person

occupying the premises on which it is located, the merchandise for sale or the activity conducted thereon.

Sill: The horizontal exterior member below a window.

Special permit granting authority: The Board of Appeals of the City of Lowell as defined in section 31-26 of the Lowell Zoning Code. Special permits for signs shall be granted by the board of appeals with a recommendation from the division of planning and development.

State building Code (S.B.C.): S.B.C. shall refer to the Massachusetts State Building Code and include building code.

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.

Telecommunications Facility: Any structure, antenna, tower, or other device used for commercial purposes and which provides mobile wireless services, unlicensed wireless services, cellular phone services, specialized mobile radio communications (ESMR), personal communications service (PSC), or common carrier wireless exchange access services. (Ord. 7-14-98)

Telecommunications Tower: Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas. The term telecommunications tower shall include self-supporting lattice towers, guy towers, monopole towers, radio and television transmission towers, microwave towers, common-carrier towers, cellular phone towers, and the like. (Ord. 7-14-98)

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

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

Tower Height: The vertical distance from the mean grade (average grade around the perimeter) to the highest point of the structure. (Ord. 7-14-98)

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.

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

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. 2-1987, § 31-1, 1-27-87)

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, arks and other public requirements, and to preserve and increase the amenities of the city.

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.

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, and also, as further set forth by Chapter 40A, M.G.L.A., as amended.

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.

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

For the purpose of this chapter, the city is hereby divided into seven (7) types of residential, five (5) types of commercial and four (4) types of industrial districts as follows:

- Residence S1 District –S1– Single-Family Dwellings
- Residence S2 District– S2– Single-Family Dwellings
- Residence TF District –TF- Two-Family Dwellings
- Residence UM2 District –UM2- Urban Multifamily Dwellings
- Residence SM2 District –SM2- Suburban Multifamily Dwellings
- Residence M3 District –M3-Multifamily Dwellings
- Residence M-4 District–M-4–Acre Urban Residential
- Business B1 District-B1-Local Business
- Business B2 District – B2- Limited Business
- Business B2A District – B2A – Intermediate Business
- Business B3 District –B3-General Business
- Business B-4 District-B-4- Mixed Retail/Residential or Office/Residential (Ord. 6/26/01)
- Industrial IA District – IA- Warehousing, Storage and Light Manufacturing
- Industrial IB District – IB – Heavy Industry
- Industrial IP District – IP – Industrial Parks
- Industrial IPHR District – IPHR – Industrial Park High Rise

Planned Development – Medical/Institutional (PD-MI) – see Article VI

Planned Development – Mixed Use (PD-MU) – see Article X.

(Ord. 2-1-00, Ord. 3-28-00)

(Ord. No. 2-1987, § 31-6, 1-27-87)

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:

- (1) Where the district boundary is a street or waterway, the boundary line shall be the centerline of the street or waterway.
- (2) Where the boundary line is indicated approximately parallel to the street, it shall be taken as parallel thereto and unless otherwise indicated, one hundred (100) 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 marked in feet upon the map, the latter shall govern.
- (3) Where the districts designated on the map are bounded by lot lines, the lot lines shall be construed to be the boundary lines, unless they are otherwise indicated on the map.
- (4) Where a boundary line between districts divides a lot in single ownership upon the effective date of this ordinance or upon the effective date of any amendment changing the boundaries of one (1) of the districts in which the lot lies, the regulations controlling the more restrictive part of such lot shall be applicable to as much of the lot within the less restrictive part of such lot as lies within twenty-five (25) feet of the district boundary.
- (5) When a lot in one (1) ownership is situated part in the city and part in an adjacent city or town, the regulations and restrictions of this chapter 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. 2-1987, § 31-7, 1-27-87)

Sec. 31-8. Zoning map.

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 department of code and inspections. All changes in zoning districts or otherwise shall be reflected by proper zoning map changes.

[The following is a list of the approved zoning map amendments:]

<i>No.</i>	<i>Description</i>	<i>Date</i>	<i>No.</i>	<i>Description</i>	<i>Date</i>
			17.	Central Street and Crosby Street M2 TO B1	9/26/73
1.	Between Dunbar Avenue and Pawtucket Drive FROM B2 TO S2	11/20/66	18.	Hale-Howard 1, B1 AND M2 TO 1A, 2, M2 TO B1	1/28/75
2.	Create B2-A District north of Kirk and French Streets	11/22/66	19.	Edwards IB TO B2	12/17/75
3.	Gorham and Weinback EXTEND 1A INTO B1	7/25/67	20.	Chelmsford and James Streets at Lowell Connector IA TO B2-A	4/28/76
4.	Pawtucket Boulevard B2 AND S1 TO 1P	6/11/68	21.	East side of Chelmsford Street at Chelmsford Town Line IP TO IPHR	9/13/78
5.	Gorham and Moore EXTEND B1 INTO M1	9/27/68	22.	Elm Street south side, near Gor- ham Street M3 TO B1	4/25/79
6.	Village Street S1 TO M3	12/17/68	23.	Both sides of Outer Pawtucket Boulevard CHANGED IP TO IPHR	7/24/79
7.	Cross, Fletcher and Suffolk Streets M3 TO B1	6/11/69	24.	Market Street at Merrimack Canal FROM IA TO B3	9/25/79
8.	First Street (VFW Highway) M1 TO B1	11/26/69	25.	Princeton Boulevard at Wood FROM S-2 TO B-2	12/04/79
9.	Felker Street S2 TO M2	12/31/69	26.	Mammoth Road Stoddard FROM M-2 TO B-1	4/29/80
10.	Woburn Street and Route 495 S2 TO S1	3/31/71	27.	Thorndike Street – YMCA FROM M2 TO B3	4/29/80
11.	Northern Canal across to and up Merrimack Street M3 TO B1	1/26/72	28.	Chelmsford Street – Burger King FROM M2 TO B1	7/22/80
12.	French Street – Arcand Drive and Merrimack Canal B1 TO B2-A	1/26/72	29.	Chelmsford Street at James FROM M2 TO IA (CORRECTION)	12/05/80
13.	Extension along Moody Street of B1 FROM PREVIOUS M3	1/26/72	30.	558 Gorham Street FROM M-2 TO B-1	6/23/81
14.	Outer Westford Street IP to B2	3/29/72	31.	M-1 District FROM ONE OR TWO-FAMILY TO MULTIFAMILY	9/22/81
15.	Rogers Street to Tewksbury Line IP TO B2	8/09/72	32.	Gorham, Locke and South Streets M-3 TO B-1	10/27/81
16.	Park Street and Andover Street S1 TO M3	3/07/73			

<i>No.</i>	<i>Description</i>	<i>Date</i>	<i>No.</i>	<i>Description</i>	<i>Date</i>
33.	Gorham, Locke and South Streets M-3 TO B-1	10/27/81	50.	Moore Street M-1 TO B-1	6/11/85
34.	Hildreth Street Elderly Housing M-1 TO M-3 (CORRECTION)	12/23/79	51.	W. Sixth Street at Ennell M-2 TO B-1	10/01/85
35.	Lawrence Street at Wamesit Canal IA TO M-3	3/26/81	52.	Rogers Street – Capitol Stores EXTEND B-2 ZONE	12/10/85
36.	Lawrence at State Street IA TO M-1	1/27/82	53.	200 Market Street EXTEND B-3 ZONE	12/10/85
37.	Middlesex near Baldwin I-B TO B-2 and B-2 TO I-B	1/27/82	54.	Frenon Street Ext. at Post Office Square EXTEND B-3 Zone	12/10/85
38.	Gorham, Charles and Union M-3 TO B-3	5/26/82	55.	Black Brook Area M-2 TO S-1	12/10/85
39.	Pawtucket Boulevard S-1 AND IPHR TO M-3	7/13/82	56.	Cupples Square Extend B-1 District	3/18/86
40.	Chelmsford at Parker M-2 TO B-1	7/27/82	57.	Newhall Street Extend B-1 District	
41.	East Merrimack Street S-1 TO M-2	1/25/83	58.	Broadway Street Extend M-2 Zone	5/14/86
42.	Pawtucket Boulevard and Varnum Avenue S-1, B-1 AND M-3 TO M-1	8/23/83	59.	Franklin Street Extend B-1 Zone	6/24/86
43.	216 Nesmith Street EXTEND M-2	9/27/83	60.	Swan Street S-2 to M-1	6/24/86
44.	Gumpus Road and Wellworth Street S-1 AND S-2 TO M-1	12/06/83	61.	Market Street Extend B-3 Zone	7/08/86
45.	E. Merrimack at Nesmith Street M-3 TO B-3	3/06/84	62.	1541 Middlesex Street Extend B-2 District	8/26/86
46.	Acre Triangle B-1 TO M-3	7/31/84	63.	Central and Jackson Street IA to B-3	10/28/86
47.	Wamesit Hill M-2 TO B-1	5/28/85	64.	Middlesex and Baldwin Street IB and B-2 to M-2	11/04/86
48.	West Centralville M-1 TO S-1	5/28/85	65.	Central Street IA to B-3	11/25/86
49.	First Street (Boulevard) S-2 TO M-3	5/28/85	66.	Melton Street Extend S-2 Zone	12/02/86
			67.	Change M-1 to TF and M-2 to SM2 and UM2	1/27/87

No.	Description	Date		
			84. 374 Chelmsford Street Sm-2 to B-1	3/28/00
68.	Central Street I-A to B-3	2/24/87		
			85. Lawrence Mills IA, IP to PD-MU	3/28/00
69.	Foster Street S-2 to B-1	2/24/87		
			86. Artist Overlay District Extension	1/9/01
70.	Central Street I-A to B-3	2/24/87		
			87. 34-38 East Pine Street SM-2 to B-1	4/4/01
71.	Middlesex Street Extend B-3 Zone	6/23/87		
			88. Jackson/Appleton/Middlesex Plan New B-4, changes to IA/B3 lines.	6/26/01
72.	Middlesex Street I-B, B-2 to SM-2	6/23/87		

73. Market Street and Central Street
A-1, A-2 to B-3
(Ord. No. 2-1987, § 31-8, 1-27-87)

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

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 of for 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 provision of off-street parking, as required by this chapter, unless such new construction or shall continue to make available the required number of off-street parking spaces in addition to the off-street parking facilities required fro such new construction or unless substitute parking facilities which meet the requirements of this chapter have been first provided.

73A. Smith Street and Branch Street
SM-2 to B-1

73B. Bernier Street
S-2 to SM-2

74. Rogers Street – DeMoulas
S-1, M-3 to B-2

75. Groton Street
S-1 to B-2

76. First Street and Read Street
TF to B-1

77. Summer Street and South Street
M-3 to B-3

78. Highland Street and Gorham Street
M-3, UM-2 to B-1

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 (5) days.

79. Hosford Square
M-3, UM-2 to B-1

80. Artist Overlay District

81. Lowell General Hospital
S-1, S-2 to PD-MI

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

82. 1095 Westford Street
S-1 to IP

83. Acre Revitalization Plan
Creation of M-4 and B-4

as shall be deemed necessary by the building commissioner 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.

Exceptions: For the purpose of constructing accessory buildings and structures to residential uses and the addition of un-roofed decks to residential uses, "mortgage survey plans" are sufficient for determining compliance with zoning requirements provided that the mortgage survey plan shows the proposed construction and setbacks.

(Ord. 9/14/99)

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

A zoning ordinance or bylaw shall provide that construction or operation under a building or special permit shall conform to any subsequent amendment of the ordinance or bylaw unless the use or construction is commenced within a period of not more than six (6) months after the issuance of the permit and in cases involving construction, unless such construction is continued through to completion as continuously and expeditiously as is reasonable.

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

The inspector of builders 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.

Sec. 31-14. Certificate of occupancy.

(a) No land shall be occupied or used, and no building or structure erected or structurally altered, shall be occupied or structurally 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 S.B.C. 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 S.B.C. at the time of issuance. The certificate of occupancy shall be a separate department from, and in addition to, any building permit issued.

(b) A certificate of occupancy shall be required for any of the following in conformity with S.B.C. and M.G.L. Chapter 40A:

- (1) Occupancy and use of a building hereafter erected or structurally altered.
- (2) Change in use of an existing building to a use of 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 all 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 fourteen (14) 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 (10) days after issuance and shall be available for inspection by any city agency thereafter.

(Ord. No. 2-1987, § 31-14, 1-27-87)

Sec. 31-15. Special permits.

(a) [Purpose.] Certain uses are designated in this chapter in section 31-32 (Table of Use Regulations) as exceptions, requiring a special permit (SP). The board of appeals may, in accordance with Chapter 40A of the General Laws, as amended, grant special permits for such exceptions. 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.

(b) Site plan approval.

- (1) Every applicant to the board of appeals for a special permit as authorized by this chapter in section 31-32 (Table of Use Regulations) shall file with the board of appeals an application for a site plan review and pay such fees as the board of appeals shall determine from time to time. A copy of said application shall be provided to the planning board, the city engineer, the city clerk and the conservation commission. The application shall include the material listed in "Contents of Plan" below [subsection (5)] and shall include any conditional material required by the rules of the board. The board shall review the site plan and may grant an exception by special permit subject to the following conditions and safeguards. The board for stated reasons may deny approval of a site plan or may approve a site plan without a finding of hardship. The application shall be considered not submitted until all the required materials are in the hands of authorized persons of the board of appeals, the planning board, the city engineer, the city clerk and the conservation commission.
- (2) The site plan shall be subject to the following conditions and the board shall make a determination that the project meets these conditions:
 - a. The site of the structures or uses is in an appropriate location;
 - b. The use or uses when developed will not adversely affect the neighborhood;
 - c. That ingress and egress for traffic flow is designed properly so that there will be no serious hazard to vehicles or pedestrians;
 - d. That adequate parking facilities are provided for each use and structure in the development;
 - e. If a partial site plan is proposed for one (1) building that will eventually be part of a large development, then the site plan must show the relationship to the other proposed uses or structures and to the total development. Subsequent site plans must be submitted for each additional structure or complex of buildings.
- (3) Before granting a special permit for a site plan approval, the board shall hold a public hearing within sixty-five (65) days of the application date, notice of which shall be given in a local newspaper once in each of two (2) successive weeks with the first publication to be not less than fourteen (14) days before the date of hearing, and to owners of all property abutting the proposed development or land in the same ownership or contiguous ownership, to all property owners within one hundred (100) feet of the proposed development, and to all property owners deemed by the board to be affected thereby. The board shall make a finding within (90) days from the date of the permit hearing.
- (4) If the board fails to issue its finding within ninety (90) days, the site plan shall be deemed approved and a special permit granted. The board shall make a copy of the site plan, the application and any other supporting material submitted, immediately available to the office of the city engineer, the conservation commission, the city clerk and the planning board (and they shall have an opportunity to prepare written reports with recommendations to be submitted to the board, failure to submit written reports or to give an oral report at the public hearing shall not invalidate action by the board). A favorable decision by the board shall require the votes of four (4) of the five (5) members of the board.
- (5) Contents of plan. Four (4) copies of the site plan application and other data are required to be submitted and shall contain the following data:
 - a. It shall be drawn at a scale of one (1) inch equals twenty (20) feet unless another scale is requested and found suitable by the board;
 - b. The plan shall be prepared by a registered land surveyor, professional engineer or architect;
 - c. The scale, date and north arrow shall be shown;
 - d. The plan shall be certified by the land surveyor doing the boundary survey and the professional engineer or architect on the location of the building(s) setbacks, and other required dimensions, elevations, and measurements and further that the plan be signed under the penalties of perjury;
 - e. The corner points of the lot* and the change of direction of lines to be marked by stone monuments, cut in stone, stake and nail, iron pin, or other marker, and shall be so marked;
 - f. Lot* number, dimensions of lot* in feet, size of lot in square feet, and width of abutting streets and ways;

- g. Easements within the lot* and abutting thereon;
- h. The location of existing and proposed building(s) on the lot;
- i. The dimensions of the existing and proposed building(s) in feet;
- j. The distance in feet of existing and proposed building(s) from the lot lines;
- k. The distance between buildings on the same lot;
- l. The percent of the lot* area covered by the building(s);
- m. The average finished grade of each building;
- n. The elevation above average finished grade of the floor and ceiling of the lowest floor of each building;
- o. Topographical lines at two-foot intervals;
- p. The use of designation of each building or part thereof, and of each section of open ground, plaza, or useable roof space;
- q. Numbering of parking spaces;
- r. Height of all buildings above average finished grade of each;
- s. Number of apartments, hotel rooms, meeting rooms, and restaurant and theater seats;
- t. Total square feet of floor space for each use;
- u. Dimensions and size in square feet of all landscape and recreation areas, and depiction of materials to be used (grass, five-foot shrubs, etc.).

* Refers also to series of contiguous lots under single ownership.

- (c) Conditions and safeguards. In granting any special permit the board may prescribe any conditions and safeguards deemed necessary to prevent nuisance and promote harmony within the neighborhood. Such conditions and safeguards shall include but not be limited to the following:

- (1) Lot area;
- (2) Front, side or rear yards;
- (3) Height limitations;
- (4) Screening, buffers or planting strips, fences or walls;
- (5) Modification of the exterior appearance of the structure;

- (6) Limitations upon the size, number of occupants, method and time of operation, or extent of facilities;
- (7) Consideration of number and location of driveways, accessways, or other traffic features, subject to the approval of the commissioner of public works;
- (8) Off-street parking, lighting and loading requirements.

The disregard of any condition or safeguard when made part of the terms under which a special permit is granted shall be deemed a violation of this ordinance and shall warrant revocation of the special permit by the board.

(d) Special permit requirements: adult entertainment facilities. In addition to the requirements and conditions for special permits as listed above, the following conditions shall apply to adult entertainment establishments:

- (1) No adult entertainment establishment special permit shall be granted if such proposed location is four hundred (400) feet of another presently existing or permitted adult entertainment establishment.
- (2) No permit shall be granted for an adult entertainment establishment in an area otherwise properly zoned if any portion of the specific location is within four hundred (400) feet of the following zoning districts: S-1, S-2, M-1, M-2, M3.

(e) Special permit requirements: Body Art Establishments. In addition to the requirements and conditions for special permits listed above, the following conditions shall apply to all Body Art Establishments:

- (1) no special permit allowing a Body Art Establishment shall be granted if the proposed location of the Body Art Establishment:
 - (a) is within seven hundred fifty (750) feet of another presently existing or permitted Body Art Establishment; or
 - (b) is in an area otherwise properly zoned, if any portion of the specific location of the Body Art Establishment is within five hundred (500) feet of the following zoning

districts: S-1, S-2, TF, SM-2, UM-2, M-3, M-4; or

- (c) is in an area otherwise properly zoned if any portion of the specific location of the Body Art Establishment is within five hundred (500) feet of a public or private elementary school, middle school, secondary school, or any school or college serving a student population where any of the student population is under eighteen years of age.

(Ord. 5-8-01)

(Ord. No. 18-1985, § 2, 11-19-85, Ord. No. 2-1987, § 31-15, 1-27-87)

Sec. 31-16. Variances.

(a) Variances can only be granted in accordance with the provisions of Chapter 40A of Massachusetts General Laws as amended.

(b) Application for variances can only be filed by the owner of the land or buildings, or a duly authorized representative (written authority to be left with application).

(c) a Variance for a change of use cannot be granted by the board of appeals. Any petition submitted to the board of appeals to vary use of land or buildings beyond the use allowed in any zoning district shall be construed as a petition for rezoning and the board of appeals shall be without authority to hear the same. Any application or petition for use variance shall not be accepted but shall be returned to the applicant with a stamped endorsement signed by the clerk of the board as follows: APPLICATION REQUESTS USE VARIANCE AND CANNOT BE ACCEPTED.

(d) If the application for a variance does not conflict with the foregoing prohibition, variances can only be granted by the board of appeals if they [it] find[s] that owing to circumstances relating to soil conditions, shape or topography of land and especially affecting such land but not affecting generally the zoning district in which the land is located and a literal enforcement of the provisions of the zoning code would involve substantial hardship to the petitioner or appellant and relief can be granted without substantial detriment to the public good and without nullifying or derogation from the intent and purpose of this zoning code.

(e) The board of appeals must find all these prerequisites before it can consider granting a variance. A failure to establish any one (1) of them is fatal. (Further statements of the above follow for clarification.)

(f) The board of appeals is authorized to grant a variance from zoning by-laws only if each of the following jurisdictional conditions precedent exist:

(1) *Special hardship*: "...owing to circumstances relating to the soil conditions shape or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district..."

(2) *Public good*: "...desirable relief may be granted without substantial detriment to the public good..."

(3) *Intent of zoning satisfied*: "...without nullifying or substantially derogating from the intent of zoning..."

(g) The board of appeals may impose conditions, safeguards and limitations, including the continued existence of any particular structures but not excluding any conditions, safeguards or limitations based upon the continued ownership of the land or structures to which the variance pertains by the applicant, petitioner or any owner.

(h) If the rights authorized by a variance are not exercised within one (1) year of the date of grant of such variance they shall lapse, and may be reestablished only after notice and a new hearing pursuant to this section.

(i) Any rights granted by a variance shall exist in accordance and shall be subject to Chapter 40A of the zoning Act, as amended.

(j) The board shall cause to be made a detailed record of its proceedings indicating the vote of each member upon each question, or if absent or failing to vote, indicating such a fact, and setting forth clearly the reason or reasons for its decision and of its official actions, copies of all of which shall be filed within fourteen (14) days in the office of the city or town clerk and shall be a public record; and notice of the decision shall be mailed forthwith to the petitioner applicant or appellant, to the parties in interest designated in section 11 of Chapter 40A and to every person present at the hearing who requested that notice be sent to him and stated the address to which such notice was to be sent. Each notice shall specify that

appeals, if any, shall be made pursuant to section 17 of Chapter 40A and shall be filed within twenty (20) days after the date of filing of such notice in the office of the city clerk. If the board fails to comply with the foregoing, any decision given to the city clerk shall be invalid and void and should not be recorded by the city clerk.

(k) In all cases, applicants for a variance shall at the time of application submit material, maps or plans or other information required by the board to aid in making a sound decision. The application shall be considered not submitted until all requirements for submission are met.

(l) Copies of the application and any materials submitted shall be transmitted forthwith to the planning board to allow the planning board to consider the effect of request on planning objectives for Lowell and shall send a report and recommendation to the board of appeals.

(m) Any failure to properly notify said parties of interest shall invalidate any further action by the board of appeals.

(n) No petition for variance which has been unfavorably acted upon by the board of appeals shall be considered by the board of appeals shall be considered by the board of appeals within two (2) years after the date of such unfavorable action.

(o) The granting of leave to withdraw after an application for variance has been advertised for a public hearing before the board of appeals, shall be considered as constituting unfavorable action.
(Ord. No. 2-1987, § 31-16, 1-27-87)

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 by Chapter 40A, of the General Laws and all amendments thereto.

(b) A person making application to the city council for a zoning change in accordance with this amendment, shall prepay to the city clerk at the time of filing of such application, such fee as may be required by the city clerk.

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

Incorporated herein by reference is Chapter 40A, section 6, of M.G.L.A., as amended.

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

(a) No building or addition to an existing building shall be erected on a lot which does not meet the lot frontage requirements stated in section 31-34 (Table of Dimensional Requirements).

(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 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 semidetached or attached dwelling unit.

(Ord. No. 2-1987, § 31-19, 1-27-87)

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 nonconforming structure, or the enlargement of a nonconforming use is not in further violation of the dimensional requirements in article III or of the off-street parking and loading requirements in article IV 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 (25) 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 building commissioner when the board of appeals authorizes the substitution of one (1) 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 (1) 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.

- (5) Nonconforming structures or uses may not be altered or expanded other than in a manner provided by this Code or the state zoning act, Chapter 40A.

(c) If a nonconforming structure or use shall have been destroyed or damaged by fire, explosion or other catastrophe, such building or use may be rebuilt or restored and used again as previously. Such rebuilding or restoring shall be completed within twelve (12) 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.

(d) A nonconforming use of a structure or land which has been abandoned 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 time as defined under abandoned use, section 31-1, 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 period of time as defined under abandoned use, section 31-1.

(Ord. No. 2-1987, § 31-20, 1-27-87)

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 article IV, section 31-40.

(b) Customary home occupation (as defined in this ordinance).

(c) In all districts, the renting of rooms or the furnishing of table board by a resident family to not more than three (3) nontransient roomers or boarders shall be considered as an accessory use provided no

separate cooking facilities are maintained, and no sign or nameplate is displayed.

(d) Provisions of a garage or parking space for occupants, employees, customers, or visitors shall be considered as an accessory use, provided where accessory to residential uses in Residence S1 and S2 districts such garage or parking space shall be limited to the accommodation of five (5) passenger vehicles, or two (2) passenger vehicles for each dwelling unit, whichever is greater. The storage of any unregistered vehicle and/or repair of a vehicle is prohibited unless otherwise permitted by the respective use district.

(e) In multifamily dwellings, hospitals or hotels with more than thirty (30) sleeping rooms, a newsstand, barbershop, dining room or similar service for occupants thereof, when conducted and entered only from within the building and no signs or advertising devices thereof are visible 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 (25) percent of the floor area in a main building, and the total area of uses or buildings accessory to the principal use except for parking facilities and driveways may not occupy more than fifteen (15) percent of the entire area of the lot. In residence districts, an accessory building shall not be located nearer than ten (10) feet to the principal building or nearer than five (5) feet to any side or rear lot line or nearer to the front lot line than the minimum setback in the zoning district in which it is located.

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

(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 this ordinance.

(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 (15) feet in height above the ground level.

(Ord. No. 2-1987, § 31-21, 1-27-87)

Sec. 31-22. Signs.

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 the following:

(1) Sign types.

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

1. Such sign may include identification of an accessory professional office or customary home occupation (as defined in section 31-1 of Lowell city code).
2. Such sign may be attached to the building or may be on a rod or post not more than four (4) feet high, and at least three (3) feet in from street line.
3. Such sign may not exceed two (2) square feet in area.
4. Sign must be stationary and not contain any motorized moving parts.

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

1. Such sign must be painted on or attached flat against the surface of, but not extending beyond or attached to the underside.
2. Letters shall not exceed ten (10) inches in height.
3. A minimum clearance above sidewalk level of seven (7) feet must be allowed for pedestrian clearance.

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

General Laws, as from time to time amended, and such permit is valid and outstanding.

d. *Community directory sign:* An accessory bulletin or announcement board describing the location of event of a community service organization, institution, or public facility.

1. Such sign shall not exceed twenty (20) square feet in total area.
2. One (1) such sign for each property is allowed, unless the street frontage of said institution exceeds one hundred (100) feet, then one (1) sign for each hundred (100) feet is allowed but in no event more than three (3) such signs.
3. No such sign may be located nearer to a street line than one-half of the depth of the required front yard.

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

1. Such sign may not exceed twenty (20) square feet.
2. Such sign may be maintained on the building or structure only for the interim of construction and not exceeding fifteen (15) days following the completion of said construction.
3. Failure to remove said sign within time period stated shall be removed by the inspector of buildings at the expense of the owner.

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

1. Such signs shall not exceed six (6) square feet.
2. Such signs shall advertise only the property on which the sign is located.
3. A maximum of two (2) such signs may be maintained on the property being sold or rented.

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

1. Such sign shall have no more than two (2) faces.
2. The area of each face shall not exceed thirty (30) square feet unless there are three (3) or more uses on the lot, then the area of each face shall not exceed fifty (50) square feet.
3. The top of such sign may not exceed a height of twenty (20) feet above grade.

4. A lot with a frontage of three hundred (300) feet or more may have two (2) such signs.
 5. Such signs shall be erected so as to not obstruct free [ingress or] egress to or from any building or public right-of-way.
 6. Such signs shall be constructed entirely of noncombustible materials.
 7. There must be no exposed connecting wires.
- h. *Illuminated sign:* A sign that is artificially illuminated by means of electricity, gas, oil, or fluorescent paint.
1. Permits must be obtained for the erection of illuminated signs within the limitations set forth in this article for the location, size and type of sign or outdoor display.
 2. All electrically-illuminated signs shall conform to the requirements of the Massachusetts State Electrical Code.
 3. All illumination must be a continuous external light, that is indirect and installed in a manner which will prevent direct light from shining onto any street or adjacent property. (Spot, track, overhang, or wall lamps are acceptable).
 4. Internally-illuminated signs will require a special permit by the special permit granting authority.
 5. No form of illumination that is flashing, moving, animated or intermittent shall be allowed.
 6. There must be no exposed connecting wires.
- i. *Individual letters or symbols:* Which are attached to an awning, marquee, a roof, building surface, wall, or signboard.
1. The area to be computed is that of the smallest rectangle or other geometric shape which encompasses all of the letters or symbols.
 2. These letters or symbols shall not project more than twelve (12) inches from the building surface.
 3. Letters and symbols shall not obscure architectural features of the building (including but not limited to cornices, lintels, transoms) to which the letters and symbols are attached.
 4. Such letters and symbols shall not extend above the lowest part of the roof, nor beyond the ends of the wall to which they are attached.
 5. *Sign size:*
 - i. Letters or symbols shall have an aggregate area not exceeding two (2) square feet for each foot of building face parallel or substantially parallel to a street lot line. Where a lot fronts on more than one (1) street, the aggregate sign area facing each street frontage shall be calculated separately.
 - ii. Signs shall not be permitted on building walls not parallel or within forty-five (45) degrees of parallel to the street, except directional signs such as for entrances or parking each not exceeding three (3) square feet in area.
- j. *Marquee signs:* A sign painted on, attached to, or consisting of an interchangeable copy reader, on a permanent overhanging shelter which projects from the face of a building.
1. Such sign may be painted on or attached flat against the surface of, but not extending beyond or attached to the underside.
 2. Letters or symbols shall not exceed sixteen (16) inches in height.
 3. A minimum clearance above sidewalk level of ten (10) feet must be allowed for pedestrian clearance.
- k. *Painted wall signs:* A permanent mural or message painted directly onto a building surface. A special permit is required from the special permit granting authority.
1. *Political Signs:* A sign designed to influence the action of voters for (i) the passage or defeat of a measure; or (ii) the election of a candidate for nomination or election to public office at a national, state or other local election. A political sign is permitted as provided in the table of allowed sign uses. The regulations in this section apply to the outdoor political signs only.
1. Such sign is permitted in any land use district if it is stationary, unlighted, temporary, and is not:
 - i. Erected earlier than seventeen (17) days before a primary and if a candidate is defeated after nomination he must remove his signs in five (5) days and all other political signs to be removed five (5) days after the election;
 - ii. Attached to a utility pole, fence, tree or other vegetation, or upon a public right-of-way;
 - iii. Located closer than five hundred (500) feet from a freeway right-of-way;
 - iv. So situated that the face of it can be seen from a freeway right-of-way;

- v. Erected in such a manner that it will or reasonably may be expected to interfere with, obstruct, confuse, or mislead traffic;
 - vi. Attached to any structure (except that such sign may be displayed in a window).
2. Such sign may not exceed four (4) square feet in area.
 3. A maximum of two (2) signs per lot is allowed.
 4. [Such sign] shall conform to political sign and poster regulations stated in the Lowell City Code.

(Ord. 4/28/98)

- m. *Projecting signs:* A permanent sign that is hung at a ninety-degree angle from the face of and affixed to a building or structure and extends twelve (12) inches or beyond the building wall, structure of parts thereof.
 1. If flat, each face shall not exceed sixteen (16) square feet.
 2. The total area of a three-dimensional sign shall be determined by enclosing the largest cross-section of the sign in an easily recognizable geometric shape (rectangle, triangle, parallelogram, circle, etc.) and computing its area which shall not exceed nine (9) square feet.
 3. Such sign must be hung at right angles, and shall not project beyond a vertical plane of two (2) feet inside the curbline.
 4. The bottom of said sign shall allow a ten-foot pedestrian clearance from sidewalk level.
 5. The top of the sign may be suspended in line with one (1) of the following, whichever is the most successful application of scale, linear continuity and visibility as determined by the building inspector:
 - i. Suspended between the bottom of sills of the first level of windows above the first story and the top of the doors or windows of the first story; or
 - ii. The lowest point of the roof of a one-story building.
 6. An additional permit is required from the city council to erect signs which overhang a public way.
 7. All signs overhanging a public way must be covered by an insurance policy naming the City of Lowell as coinsured

and for such amounts as shall be established by the city.

- n. *Public service sign:* A sign located for the purpose of providing directions towards or indication of a use not readily visible from a public street (e.g., restrooms, telephone, etc.).
 1. Such signs that are necessary for public safety and convenience shall not exceed four (4) square feet.
 2. Such signs may bear no advertising.
 3. Such signs are not included in computing total sign area allowed.
- o. *Roof sign:* A sign erected, constructed, or maintained above the roof of a building.
 1. Roof signs are prohibited except by special permit by the special permit granting authority. Permit may be granted if it is the only feasible for of signing for that establishment.
 2. Such signs shall be constructed entirely of or other approved noncombustible materials except as provided in section 1408.5 of the state building code.
 3. All wiring and tubing shall be kept free and insulated therefrom.
 4. Such signs shall be set back at least three (3) feet from the face of the outside wall.
- p. *Temporary sign:* A sign intended to be used for a period of no more than thirty (30) days.
 1. Temporary signs pertaining to special sales or events may be displayed in no more than thirty (30) percent of the window area.
 2. No permit is required for temporary signs.
 3. Temporary banner signs which overhang a public way must be covered by an insurance policy naming the City of Lowell as coinsured and for such amounts as shall be established by the city.
- q. *Wall sign:* A sign which is attached parallel on the exterior surface of a building or structure.
 1. A wall sign shall not project more than fifteen (15) inches from the building surface.
 2. The sign shall not obscure architectural features of the building (including but not limited to cornices, lintels, transoms) to which the sign is attached.
 3. Such signs shall not exceed above the lowest point of the roof, nor beyond the ends of the all to which it is attached.

4. Sign Size:

- i. Signs or advertising devices, attached to the building shall have an aggregate area not exceeding two (2) square feet for each lineal foot of the building face parallel or substantially parallel to a street lot line. Where a lot fronts on more than one (1) street, the aggregate sign area facing each street frontage shall be calculated separately.
 - ii. Signs shall not be permitted on building walls not parallel or within forty-five (45) degrees of parallel to the street, except for entrances or parking each not exceeding three (3) square feet in area.
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- r. *Window Sign:* A permanent nonilluminated sign painted on the inside glass of a window.
 - 1. The total area of a window sign shall not exceed thirty (30) percent of the total glass area.
 - 2. Contents of such sign shall advertise only an on-premise use.
 - 3. Window signs on ground floor levels shall be included in calculating the total area of signs on the building frontage.
- (2) Other pertinent information for all districts.
- a. Corner buildings. If a building fronts two (2) or more streets, the sign area for each street frontage shall be computed separately.
 - b. Setback requirements. Unless otherwise specified in this Code, signs are exempt from setback requirements.
 - c. Sublevel storefront. If the first floor of a building is substantially above street grade and the basement is only partially below street grade, separate occupants of each level may each have one-half the square feet of signage allowed if it were a single ground floor use.
 - d. Supports and brackets for a sign shall not extend needlessly above the cornice line of the building to which the sign is attached.
 - e. Trademarks that are registered for a specific commodity may occupy no more than ten (10) percent of the sign area, except that said commodity is the major business conducted on the premises, then there shall be no such restriction.

(3) Table of allowed uses:

Zoning Districts

<i>Sign Type</i>	<i>S-1</i>		<i>UM-2</i>	<i>M-3</i>		<i>B-2</i>	<i>B-3</i>	<i>IA, IP</i>	
	<i>S-2</i>	<i>TF</i>	<i>SM-2</i>	<i>M-4</i>	<i>B-1</i>	<i>B-2A</i>	<i>B-4</i>	<i>IPHR</i>	<i>IB</i>
Address	Y	Y	Y	Y	Y	Y	SP	Y	Y
Awning	N	N	N	N	Y	Y	SP	Y	Y
Billboard	N	N	N	N	SP	SP	N	SP	SP
Community directory	Y	Y	Y	Y	Y	Y	SP	Y	Y
Contractor	Y	Y	Y	Y	Y	Y	SP	Y	Y
For sale/rent	Y	Y	Y	Y	Y	Y	SP	Y	Y
Freestanding	N	N	N	N	Y	Y	SP	Y	Y
Illuminated	N	N	N	N	Y	Y	SP	Y	Y
Internally illuminated	SP	SP	SP	SP	SP	SP	SP	SP	SP
Individual letters	N	N	N	N	Y	Y	SP	Y	Y
Marquee	N	N	N	N	Y	Y	SP	Y	Y
Accessory	Y	Y	Y	Y	Y	Y	SP	Y	Y
Painted wall	N	N	N	N	SP	SP	SP	SP	SP
Permanent	Y	Y	Y	Y	Y	Y	SP	Y	Y
Political	Y	Y	Y	Y	Y	Y	SP	Y	Y
Projecting	N	N	N	N	SP	SP	SP	SP	SP
Public service	N	N	N	N	Y	Y	SP	Y	Y
Roof	N	N	N	N	SP	SP	SP	SP	SP
Temporary	Y	Y	Y	Y	Y	Y	SP	Y	Y
Wall	N	N	N	N	Y	Y	SP	Y	Y
Window	N	N	N	N	Y	Y	SP	Y	Y
Any other sign	N	N	SP	SP	SP	SP	SP	SP	SP

(Ord. 6/26/01)

- (4) Prohibited signs. No person may erect a sign which:
- a. Flashes, rotates, or has a motorized moving part that is visible from a public street.
 - b. Any sign which, by reason of its size, location, content, coloring or manner of illumination, constitutes a traffic hazard or a detriment to traffic safety in the opinion of the building inspector by obstructing the vision of drivers, or detracting from the visibility of any traffic sign or control device on public streets and roads.
 - c. Any sign which obstructs free ingress to or egress from a required door, window, fire escape or other required exitway of [or] which obstructs a window, door or other opening for providing light or air or interferes with property [proper] function of the building.
 - d. Any sign or sign structure which:
 1. Is structurally unsafe;
 2. Constitutes a hazard to safety or health by reason of inadequate maintenance, dilapidation or abandonment;
 3. Is not kept in good repair; or
 4. Is capable of causing electrical shocks to persons likely to come in contact with it.
 - e. Signs which make use of words such as STOP, LOOK, DANGER, etc., or any phrases, symbols, or characters, in such a manner as to interfere with, mislead, or confuse traffic.
 - f. String lights used in connection with commercial premises for commercial purposes other than Christmas decorations.
 - g. Spinners, and streamers except as specified in temporary sign section.
 - h. Any sign now or hereafter existing which no longer advertises a bonafied business conducted or product sold. To be removed at owner's expense.
 - i. Is affixed to a fence, utility pole or structure, or tree, shrub, rock or other natural objects.
- (5) Variance. An application for variance may be filed with the board of appeals as allowed in sections 31-16 and 31-26 of the Lowell Zoning Code.
- (6) Special permits. Certain uses are designated in this chapter as exceptions, requiring a special permit. Persons wishing to file for a special permit may refer to section 31-15 of the Lowell Zoning Code. Site plan requirements

may be waived by the special permit granting authority.

- (7) Maintenance. Each sign shall be maintained in a secure and safe condition. If the building inspector is of the opinion that a sign is not secure, safe or in good state of repair, it shall give written notice of this fact to the person responsible for the maintenance of the sign. If the defect in the sign is not corrected within the time permitted by the building inspector, the building inspector may revoke the permit to maintain the sign and may remove the sign and keep possession of same until the owner pays the cost of removal.
- (8) Energy shortage. In the event of an energy shortage, the city is authorized in its discretion to order all signs in city consuming electricity, gas, oil or other energy, to cease consumption in whole or in part during such hours as for such period as designated.
- (9) Nonconforming signs. Any sign or other advertising (billboard) devices heretofore legally erected may continue to be maintained; provided, however, that no such sign or other advertising device shall be permitted if it is enlarged and provided further, any such sign or other advertising device which has deteriorated to such an extent that the cost of restoration would exceed thirty-five (35) percent of the replacement cost of the sign or other advertising device at the time of the restoration shall not be repaired or rebuilt or altered. Any exemption provided in this section shall terminate with respect to any sign or other advertising device which:
- a. Shall have been abandoned as set forth in this Code. See section 31-20.
 - b. Shall not have been repaired or properly maintained within thirty (30) days after notice to that effect has been given by the building commissioner.

(Ord. No. 2-1987, § 31-22, 1-27-87)

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.

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 (50) 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 (10) feet of the side lot line of any abutting lot, all of the major portion of which is in a residence district.

Sec. 31-25. Removal of material.

(a) notwithstanding anything contrary in any other ordinance, no person shall remove any soil, loam, sand or gravel from any land not in public use in any part of the city, without first obtaining written permission therefore from the board of appeals after a public hearing, except as provided 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 six (6) months 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 from which the permit may be exercised;
- (2) The extent, depth and contour of the area of removal;
- (3) The grade of the slope of the banks of the area of removal and the specification of showing and reinforcement of the banks of any excavation;
- (4) The proximity of such removal to any public way;
- (5) The hours of the day during which such removal may be permitted;
- (6) The hours of the day during which the material may be trucked away from the location of removal;
- (7) the conditions under which the removal trucks may be operated;
- (8) The replacement of topsoil and the replanting of the area of removal and screening the same from public view.

(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 of the premises of any buildings or roads for which a permit has been issued by the inspector of buildings.

Sec. 31-26. Board of appeals.

The board of appeals shall have all the authority given to it by Chapter 808 of the Acts of 1975 and Chapter 40A, M.G.L. as amended, and further reference should be made to section 31-16 of this code.

Sec. 31-27. Enforcement of chapter.

The building commissioner or the inspector of buildings, appointed under the provisions of the Code of the City of Lowell, is hereby designated and authorized as the officer charged with the enforcement of this chapter. See also section 31-10.

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. If the building inspector declines to act to a written request to enforce the zoning code, he shall notify the party requesting such enforcement in writing within fourteen (14) days of receipt of the request of any action or refusal to act and the same reasons therefore.

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 structure, at a reasonable hour and at such times as may be reasonably necessary to enforce this chapter.

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

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 one hundred dollars (\$100.00) for each offense. Each day, or portion of a day that nay violation is allowed to continue shall constitute a separate offense.

Notwithstanding the foregoing, any alleged violation of any of the provisions of this Chapter may, in the sole discretion of the Building Commissioner, be made the subject matter of proceedings initiated by the Building Commissioner pursuant to the provisions of M.G.L. Chapter 40, Section 21D, that is, Non-Criminal Disposition. If the Building Commissioner so elects to proceed under Chapter 40, Section 21D, all the terms and provisions of such Chapter and Section shall thereafter govern said action.

(Ord. 4/4/89)

(Ord. No. 2-1987, § 31-30, 1-27-87)

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 therefore 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	S-1	S-2	TF	UM2 SM2	M-3	M-4	B-1	B-2 B-2A	B-3	B-4	IA IP IPHR	IB	PD- MU
1. RESIDENCE USES													
a. Detached dwelling occupied by not more than one family.	Y		Y	Y	Y	Y	SP	SP	SP	Y	SP	SP	N
b. Two family or semi-detached.	N		Y	Y	Y	Y	SP	SP	SP	Y	N	N	N
c. Multi-family dwelling.	N		N	Y	Y	Y	SP	SP	SP	Y	N	N	Y
d. Trailer.	N		N	N	N	N	N	N	N	N	N	N	N
e. Non-family accommodations:													
1. Tourist home	N		N	Y	Y	N	SP	SP	SP	SP	N	N	N
2. Lodging house, fraternity	N		N	N	N	SP	SP	SP	SP	SP	N	N	SP
3. Dormitory	N		N	N	N	N	SP	SP	SP	SP	N	N	Y
4. Hotel	N		N	N	N	N	Y	Y	Y	Y	SP	SP	Y
5. Motel	N		N	N	N	N	Y	Y	Y	Y	SP	SP	SP
2. CONVERSION OF DWELLING STRUCTURE													
a. Existing one family detached dwelling converted for not more than two 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 3,000 sq. ft. of floor space used for living purposes. Minimum lot area per dwelling unit shall be 7,000 sq. ft. for S1 District and 5,000 sq. ft. for S2 District.	N		SP	SP	SP	SP	SP	SP	SP	SP	N	N	N
b. Other dwellings converted for more than two families; where all dimensional and other requirements are met.	N		SP	SP	SP	SP	SP	SP	SP	SP	N	N	SP

Principal Uses	S-1	TF	UM2 SM2	M-3	M-4	B-1	B-2 B-2A	B-3	B-4	IA IP IPHR	IB	PD- MU
	S-2											
3. INSTITUTIONAL, RECREATIONAL AND EDUCATIONAL USES												
a. Place of worship.	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
b. Religious, sectarian, denominational, private school or college not conducted as a gainful business.	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
c. Licensed day nursery school or kindergarten.	N	N	SP	SP	SP	SP	SP	SP	SP	SP	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	Y	SP	SP	Y
e. Recreational facility owned or operated by a non-governmental agency, subject to the following provisions: shall not be conducted as a private or gainful business. 2. Indoor or outdoor activities connected therewith shall be at least 100 feet from any lot line in residential districts.	SP	SP	SP	SP	SP	Y	Y	Y	Y	SP	SP	Y
f. Entertainment and recreational facilities operated as a gainful business.	N	N	N	N	N	SP	SP	SP	SP	Y	Y	Y
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	SP
h. Private non-profit club or lodge operated for members only.	N	N	SP	SP	N	SP	Y	Y	SP	SP	SP	Y
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. (Ord. 1-9-90)	N	SP	SP	SP	SP	SP	Y	Y	SP	SP	N	SP
j. Cemetery.	N	N	SP	SP	SP	SP	N	N	N	N	N	N

Principal Uses	S-1 S-2	TF	UM2 SM2	M-3	M-4	B-1	B-2 B-2A	B-3	B-4	IA IP IPHR	IB	PD- MU
<u>4. RETAIL BUSINESS AND CONSUMER SERVICE USES:</u>												
a. Stores-5,000 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, drugstore Eating Places – including but not limited to lunch room, restaurant, cafeteria, places for safe and consumption of beverages, ice cream etc., primarily in enclosed structures with no dancing or entertainment other than music. Service Business – including: 1. Barber, beauty shop, laundry and dry cleaning pick-up agency, shoe repair, self-service laundry or other similar uses 2. Hand laundry, dry cleaning or other similar use, provided personnel on premises is limited to five employees. 3. Printing shop, photographers studio, career, or other similar use, provided personnel on premises is limited to five employees.	N	N	N	N	N	Y	Y	Y	Y	SP	SP	Y
b. Store and business as in 4a, other than restaurants, but when they are greater than 5,000 square feet of gross floor area per establishment. (Ord. 11/21/95)	N	N	N	N	N	SP	Y	Y	Y	SP	SP	Y
c. Place for the sale and consumption of food and beverages exceeding 5,000 square feet of gross floor area, or providing dancing and entertainment.	N	N	N	N	N	SP	Y	Y	Y	SP	SP	Y
c (1). Restaurant and/or place for the sale of food and all types of beverages, alcoholic and non-alcoholic, exceeding 5,000 square feet of gross floor area, but no dancing or live entertainment or live music, and no drive up or drive thru windows. (Ord. 11/21/95)	N	N	N	N	N	SP	Y	Y	Y	SP (IA,IP) Y (IPHR only)	SP	Y
d. 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	Y	SP	SP	Y

<p>matter depicting, describing or relating to "sexual conduct" as that term is described in G.L., c. 272, S31; "sexual devices" or an establishment having for sale sexual devices which shall mean any artificial human penis, vagina or anus or other device primarily designed, promoted or marketed to physically stimulate or manipulate the human genitals, public area or anal area including: dildos, penisators, vibrators, penis rings, erection enlargement or prolonging creams or other preparations or an establishment with a segment or section devoted to the sale or display of such materials.</p> <p>(2) Adult motion picture theatre: An enclosed building with a capacity of 50 or more persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to "sexual conduct" as defined in G.L. c. 272, S31 for observation by patrons therein.</p> <p>(3) Adult mini motion picture theatre: An enclosed building with a capacity for less than fifty (50) persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to "sexual conduct" as defined in G.L., c. 272, S31 (as defined below) for observation by patrons therein.</p>	N	N	N	N	N	SP	SP	SP	N	N	SP	N	-
<p>(4.) Massage Therapy establishments:</p> <p>a. Massage: Any method of pressure on or friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating of external parts of the human body with the hands or with the aid of any mechanical or electrical apparatus or appliances, with or without such supplementary aids as rubbing alcohol, liniments, antiseptics, oils, powder, creams, lotions, ointment or other such similar preparations commonly used in the practice of massage under such circumstances that it is reasonably expected that the person to whom the service is provided, or some third person on his or her behalf, will pay money or give any other consideration or any gratuity therefor.</p> <p>b. The practice of massage shall not include the following individuals while engaged in the personal performance of duties or their respective professions:</p> <ol style="list-style-type: none"> 1. Physicians, surgeons, chiropractors, osteopaths, or physical therapists who are duly licensed to practice their respective professions in the Commonwealth of 	N	N	N	N	N	SP	SP	SP	N	N	SP	N	-

Principal Uses	S-1 S-2	TF	UM2 SM2	M-3	M-4	B-1	B-2 B-2A	B-3	B-4	IA IP IPHR	IB	PD- MU
<u>5. OPEN AIR OR DRIVE-IN RETAIL AND SERVICE</u>												
a. Sales place for flowers, garden supplies, agricultural produce conducted partly or wholly outdoors, commercial green house or nursery.	N	N	N	N	N	Y	Y	Y	Y	Y	Y	N
b. Drive-in restaurant or refreshment stand.	N	N	N	N	N	SP	Y	Y	SP	SP	SP	N
c. Place for exhibition, lettering or sale of gravestones.	N	N	N	N	N	SP	SP	SP	SP	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	Y	SP	SP	SP	Y
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	SP	N	SP	SP	SP
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	N	SP	SP	N
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	N	SP	SP	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	N	SP	SP	N

Principal Uses	S-1 S-2	TF	UM2 SM2	M-3	M-4	B-1	B-2 B-2A	B-3	B-4	IA IP IPHR	IB	PD- MU
6. AUTOMOTIVE AND RELATED USES												
a. Sales place for new or used cars conducted entirely with a building, or rental agency for autos, trailers, or motorcycles conducted entirely within a building provided no major repairs are made.	N	N	N	N	N	SP	Y	Y	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	SP	N/SP	SP	Y	N
c. Automotive service station (filling station) where no major repairs are made provided that all lubrication and minor repairs are carried out inside the building.	N	N	N	N	N	SP	SP	SP	SP	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	SP	SP	Y	Y	N
e. Car washing establishment using mechanical equipment for purposes of cleaning automobile and other vehicles.	N	N	N	N	N	SP	SP	SP	SP	Y	Y	N
f. Parking lots and garages other than those provided as an accessory use to the principal use being conducted on the lot, in conformance with this zoning code.	N	N	N	N	N	SP	SP	SP	SP	SP	SP	SP
g. A private garage or parking area, whether as a principal use of a lot or as a secondary use solely for the stored 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	SP	SP	SP	N	N	SP	SP	N	N	SP
h. 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	SP	SP	Y	SP
i. Parking or allowing to stand any motor vehicle and/or motor vehicle attachment (excluding recreational vehicles) having a gross vehicle weight of twelve thousand (12,000) pounds or more, or exceeding 24 feet in length, or having three (3) or more axles, for more than one-half (1/2) hour, on any day, at any time, in any residential or non-residential district where parking or standing a vehicle is not otherwise regulated by traffic regulation; provided that this regulation	N	N	N	N	N	SP	SP	SP	N	SP	SP	-

Principal Uses	S-1	S-2	TF	UM2 SM2	M-3	M-4	B-1	B-2 B-2A	B-3	B-4	IA IP IPHR	IB	PD- MU
7. UTILITIES AND PUBLIC SERVICE USES													
a. Public utility or service facilities including but not limited to transformer stations, substations, pumping stations, telephone exchanges, provided that in residence districts such a 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	SP	Y	Y	SP	Y	Y	Y
8. GENERAL OFFICE AND LABORATORY USE													
a. General offices for commercial or professional use, Telephone Answering Service.	N		N	N	N	N	SP	Y	Y	Y	Y	Y	Y
b. Radio or television studio.	N		N	N	N	N	SP	Y	Y	SP	Y	Y	Y
c. Radio or television transmission stations including towers related to said use. (Ord. 7-14-98)	N		N	N	N	N	N	Y	Y	N	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	N	Y	Y	N	Y	Y	Y

Principal Uses	S-1	S-2	TF	UM2	SM2	M-3	M-4	B-1	B-2	B-2A	B-3	B-4	IA	IP	IB	PD-	MU
9. INDUSTRIAL USES																	
a. Light industry, wholesale business and storage:																	
1. Distribution center, delivery center, warehouse	N	N	N	N	N	N	N	N	SP	SP	N	N	Y	Y	Y	Y	Y
2. Steam laundry or dry cleaning plant.	N	N	N	N	N	N	N	N	Y	Y	N	N	Y	Y	Y	Y	SP
3. Food and beverage manufacturing, bottling or processing and commissary.	N	N	N	N	N	N	N	N	SP	SP	N	N	Y	Y	Y	Y	SP
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	N	N	N	N	N	N	Y	Y	Y
5. Wholesale business and storage in a roofed structure, but not including wholesale storage of flammable liquids or gases.	N	N	N	N	N	N	N	N	N	N	N	N	N	N	Y	Y	Y
6. Manufacturing, assembly, reconditioning and processing plant for the following type industries: food and kindred products, apparel, textiles and related products, electronic and electrical products, furniture and fixtures, printing and publishing, paper and allied products, plastic and allied products, primary and fabricated metal products, machinery, transportation and related equipment products, instruments and related products, including the storage of raw materials and containers used in or incidental to any of the foregoing provided that any open lot storage shall not exceed 12 feet in height and that the area so used shall be enclosed by a tight wall or fence of at least the same height of the material so stored.	N	N	N	N	N	N	N	N	SP	SP	N	N	Y	Y	Y	Y	SP
b. Heavy Industrial:																	
1. RR freight terminals, shops and yards.	N	N	N	N	N	N	N	N	N	N	N	N	N	N	SP	SP	N
2. Rendering or preparation of grease tallow, fats and oils, manufacture of shortening, tallow and other food oils but not including garbage, dead animals, offal or refuse reductions.	N	N	N	N	N	N	N	N	N	N	N	N	N	N	SP	SP	N
3. Stone cutting, shaping and finishing in completely enclosed buildings.	N	N	N	N	N	N	N	N	N	N	N	N	N	N	SP	SP	N
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 as the material so stored, provided that the height of the material shall not exceed 20 feet.	N	N	N	N	N	N	N	N	N	N	N	N	N	N	SP	SP	N

Principal Uses	S-1 S-2	TF	UM2 SM2	M-3	M-4	B-1	B-2 B-2A	B-3	B-4	IA IP IPHR	IB	PD- MU
10. CONDITIONAL USES												
a. Planned Unit Development. Expansion or alteration of existing legal non-conforming use.* * Applicant must provide proof of legal non-conformity. Board of Appeals must find that change will be less detrimental than existing non-conforming use.	N SP	N SP	N SP	SP SP	SP SP	N SP	SP SP	SP SP	SP SP	SP SP	SP SP	SP SP
11. USES PROHIBITED OR NOT COVERED BY TABLE												
a. A specific principal use or activity prohibited by the "N" designation or not covered in the preceding Table cannot be varied or authorized by the Board of Appeals in any district in which the land or structure is located. An applicant desiring to conduct such a use of activity not authorized will need to apply for amendment to the zoning code in the manner provided for by Chapter 40A, the State Zoning Act.	N	N	N	N	N	N	N	N	N	N	N	N
12. SCIENTIFIC ACCESSORY USES												
a. Scientific Uses which are necessary in connection with scientific research, scientific development or related production activities which are permitted in the above tables.	N	N	N	N	N	N	N	N	N	SP	SP	SP
13. TELECOMMUNICATIONS FACILITIES: This use includes all towers and other facilities related to telecommunications, including cellular, PCS, and ESMR facilities. (Ord. 7-14-98, 6-26-01)												
14. ARTIST LIVE/WORK SPACE: *Artist Live/Work Space may be permitted by special permit only in those areas of the B3, B4 and IA districts as are included in the Artist Overlay District created by Section 31-85. (Ord. 12-1-98, 6-26-01)	N	N	N	N	N	N	N	N	N	SP*	SP*	N

(Ord. No. 2-1987, § 31-32, 1-27-87, PD-MU Ord. 3-28-00, M4/B4 Ord. 2-1-00)
[see Article VI, § 31-57 for uses permitted in a PD-MI zone] (Ord. 7-14-98)

**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 area, minimum lot sizes, minimum lot area for each dwelling unit or equivalent, minimum lot frontage, minimum dimensions of front, side and rear yards, and maximum height of structures, in the several districts are ~~[as] 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) (1) In the case of multiple buildings on a lot in single ownership the distance between such buildings measured from the midpoint on any facing wall shall not be less than thirty (30) feet.
- (2) Multiple building restrictions will not apply to buildings in an I.P.H.R. District.

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

(e) No more than one (1) single-family dwelling shall be built on a lot in an S-1 or S-2 district.

(f) No new building or structure shall be constructed nor shall any existing building or structure be enlarged within fifty (50) feet of an existing wetland or body of water, except by special permit, and with the express written approval of the Lowell Conservation Commission, following a public hearing. No septic field shall be constructed or an

existing septic field enlarged within seventy-five (75) feet of an existing wetland or body of water. No building permit for construction within one hundred (100) feet of a wetland or within the boundaries of floodplain shall be valid prior to the effective date of a wetlands determination of the applicability and/or the issuance of an order of conditions.

(g) in SM-2, UM-2, M-3, B-1, B-2, B-2A and B-3 districts any large resident structure having been constructed prior to 1945, may, together, be with the original attached accessory structures, be altered as to contain two (2) or more dwelling units provided the following requirements are met:

- (1) Minimum lot area per dwelling unit as required for district building located in is provided.
- (2) Parking spaces as required for district building is located as provided on lot. All parking shall be located in side or rear yard in SM-2 and UM-2 zones.
- (3) The exterior design of the structure is not altered.
- (4) The minimum floor areas shall be six hundred thirty (630) square feet for studio or one-bedroom units, and eight hundred (800) square feet for two-bedroom units.
- (5) The original building area is not increased more than ten (10) percent of the gross floor area.
- (6) Open space and yard requirements are met.

(Ord. No. 2-1987, § 31-33, 1-27-87)

Sec. 31-34. Table of dimensional requirements.

<i>District</i>	<i>Max Floor Area Ratio</i>	<i>Min. Lot Size (sq. ft.)</i>	<i>Min. Lot Area Per D.U. (sq. ft.)</i>	<i>Min. Lot Frontage (ft.)</i>	<i>Min. Front Yard (ft.)</i>	<i>Min. Side Yard (ft.)</i>	<i>Min. Rear Yard (ft.)</i>	<i>Usable** Open Space (% of gross floor area)</i>	<i>Max. Height</i>	<i>Max. Stories</i>
S1	0.5	10,000	N.A.	75	25	10 sum of 25	25	--	35	2.5
S2	0.5	7,000	N.A.	65	20	10 sum of 25	20	--	35	2.5
TF	0.5	6,000	3,000	60	20	10 sum of 25	20	30	35	2.5
SM-2	0.75	6,000	2,000	50	15	10 sum of 25	20	25	35	3
UM-2	1.00	6,000	1,500	50	15	10 sum of 25	20	25	35	3
M3	1.5	6,000	1,000	50	15	10	20	20	65	7
M4	1.5	3400	850	40	0†	3 sum of 20	20	--	35	3
B1	1.0	--	--	25	25	--	20	--	40	3
B2, B2A	1.5	--	--	25	25	--	40*	--	--	--
B3	4.0	--	--	25	--	--	--	--	--	--
B4	4.0	--	--	25	--	--	--	--	--	--
IA	2.0	--	--	25	--	--	--	--	--	--
IB	4.0	--	--	25	--	--	--	--	--	--
IP	2.0	--	--	25	40	20	40	--	50	4
IPHR	3.0	--	--	25	--	--	--	--	200	15

[-- Denotes no dimensional requirement.]

* Rear yard in B2A district is ten (10) feet.

** In addition to required landscaped open space section 31-39 (a).

† Front setbacks in the M4 district should be consistent with existing setbacks on block.

A dwelling in any business district shall be subject to the same dimensional, parking and useable open space requirements as a dwelling in a Residence UM-2 district, except for height.

A dwelling in the B4 district shall be subject to the same dimensional, parking, and useable open space requirements as a dwelling in the M4 district, except for height.

In no district shall the lot coverage for a residential dwelling exceed thirty-five (35) percent of the lot area.

Minimum width of entry drive right-of-way for access to subdivision or multifamily development shall be thirty-five (35) feet.

(Ord. 2-1-2000, 6-26-01)

Sec. 31-35. Lot area and width.

(a) 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 6 of Chapter 40A of the General Laws.

(b) IN the case of an I.P.H.R. District, a lot may consist of one (1) or more contiguous lots of record. Lots shall be considered contiguous even though the lots or portions thereof are separated from each other by roads, railroads or waterways, so long as any lot or portion of a lot so separated is within three hundred (300) feet of the remaining lot or portion of a lot and so long as said land (lot or lots) is commonly owned.

Sec. 31-36. Building bulk.

(a) For any building or group of buildings on a lot the ratio of gross floor area to a lot shall not exceed the maximum specified in 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 (1) square foot of floor area for every one (1) square foot of open, landscaped area supplied on the same lot as the principal use in addition to the required minimum yard area of twenty-five (25) 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 (100) feet wide, one-quarter of the excess over one hundred (100) feet but not more in any case than forty (40) feet may be added to the actual depth of the lot for the distance such lot abuts such street or public open space for calculating the lot area to be used in determining allowable gross floor area based on the maximum floor area specified in section 31-34.

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

Sec. 31-38. Yards.

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

(b) Projections

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

(2) The following shall be allowed to be placed within the minimum yard requirements:

- One story accessory buildings up to 120 square feet and 16 feet in height

- Above ground pools up to 500 square feet in surface area
- Unroofed porches (decks) up to 200 square feet.

(Ord. 9/14/99)

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

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

(1) In a Residence S1 and S2 District and also in a TF 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 the building or accessory building extend nearer to any street line or building line if such has been established. A vacant lot or lot occupied by a building set back more than twenty-five (25) feet in a Residence S1 district and more than twenty (20) feet in a Residence S2 District and also in a TF District, shall be considered as though occupied by a building set back twenty-five (25) feet and twenty (20) feet respectively.

(2) In a Residence UM2, SM2 or M3 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 fifteen (15) feet. A vacant lot or a lot occupied by a building set back more than fifteen (15) feet shall be considered as though occupied by a building set back fifteen (15) feet.

(3) In a Residence UM2, SM2 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 the portion of the blank wall of the former building which extends along the lot line; otherwise, however, not less than the required side yard shall be provided; in

any case, the required side yard shall be provided for the remainder of the full lot depth. In case a side wall contains windows or in case any part of a side blank wall or an existing building shall be set back from side lot line, then a building hereafter erected on the lot adjacent to such an existing building shall be set back from the side lot line in accordance with the provisions hereof.

(e) In all districts except UM2, a private yard space with a minimum area of one hundred (100) square feet shall be provided adjacent to each ground floor unit of a multifamily or attached structure. Such private yard shall be enclosed by a wooden-type picket fence, not less than three (3) feet, and not more than four (4) feet, in height.

(f) *Deleted.*

(Ord. 12/4/90, repealed 9/14/99)

(Ord. No. 2-1987, § 31-38, 1-27-87)

Sec. 31-39. Open space.

(a) Every lot in any residence district shall include landscaped open space having a total of not less than 10 (10) percent of the gross floor area of all buildings on the lot.

(b) Where a minimum useable 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 useable open space provided at the rate specified in section 31-34.

(c) Where open space is provided to serve more than one (1) family, it shall be deemed useable only if:

- (1) Each dimension is at least fifteen (15) feet;
- (2) Such space is at least ten (10) feet from any lot lines.

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 by complying with the regulations set forth in this article and the means of access to such space from public streets. In the event of the enlargement of an existing structure, the regulations set forth in this article shall apply to both the existing area added to the existing structure and 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 lot is used by two (2) or more different classes of use under section 31-41, the parking facilities required shall be the sum of the requirements for the individual uses, unless by special permit the Board of Appeals authorizes a lesser number of parking spaces.
(Ord. 5-6-97)

(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 (1).

(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. 2-1987, § 31-40, 1-27-87)

Sec. 31-41. Table of parking requirements.

(a) Where residence uses are not divided into dwelling units, as in the case of hotels, dormitories, lodginghouses, etc., each two (2) guest sleeping rooms, each four (4) dormitory beds, or each motel unit shall be considered the equivalent of one (1) dwelling unit.

(b) Where no fixed seats are used in a place of assembly, each twenty (20) square feet of public floor area shall equal one (1) 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 (16) years of age need not provide more than one-half the requirements specified in the table below. Where an institution provides dormitory residence accommodations, the number of parking spaces furnished for the purpose may be deducted from the requirements established for the educational buildings normally used by students in residence.

(d) In I.P.H.R. Districts, the required off-street parking may be provided on the same lot as the principal use it is required to serve. However, any other lot or lots within the same I.P.H.R. District which is or are not more than one thousand two hundred (1,200) feet away from the entrance of the building to be served, may be used to meet the requirement for off-street parking. Where a certificate of occupancy has been issued conditional to the maintenance of off-street parking facilities, such certificate of occupancy shall lapse in the event the land used for such parking facilities for the required parking is no longer available for such use.

(e) Off-street parking facilities shall be provided as follows:

Zoning District	Class of Allowed Use					
	Number Square Feet of Gross Floor Area Requiring 1 Space by Type of Use					
	Residence (a) Minimum Number Spaces per Group of Dwelling Units	Public Assembly (b) Number Seats Requiring 1 Space	Institution ©	Retail and Office		Factory and Warehouse
			Ground Floor	Other Level		
S1	2 per 1.0	5	600	--	--	--
S2	2 per 1.0	5	600	--	--	--
TF	2 per 1.0	8	600	--	--	--
SM2	2 per 1.0	10	1000	--	--	--
UM2	1.5 per 1.0	10	1000	--	--	--
M3 and M4	2 per 1.0	10	1000	--	--	--
B1	1 per 1.0	8	1000	500	1000	--
B2 and B2A	1 per 1.0	8	1000	150	500	--
B3 and B4	1 per 1.0	--	--	--	--	1600
IA	--	10	1000	500	1000	1600
IB	--	15	1000	900	1800	2000
IP	--	10	1000	900	1800	2000
IPHR (d)	--	10	1000	700	1400	1800

(Ord. No. 2-1987, § 31-41, 1-27-87, 6-26-01)

[For parking requirements in the PD-MI zone, see section 31-58(d), for parking requirements in the PD-MU zone, see section 31-93.]

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 multifamily apartment building in a Residence M3 District, the required parking facilities may be provided on lots not more than two hundred (200) 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 (1,000) 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 (2,000) feet away, measured along a traveled way, from the dormitory to be served.

(b) In all cases off-site parking facilities shall be under the same ownership or be leased to the same ownership as the building or buildings which they serve. Where a certificate of occupancy has been issued conditional to the maintenance of off-site parking facilities, such certificate of occupancy shall lapse in the event of the sale or conveyance of the land used for such parking facilities for the required parking. Parking spaces satisfying these requirements need not be in the city.

(c) Parking required for two (2) or more uses may be provided in a single parking facility on the same or adjacent lots, subject to compliance with section 31-40 (c) of this zoning code.
(Ord. 5-6-97)

(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 nondusting 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 any open parking facility for more than three (3) automobiles shall be screened from abutting residence, church or public property in a manner which will provide an effective visual screen. Said screen shall be at least five (5) feet in width and shall contain plantings not less than three (3) feet in width nor less than six (6) feet in height. At least fifty (50) percent of the plantings shall be evergreen.

Plantings shall form a solid screen within three (3) years of installation. A solid fence or wall six (6) feet high may be substituted for all or a portion of the planted screen, by special permit only.

In all districts where the provision of off-street, parking for thirty (30) or more vehicles is required, there shall be landscaped open space within the perimeter of the parking area or areas in the minimum amount of five (5) percent of the gross parking area. All such landscaped areas shall be computed in addition to the parking space requirements herein. All such landscaped areas shall contain no less than one (1) live shade or ornamental tree for every two thousand (2,000) square feet of parking area. Such trees shall have a minimum trunk diameter of two (2) inches (measured twelve (12) inches above the ground level) and shall not be planted more than fifty (50) feet apart in each contiguous landscaped area.

(e)(1) In all zoning districts, except IPHR and IA zones, each required car space shall be not less than nine (9) feet, six (6) inches in width and twenty (20) 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 (5) cars shall average at least three hundred (300) square feet per car. Except in all industrial districts, no driveways or curb cuts shall exceed twenty-five (25) feet in width. The Board of Appeals may grant a special permit modifying the provisions of this paragraph in cases of a mechanical garage or in case the Board is satisfied that the parking facility will be used by cars of less than standard size, provided the total number of spaces conforms to section 31-41.

(e)(2) In IPHR and IA zones only, each required car space shall be not less than eight (8) feet, six (6) inches in width and eighteen (18) 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 (5) cars shall average at least two hundred fifty (250) square feet per car. Except in all industrial districts, no driveways or curb cuts shall exceed twenty-five (25) feet in width. The Board of Appeals may grant a special permit modifying the provisions of this paragraph in cases of a mechanical garage or in case the Board is satisfied that the parking facility will be used by cars of less than standard size, provided the total number of spaces conforms to section 31-41.

(Ord. 11-21-95)

(f) An open air parking space and access to parking space shall be at least ten (10) feet from any building and shall be at least five (5) feet from any property line or street line.

(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. 2-1987, § 31-42, 1-27-87)

[see Chapter 17, Section 17-1 Lowering, removing edgestone or curbing.]

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

(a) It is the intention of this chapter that all buildings and uses requiring the delivery of goods as part of their function be provided eventually with necessary space for off-street loading. 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 (5,000) 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 (2) 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 (1).

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)*

	<i>Under 5</i>	<i>5--50</i>	<i>51--100</i>	<i>101--150</i>	<i>151--300</i>	<i>Over 300 (for each additional 150)</i>
Retail trade						
Wholesale and storage						
Transportation terminal	0	1	2	3	4	1
Manufacturing						
Public utility						
Consumer services						
Office building						
Hotel, motel, dormitory	0	1	1	2	3	1
Recreation						
Research laboratory						
Institution	0	0	1	1	2	1

The following requirements shall apply to an I.P.H.R. District:

Manufacturing or warehousing:

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

Office:

One (1) bay shall be required for buildings containing from five (5) to one hundred fifty thousand (150,000) square feet of gross floor area.

Two (2) bays shall be required for buildings containing up to six hundred thousand (600,000) square feet.

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

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

(b) Required off-street loading bays may be enclosed in a structure and must be so enclosed if located within fifty (50) 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 unreasonable impediment to traffic.

ARTICLE V. FLOODPLAIN DISTRICT REGULATIONS

Sec. 31-46. Applicability of article.

These regulations shall be applicable to all use districts as defined by section 31-6.

Sec. 31-47. Purpose of article.

The purposes of the Floodplain District are to:

1. Ensure public safety through reducing the threat to life and personal injury;
2. Eliminate new hazards to emergency response officials;
3. Prevent the occurrence of public emergencies resulting from water quality, contamination and pollution due to flooding;
4. Avoid the loss of utility services which, if damaged by flooding would disrupt or shut down the utility network and impact regions of the community beyond the site of flooding;
5. Eliminate costs associated with the response and cleanup of flooding conditions;
6. Reduce damage to public and private property resulting from flooding waters.

(Ord. 5-14-91)

Sec. 31-48. Definitions.

For the purpose of Article V, Floodplain District Regulations, the following definitions shall apply:

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

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

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

District: Means floodplain district.

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

Firm: City of Lowell Flood Insurance Rate Maps dated September 30, 1992. (Ord. 10-28-92)

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

Flood Hazard Boundary Map (FHBM): Means an official map of a community issued by FEMA where the boundaries of the flood, mudslide (i.e. Mudflow) related erosion areas having special hazards have been designated as Zones A, M and/or E.

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

Floodway: See "Regulatory Floodway".

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

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

Manufactured Home: Means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes the term

"manufactured home" does not include park trailers, travel trailers, and other similar vehicles.

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

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

100-Year Flood: See "Base Flood".

Regulatory Floodway: Means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation.

Special Hazard Area: Means an area having special flood, mudslide (i.e., mudflow) and/or flood-related erosion hazards, and shown on an FHBM or FIRM as Zone A, AO, A1-30, AE, A99, AH, E.

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

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

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

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

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

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

(Ord. 5-14-91)

Sec. 31-49. Floodplain district.

(a) Floodplain District Boundaries and Base Flood Elevation Data:

The Floodplain District is herein established as an overlay district. The District includes all special flood hazard areas designated on the City of Lowell Flood Insurance Rate Map (FIRM) issued by FEMA (successor to the U.S. Department of Housing and Urban Development (HUD) for the administration of the NFIP dated September 30, 1992 as Zone A, AE, AH, AO, A1-30, A99 and the Federal Emergency Management Agency Flood Boundary and Floodway Map dated May 15, 1991, both maps which indicate the 100-year regulatory floodplain. The exact boundaries of the District may be defined by the 100-year base flood elevations shown on the FIRM and further defined by the Flood Insurance study booklet dated May 15, 1991. The FIRM, Floodway Maps and Flood Insurance Study booklet are incorporated herein by reference and are on file with the City Clerk, Planning Board, Building Official, Conservation Commission. (Ord. 10-28-92)

(b) Floodway Data:

In Zones A, the best available Federal, State, Local or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge. In Zones A1-30 and AE, along watercourses that have not had a regulatory floodway designated, no new construction, substantial improvement, or other development shall be permitted unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood.

In Zones A1-30 and AE, along watercourses that have a regulatory floodways designated on the City of Lowell FIRM or Flood Boundary Floodway Map (FIRM) encroachments are prohibited in the regulatory floodway which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.

(Ord. 5-14-91)

Sec. 31-50. Floodplain District Development Permitted Uses and Use Regulations.

(a) District Development Regulations:

The following requirements shall apply to all development in the floodplain district:

- (1) Prior to any "development" a permit shall be obtained from the building commissioner and a "request for determination" of applicability of Massachusetts General Laws Chapter 131, section 40 shall be sent to the Lowell Conservation commission.

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

- (a) Review proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334, Section 40 of M.G.L. Chapter 131 and 310 CMR 10, as amended;

- (b) Review subdivision proposals and other proposed new development, including manufactured home parks or subdivision, to determine whether such proposals will be reasonably safe from flooding. If a subdivision proposal or other proposed new development is in a flood-prone area, any such proposals shall be reviewed to assure that (i) all such proposals are consistent with the need to minimize flood damage within the flood-prone area, (ii) all public utilities and facilities, such as sewer, gas, electrical, and water systems are

located and constructed to minimize or eliminate flood damage, and (iii) adequate drainage is provided to reduce exposure to flood hazards;

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

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

(e) Require the flood-prone areas (i) new and replacement sanitary sewage.

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

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

(Ord. 5-14-91)

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

(3) The application for permit shall contain plans certified by a registered land surveyor and/or engineer of the proposed construction or development and plot plan locating the proposed building and existing buildings on the premises

on which it is to be situated or is situated. All plans shall show existing and proposed finished ground contours at two-foot intervals. Contours shall be delineated within two hundred (200) feet of the proposed construction or development.

(4) For "substantial improvements" of existing residential and nonresidential structures and all new construction, the following minimum conditions shall be met:

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

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

c. The structure will withstand the effects of flooding. The ground level around the extending twenty-five (25) feet outward from any building or structure in a floodplain district shall be raised as necessary so that no part of the ground level area so defined, shall be below the elevation shown on the FIRM as defined in section 31-49. Embankments subject to possible scouring by floodwaters shall be properly stabilized and protected to prevent erosion by floodwaters.

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

e. 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.

f. Where watertight floodproofing of a structure is permitted, a registered professional engineer or architect shall certify to the building commissioner that the methods used are adequate to withstand the flood depths, pressures and velocities, impact and uplift, and other factors associated with the 100-year flood and all in accordance with the state building code requirements.

g. A registered engineer and/or architect shall certify to the building commissioner that the

above minimum conditions (a. through e.) are satisfied in the design proposal.

- g. A registered land surveyor or engineer shall certify to the building commissioner that all minimum elevations required by Article V, Floodplain District Regulations, have been complied with after construction.
- (5) a. Within Zones A1-A30 where base flood elevations are provided on the FIRM elevations shall be determined by interpolation between the nearest elevations shown on the FIRM.
- b. Within Zone A where the base flood elevation is not provided on the FIRM, the applicant shall obtain any existing base flood elevation data and it shall be reviewed by the building commissioner for its reasonable utilization toward meeting the elevation or floodproofing requirements, as appropriate, of the state building code and this Article V, Floodplain District Regulations.
- c. Interpretations as to elevations or locations within the FIRM shall be made by the building commissioner.
- (6) In the "floodway" the following provisions shall apply:
- a. No encroachments, including but not limited to fill, new construction, substantial improvements and other developments shall be permitted unless certification by a registered professional engineer or architect is provided by the applicant demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the 100-year flood.
 - b. Any encroachment meeting the above standard shall comply with all other provisions of Article V, Floodplain District Regulations.
- (7) The land defined as the floodplain district may include one (1) or more differing zoning districts as defined in this zoning code and these regulations are additional to the existing regulations of whatever zoning district may be included within the floodplain district.
- (8) In the event the building commissioner denies an applicant a building permit under the floodplain district regulations, the building commissioner's

decision shall be in writing stating the reasons why said building permit was denied, and shall render his decision within five (5) days of submission of the completed application by the applicant and that further said decision shall be sent to the applicant's address by certified mail and copies of said decision should be submitted to the offices of the city clerk, planning board and city solicitor.

(b) Permitted Uses:

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

- (1) Agricultural uses such as farming, grazing, truck farming, horticulture, etc.
- (2) Forestry and nursery uses.
- (3) Outdoor recreational uses, including fishing, boating, play areas, etc.
- (4) Conservation of water, plants, wildlife.
- (5) Wildlife management areas, food, bicycle, and/or horse paths.
- (6) Temporary non-residential structures used in connection with fishing, growing, harvesting, storage, or sale of crops raised on the premises.
- (7) Buildings lawfully existing prior to the adoption of these provisions.

(c) Use Regulations.

The floodplain District is established as an overlay district to all other districts. All development, including structural and non-structural activities, whether permitted by right or by special permit must be in compliance with Chapter 131, Section 40 of the Massachusetts General Laws and with the requirements of the Massachusetts State Building Code pertaining to construction in the floodplains (Section 744, as amended).

- (1) Within Zones AH and AO on the FIRM, require adequate drainage paths around structures on slopes, to guide floodwaters around and away from proposed structures.
- (2) Existing contour intervals of site and elevations of existing structures must be included on plan proposal.
- (3) There shall be established a "routing procedure" which will circulate or transmit one copy of the development plan to the Conservation

Commission, Planning Board, Board of Health, City Engineer, Building Commissioner and City Clerk for comments which will be considered by the appropriate permitting board prior to issuing applicable permits”.

(Ord. 5-14-91)

Sec. 31-51. Variance – From floodplain district development regulations procedure.

- (a) Any person desiring a variance from any floodplain district regulations as set forth in section 31-50, shall submit an application to the board of appeals in accordance with the requirements set forth by Massachusetts General Laws, Chapter 40A, as amended by Chapter 808 of the Acts of 1975. The application shall also contain plans as required in section 31-50(3).
- (b) Copies of the complete application with plans for variance shall also be sent or delivered forthwith by the applicant, to the building commissioner, board of health, commissioner of public works, (engineering division), planning board and conservation commission for their recommendations to the board of appeals.
- (c) No building permit shall be issued by the department of code and inspections if there is an appeal from the building commissioner’s adverse decision, section 31-50(8), until and unless the board of appeals has granted a variance under these regulations and restrictions.

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

The board of appeals may grant a variance from the floodplain district regulations under this section only if it finds that the proposed development and/or construction will not adversely affect the public health or safety, or endanger the health, safety or welfare of the occupants of the land in the floodplain district (see section 31-47), all in accordance with Massachusetts General Laws, Chapter 40A, and the state building code requirements. In its consideration of any application for a variance under this section, but without limiting the generality of the foregoing, the board of appeals shall absolutely not relax the

minimum conditions stated in the variance policy attached hereto and made a part hereof.

Sec. 31-53. Health regulations pertaining to the floodplain district.

The board of health, in all cases, in reviewing all proposed water and sewer facilities to be located in the floodplain district established under the zoning code shall require that:

- (1) New and replacement water supply systems and connections therewith, shall be designed to minimize or eliminate infiltration of flood waters into the systems.
- (2) New and replacement sewage systems and connections therewith shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters.
- (3) Backwater valves shall be installed in all new sewer connections below base flood elevation.

Sec. 31-54. Federal flood insurance study.

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

Variance Policy

FIA regards the 100-year frequency flood standard as essential to assure reasonable protection to future construction. At the same time, we do recognize the need to permit variances from this standard in particular cases, primarily within areas that are almost entirely developed. However, it must be noted that since the use of such a variance results in expensive actuarial flood insurance rates, it may subject the property owner to a financial penalty that over the years could be far in excess of the one-time cost of elevating. The likelihood cannot be overemphasized; actuarial flood insurance rates increase sharply for each foot a structure falls short of the 100-year level.

FIA does not set forth absolute criteria for granting variances. The community, after examining the applicant's hardships, will approve or disapprove a request. While the granting of variances generally is limited to a lot size less than one-half acre, deviations from that limitation may occur. However, as the lot size increases beyond the one-half acre, the justification for a variance issuance should significantly decrease. In all circumstances, FIA may review a community's justification for granting a variance and, if the community's evidence of unusual hardship or just and sufficient cause is found wanting through a pattern of variance issuances inconsistent with the objectives of sound floodplain management, we may institute suspensive action. Procedures for the granting of variances by a community are as follows:

- (1) Variances shall not be issued by a community for any new construction, substantial improvement, or other development in a designated floodway which would result in any increase in flood heights within the community during the recurrence of the 100-year flood discharge.
- (2) Variances may be issued by a community, without regard to the procedures set forth in paragraphs (3), (4), (5), (6) and (7) of this section, for the reconstruction or restoration of structures listed on the National Register of Historic Places or a state inventory of historic places.
- (3) Variances may be issued by a community, in conformance with the procedures of paragraphs (4), (5), (6) and (7) of this section, for new construction to be erected on a lot of one-half acre or less in size, contiguous to and surrounded on all sides by lots with existing structures constructed below the flood protection elevation.
- (4) Variances shall not be issued by a community except upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the variance issuance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization

of the public, or conflict with existing local laws or ordinances.

- (5) Variances may only be issued upon a determination that the variance shall be the minimum necessary to afford relief.
- (6) A community must notify the applicant that the issuance of a variance to locate a structure at an elevation below the 100-year flood level will result in increased actuarial rates for flood insurance coverage.
- (7) A community must (i) include, within its annual report submitted to the administrator, the number of variances issued, and (ii) maintain a record of all variances granted, including justification for their issuance.

Sec. 31-54.1. Lowell Wetlands Ordinance.

Purpose. The purpose of this ordinance is to protect the wetlands, related water resources, and adjoining land areas in the City by controlling activities deemed to have significant effect upon wetland values, including but not limited to the following: Public or private water supply groundwater, flood control, erosion and sedimentation control, storm damage prevention, water pollution prevention, fisheries, recreation, agriculture, aquaculture, and historic values, (collectively, the "interests protected by this ordinance").

(1) *Jurisdiction.* Except as permitted by the conservation commission or as provided in the ordinance, no person shall remove, fill, dredge, alter, or build upon or within one hundred (100) feet of any freshwater wetland, marsh, meadow, bog or swamp; upon or within one hundred (100) feet of any bank; upon or within one hundred (100) feet of any lake, river, pond, stream; upon or within any land under said waters; or upon any land subject to flooding or inundation by groundwater or surface water.

(2) *Exceptions.* The permit and application required by this ordinance shall not be required for maintaining, repairing, or replacing an existing and lawfully located structure or facility used in the service of the public to provide electric, gas, water, sanitary sewer, storm drainage, public roadway,

telephone, telegraph, or other telecommunication services, provided that the structure or facility is not substantially changed or enlarged, provided that written notice has been given to the commission prior to commencement of work, and provided that the work conforms to performance standards and design specifications in regulations adopted by the commission. The permit and application required by this ordinance shall not apply to emergency projects necessary for the protection of the health or safety of the public, provided that the work is to be performed by or has been ordered to be performed by an agency of the commonwealth or a political subdivision thereof, provided that advance notice, oral or written has been given to the commission prior to commencement of work or within twenty-four (24) hours after commencement, provided that the conservation commission certifies the work as an emergency project, and provided that the work is performed only for the time and certified by the conservation commission for the limited purposes necessary to abate the emergency. Within twenty one (21) days of the commencement of an emergency project a permit application shall be filed with the commission for review as provided in this ordinance. Other than stated in this section the exceptions provided in Wetlands Protection Act (MGL Ch. 131 s 40 as amended) shall not apply.

(3) Applications for permits. Written application shall be filed with the commission to perform work regulated by this ordinance on resource areas protected by this ordinance. The application shall include such plans as are deemed necessary by the commission to describe proposed activities and their effects on the environment. No work shall commence without receiving and complying with a permit issued pursuant to this ordinance.

The application and plans shall contain data as required by the ordinance and regulations by the commission.

The commission in an appropriate case may accept as the application and plans under this ordinance the notice of intent and plans filed under the Wetlands Protection Act (MGL Ch. 131 Sec. 40).

At the time of application the applicant shall pay a filing fee specified in regulation of the commission. In addition, the applicant shall agree in writing to pay the costs and expenses of any expert consultant deemed necessary by the commission to review the applications up to a maximum of two thousand five hundred dollars (\$2,500.00).

Any person desiring to know whether or not proposed work on an area is subject to this ordinance may in writing request a determination from the commission. Such a request for determination shall contain data and plans specified by the regulation of the commission.

(4) *Notice and hearings.* Any person filing an application or a request for determination with the commission at the same time shall give written notice thereof, by certified mail or hand delivery, to all abutters according to the most recent records of the assessors, including those across a traveled way, or a railroad bed. The notice shall enclose a copy of the application or request, with plans, or shall state where copies may be examined by abutters. When a person requesting a determination is other than the owner, the request, the notice of the hearing and the determination itself shall be sent by the commission to the owner as well as to the person making the request.

The commission shall commence the public hearing on any application or request for determination, with written notice given at the expense of the applicant five (5) working days prior to the hearing, in a newspaper of general circulation in the city.

The commission shall commence the public hearing on any application or request for determination within twenty-one (21) days from receipt.

The commission shall issue its permit or other action, or determination in writing within twenty-one (21) days of the close of the public hearing thereon.

The commission in an appropriate case may combine its hearing under this ordinance with the hearing conducted under the Wetlands Protection Act, M.G.L. c. 131 Section 40.

For reasons announced by the commission at the hearing, the commission shall have authority to continue or postpone the hearing to a date certain announced at the hearing, either for receipt of additional information offered by the applicant or others, or for information required of the applicant, deemed necessary by the commission in its discretion. In the event the applicant objects to a continuance or postponement, the hearing shall be closed and the commission shall take action on such information as is available.

(5) *Coordination with other boards.* Any person filing a permit application or request for determination with the commission shall provide one complete copy, including appropriate plans, at the same time, by certified mail or hand delivery to the clerk of the city council, planning board, board of health, and building inspector. The commission shall not take final action until such boards and officials have had fourteen (14) days from receipt of the notice to file written comments and recommendations with the commission, which the commission shall take into account but which shall not be binding on the commission.

(6) *Permit and conditions.* If the commission after a public hearing determines that the area which is the subject of the application is likely to be significant to the interests protected by this ordinance, the commission, within twenty-one (21) days of the close of the hearing, shall issue or deny a permit for the work requested. If it issues a permit, the commission shall impose conditions which the commission deems necessary or desirable to protect those interests, and all work shall be done in accordance with those conditions.

If the area is deemed not likely to be significant to the interests protected by this ordinance, the commission shall so inform the applicant that the work does not require a permit.

Permits shall expire three (3) years from the date of issuance. Any permit may be renewed once for an additional one (1) year period, provided that a request for extension is received in writing by the commission prior to expectation.

For good cause the commission may revoke or modify a permit issued under this ordinance,

provided, however, that no such revocation or modification shall occur until the commission has conducted a public hearing on the matter.

The commission in an appropriate case may combine the permit or other action on an application issued under this ordinance with the order of conditions issued under the Wetlands Protection Act.

An applicant who has received a valid permit, or a determination that the work is not subject to the Lowell Wetlands Ordinance, from the Conservation Commission may proceed at risk with the work upon issuance of a building permit, notwithstanding the pendency of any appeal.
(Ord. 9-24-96)

(8) *Regulations.* After public notice and public hearing the commission shall promulgate rules and regulations, including a filing fee schedule, subject to approval of Lowell City Council, to effectuate the purpose of this ordinance. Failure by the commission to promulgate such rules and regulations or a legal declaration of their invalidity by a court of law shall not act to suspend or invalidate the effect of this ordinance.

At a minimum these regulations shall define key terms in this ordinance not inconsistent with this ordinance.

(9) [*Definitions.*] The following definitions shall apply in the interpretation and implementation of this ordinance.

The term "person" shall include any individual, group of individuals, association, partnership, corporation, company, business organization, trust, estate, the Commonwealth or political subdivision thereof to the extent subject to city ordinances, administrative agencies, public or quasi-public corporations or bodies, the City of Lowell, and or assigns.

The term "alter" shall include, without limitation, the following actions when undertaken in resource areas subject to this ordinance:

- (a) Removal, excavation or dredging of soil, sand, gravel, or aggregate materials of any kind;
- (b) Changing of preexisting drainage characteristics, flushing characteristics, salinity distribution, sedimentation patterns, flow patterns, or flood retention characteristics;
- (c) Drainage or other disturbance of water level or water table;
- (d) Dumping, discharging or filling with any material which may degrade water quality;
- (e) Placing of fill, or removal of material, which would alter elevation;
- (f) Driving of piles, erection of buildings, or structures of any kind;
- (g) Placing of obstructions or objects in water;
- (h) Destruction or dislocation of plant life including cutting and moving of trees;
- (i) Changing water temperature, biochemical oxygen demand, or other physical or chemical characteristics of water;
- (j) Any activities, changes or work which pollute or cause displacement of any body of water or groundwater.

(10) *Security.* As part of a permit issued under this ordinance, in addition to any security required by any other city or state board, agency or official, the Commission may require that the performance and observance of the conditions imposed hereunder be secured wholly or in part by one or more of the methods described below:

- (a) By a proper bond or deposit of money or negotiable securities sufficient in the opinion of the commission;
- (b) By a conservation restriction, easement or other covenant enforceable in a court of law, executed and duly recorded by the owner of record,

running with the land to the benefit of the city and members of the public, whereby the permit conditions shall be performed and observed before any lot may be conveyed other than by mortgage deed.

(11) *Enforcement.* The commission, its agents, officers, and employees shall have the authority to enter upon privately owned land for the purpose of performing their duties under this ordinance and may make cause to be made such examinations, surveys or sampling as the commission deems necessary.

The commission shall have authority to enforce this ordinance, its regulations, and permits issued thereunder by violation notices, administrative orders, and civil and criminal court actions.

Upon request of the commission, the city solicitor shall take legal action for enforcement under civil law. Upon request of the commission the chief of police shall take legal action for enforcement under criminal law.

In the alternative to criminal prosecution the commission may elect to utilize the non-criminal disposition procedure set forth in M.G.L. c. 40, Section 21D.

City boards and officers, including any city police officer or other officer having police powers, shall have authority to assist the commission in enforcement.

Any person who violates any provision of this ordinance, regulations thereunder, or permits issued thereunder, shall be punished by fine of not more than three hundred dollars (\$300.00). Each calendar day or portion thereof during which a violation continues shall constitute a separate offense, and each provision of the ordinance, regulations or permits violated shall constitute a separate offense.

(12) *Burden of proof.* The applicant for a permit shall have the burden of providing by a preponderance of the credible evidence that the work proposed in the application will not harm the interests protected by this ordinance shall be sufficient cause for the commission to deny a permit or grant a permit with conditions.

(13) *Relation to the Wetland Protection Act.* This ordinance is adopted under the Home Rule Amendment of the Massachusetts Constitution and the Home Rule statutes, independent of the Wetlands Protection Act, M.G.L. ch. 131, Section 40, and regulations thereunder.

(14) *Severability.* The invalidity of any section or provision of this ordinance shall not invalidate any other section or provision thereof, nor shall it invalidate any order of conditions which previously has been issued.
(Ord. No. 2-1988, §§ 1-14, 3-8-88)

ARTICLE VI. PLANNED UNIT DEVELOPMENT- MEDICAL/INSTITUTIONAL (PD-MI)

Section 31-55. Purpose Of Article.

This article will establish within this chapter a new zoning district to be called "Planned Unit Development-Medical/Institutional (PD-MI)," the purpose of which is to promote the economical and efficient use of land, an improved level of physical amenities, appropriate and harmonious physical development, creative and imaginative design and the overall improvement of the urban environment for the welfare of the entire community. More specifically, this article is intended to promote and encourage the planned and orderly development and expansion of educational institutions and acute medical facilities.

Section 31-56. Qualifications Required for PD-MI Zoning.

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

The institution must be an existing licensed acute care hospital facility providing medical care and treatment to the sick, aged or crippled.

Any PD-MI zone shall contain not less than five (5) contiguous acres, adjacent or within land of existing institution.

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.

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.

The Planning Board shall be satisfied that adequate financing exists for the development.

Section 31-57. Use Regulations.

The following described primary and auxiliary uses are to be allowed in the PD-MI zone:

Primary uses:

a. 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 fifty (50) individuals for period of not less than twenty-four (24) hours.

(1) Accessory uses. Except as specified below, commercial uses are to be excluded from PD-MI zones. The limitations on accessory uses contained in Sections 32-21(a), 31-21(f) and 31-21(I) shall not apply in the PD-MI zone. The following accessory uses will be permitted accessory uses in such districts:

a. Gift shops oriented to hospital patients and visitors;

b. Cafeteria and food service principally designed to serve hospital, educational or other institutional patients, residents, employees, students and visitors;

c. Bookstores and other retail facilities principally oriented to patients, residents, occupants, students, staff and faculty of medical and educational institutions;

d. Educational or medical research facilities, either publicly or privately financed;

e. Professional services necessary to provide complete medical or educational facilities for the exclusive use and in connection with the primary use;

f. Dormitories and residences for students, nurses and other staff members of the institution;

g. Parking structures for the accommodation of patients, employees, visitors and students of the institution;

h. Development of open spaces for passive and active recreation, and gymnasiums and sports facilities as elements of the education or rehabilitation program of the institution;

i. Long term care facilities including, without limitation, any or all of the following: skilled nursing facilities, intermediate care facilities and resident care facilities, or similar facilities as may be defined and regulated by the Commonwealth of Massachusetts;

j. Assisted living facilities, including without limitation, assisted living residences, or similar facilities;

k. Senior housing facilities including, without limitation, facilities providing continuing care;

l. Ambulatory Surgery Facility;

m. Ambulatory Care Health Facility;

n. Medical Office Building;

o. Any other use which is ancillary, or ordinarily incident to, any of the foregoing primary or accessory uses.

Section 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) Dimensional Requirements. More than one building may be located on a single lot within the PD-MI zone. **The setback from exterior lot lines of any building shall be equal to the height of the building.** There shall be no requirement for setbacks for any interior lot lines within the PD-MI zone (i.e. lot lines separating individual lots within the PD-MI zone.) The maximum height shall be **100 feet or 8 stories**. The maximum floor area ratio shall be 4.0. There shall be no minimum frontage requirement in the PD-MI zone. **Parking areas shall be set back ten (10) feet from any building and five (5) feet from any external lot line.**

(b) Adequate provision for landscape, site, design and style shall 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: Five (5) percent of required parking areas may be required for landscaping. Such landscaping may be distributed evenly throughout the entire parking area. This landscaping requirement is in addition to the parking requirement.

(c) Land within this district may be subdivided, but consistent with the original approved plan, so long as each separate lot within the PD-MI district meets the setback, floor area ratio, parking and landscaping requirements applicable to the PD-MI district as a whole. Any land so subdivided need not meet the minimal lot area otherwise set forth in the Zoning Ordinance, nor

shall there be any required setbacks between lots in the PD-MI zone.

(d) All structures may have vehicular access to a public street. The parking requirements for all uses within the PD-MI zone shall be one (1) stall for each one thousand (1,000) square feet of gross floor area for all lawful uses within the zone. There shall be a minimum of 300 square feet of paved area per parking space for all parking areas located within the PD-MI zone. The provisions of Section 31-42(e) shall not apply to parking areas located within the PD-MI zone.

(e) A minimum of one loading bay shall be required for any building in the PD-MI zone containing in excess of 150,000 square feet of gross floor area. Loading areas shall be designed so as to adequately accommodate anticipated deliveries and so as to be appropriately screened from abutting residential districts. The provisions of Sections 31-42, 31-44 and 31-45 shall not apply in the PD-MI zone.

Section 31-59. Rezoning Procedure

(a) Prior to the granting of a PD-MI 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;

(2) Proof of title to or agreement to purchase all property in the area;

(3) A comprehensive plan for the institution showing perspectives, elevations and renderings to explain the physical aspects of the plan. The plan may include existing as well as proposed buildings and other improvements. Architectural plans of proposed individual buildings should also be included;

(4) A plan for utilities, transportation and safety facilities for project area;

(5) Proof of availability of financing for project;

(6) A written notarized statement by the legal applicant stating that such comprehensive plan will be adhered to and will not be modified without prior approval of the planning board;

(7) An application shall be considered "not submitted" until all the items outlined above are in the hands of the planning board. The planning board, thereafter, shall hold a public hearing on the matter as outlined in Chapter 40A, section 6 of the Massachusetts General Laws, as amended. The applicant is required to notify organized and recognized citizen groups in adjacent areas to the proposed development, if any, at the time of original application, to amendment thereafter.

(b) Upon approval of material submitted under subsection (2) of this section, the Planning Board will make its recommendation to the City Council. Upon approval of the zone change by the City Council, the applicant shall then follow regular procedures to obtain a building permit as detailed in **this Ordinance** and in accordance with other applicable legal requirements. Detailed site plans and architectural plans will be submitted in accordance with zoning and subdivision laws, to the extent applicable.

(Ord. 7-14-98)

Sec. 31-60. Severability of articles.

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

All provisions of the Code of the City of Lowell, as amended, which are not inconsistent with this ordinance shall continue in effect, but all provisions of said Code inconsistent herewith are repealed.

This ordinance shall take effect upon its passage according to the provisions of Chapter 43 of the General Laws, as amended.

This is to attest the foregoing is a true copy of the zoning code of the City of Lowell in effect on October 25, 1982.

/s/ _____
Richard C. Johnson City Clerk
Lowell, Massachusetts

ARTICLE VII. SITE PLAN REVIEW

Sec. 31-61. Site Plan Required.

~~For all land parcels in all zoning districts of the~~ City of Lowell, as defined in its Zoning Ordinance and Zoning Map, a site plan shall be submitted for review and approval by the Planning Board for the construction and development of any building or buildings either exceeding ten thousand (10,000) square feet in nonresidential gross building area, or exceeding six (6) residential dwelling units. No building permit shall be issued until approval or conditional approval is granted, except as provided in Section 31-70.

(Ord. No. 21-1987, § 1, 12-15-87; Ord. No. 18-1988, 9-27-88; Ord. 9-24-96)

[See Chapter 8, Section 8-42, as amended 5-25-93, Applications to license a self-service gas station require prior site plan approval by the Planning Board.]

Sec. 31-62. Purpose and intent of review process.

The site plan review process is adopted pursuant to the Home Rule Amendment of the Massachusetts Constitution in order to protect and promote the health, safety, convenience, and general welfare of the inhabitants of the city, and to promote acceptable site planning practices and standards within the City of Lowell. It is also the intent of this review process to ensure compliance with the City of Lowell Zoning Code, the Regulations of the Planning Board, and good zoning practices.

(Ord. No. 21-1987, § 1, 12-15-87; Ord. No. 18-1988, 9-27-88; Ord. 9-24-96)

Sec. 31-63. Application for site plan review; contents; criteria.

Any application filed at a meeting of the planning board for site plan review under this section shall be accompanied by eleven (11) copies of a site plan which shall be at a scale to be 1" = 50', unless

otherwise approved by planning board; and according to the size of the development, the application shall include five (5) copies of all information required for a "Definitive Plan" under the subdivision regulations of the planning board of the City of Lowell. Such application shall be accompanied by six (6) copies of an environmental impact statement, if required by the planning board.

The site plan shall include the following information:

- (a) Zoning evaluation table showing how the development meets or fails to meet the requirements of the City of Lowell Zoning Code;
- (b) Location and dimensions of all buildings and other construction;
- (c) Location and dimensions of all parking areas, loading areas, walkways, and driveways;
- (d) Internal roadways and accessways to adjacent public roadways, and a profile of same if determined to be necessary by the planning board;
- (e) Location and type of external lighting;
- (f) Location, type, dimensions and quantities of landscaping and screening;
- (g) Location and dimensions of utilities, including water, surface drainage, sewer, fire hydrants and other waste disposal, and a profile of same if determined to be necessary by the planning board;
- (h) Location of snow storage areas and trash dumpsters;
- (i) Location of all existing natural features, including ponds, brooks, streams, wetlands, elevations and topography, proposed and existing contours.

Such site plan shall also be accompanied by a brief narrative, as required by the planning board, addressing the above site plan requirements and other appropriate concerns in the following defined categories: a) buildings; b) parking and loading; c) traffic flow and circulation; d) external lighting; e) landscaping and screening; f) utilities; g) snow removal and h) natural area protection and enhancement.

The planning board shall request changes in such plans and narratives submitted which will promote the quality of the development and will positively affect its impact upon the health, convenience and

general welfare of the inhabitants of the city or the planning board will grant conditional approval of a site plan. Said conditional approval shall be agreed to by the owner, and recorded with the plan at the registry of deeds. An occupancy permit shall not be issued by the inspector of buildings for any structure until conditions are satisfied and the planning board has issued a certificate of compliance.

The planning board shall review and amend all such submitted plans in accordance with the following criteria:

- (a) Adequacy of parking facilities and number of parking spaces proposed for each development;
- (b) Adequacy of loading facilities;
- (c) Adequacy of traffic circulation system;
- (d) Adequacy of access points and routes to and from the land parcel to adjoining streets and ways;
- (e) Adequacy of type and amount of external lighting to be provided on the parcel;
- (f) Adequacy of type, quality, and quantity of landscaping to promote an aesthetically pleasing environment;
- (g) Adequacy of type, quality, and quantity of vegetative screening, earth berms, fencing, or other appropriate screening as determined by the Planning Board for the project, its buildings, structures and other construction to protect adjacent and nearby land parcels from structures not aesthetically pleasing of wholly compatible with the project;
- (h) Adequacy of the methods of disposal of sewerage, refuse and other waste;
- (i) Adequacy of the method of surface drainage across and from the site and engineering standards outlined in Massachusetts Standards for Highways and bridges;
- (j) Adequacy of method of water distribution to and from the parcel and its structures, including fire protection;
- (k) Adequacy of pedestrian circulation systems to and from parking areas and structures;
- (l) Adequacy of protection or enhancement of natural areas.
- (m) Adequacy of screening with vegetative landscaping, earth berms, fencing, or other appropriate screening as determined by the Planning Board.

(Ord. No. 21-1987, § 3, 12-15-87; Ord. No. 18-1988, 9-27-88; Ord. 9-24-96)

Sec. 31-64. Submission of application and plans to other city agencies.

The applicant shall, within seven (7) days after submission of said application and plan to the planning board, transmit one (1) copy each of said application and plan to the city engineer and the board of health, the fire chief, the conservation commission and the water department who may at their discretion, investigate the application and report in writing their recommendations to the planning board on a timely basis. The planning board shall not take final action on such application until it has received a report thereon from the city engineer, the board of health, the fire chief, conservation commission and water department or until thirty-five (35) days from the next regular meeting after the original submission have elapsed without a submission of said reports. Notice of the filing of the petition shall be given by the applicant to the city clerk, police department, superintendent of streets and school department and further notice shall be given as required by the planning board.
(Ord. No. 21-1987, § 4, 12-15-87; Ord. No. 18-1988, 9-27-88)

Sec. 31-65. Approval without final action by planning board.

Failure of the planning board to take final action upon an application by filing its decision with the City Clerk within ninety (90) days following the date of submission shall be deemed to be a grant of the approval applied for.
(Ord. No. 21-1987, § 5, 12-15-87; Ord. No. 18-1988, 9-27-88; Ord. 9-24-96)

Sec. 31-66. Reserved.

(Ord. No. 21-1987, § 6, 12-15-87; Ord. No. 18-1988, 9-27-88; Ord. 9-24-96)

Sec. 31-67. Buffer zones.

When land surrounding a development is residential in nature, is reserved for conservation use, or is land which the Board determines to be available for such a purpose, the Planning Board may require the developer to provide a buffer zone along the property line to protect the quality of the surrounding area and environment when an incompatible development is proposed. Within such buffer zone no construction or destruction of land shall take place. The size of such zone shall be determined by

the Planning Board according to the size of the proposed development, the type of surrounding area, and the aesthetics and other impact of the proposed development upon such surrounding areas. (Ord. No. 21-1987, § 7, 12-15-87; Ord. No. 18-1988, 9-27-88; Ord. 9-24-96)

Sec. 31-68. Additional restrictions.

The planning board may, in appropriate cases as it determines, impose further restrictions upon the development or parts thereof as condition to granting the approval and may waive any defined restrictions. (Ord. No. 21-1987, § 8, 12-15-87; Ord. No. 18-1988, 9-27-88)

Sec. 31-69. Modification or amendment of site plan.

The planning board shall request the modification or amendment of a site plan in order to grant its approval of such site plan in instances where such modifications or amendments are believed to be in the public interest and the interest of the health, safety, convenience, and general welfare of the inhabitants of the city. (Ord. No. 21-1987, § 9, 12-15-87; Ord. No. 18-1988, 9-27-88)

Sec. 31-70. Procedural Requirements.

(a) The grant of site plan approval hereunder is an administrative process and shall not constitute the grant of a special permit as defined in M.G.L. c.40A. Approval, disapproval or conditional approval of a site plan shall be voted only after a public hearing, notice of the time and place of which shall be published in The Sun, a newspaper of general circulation, published in Lowell in each of two successive weeks, the first publication to be not less than fourteen days before the day of the hearing and also by posting on the municipal bulletin board for a period of not less than fourteen days before the day of such hearing.

(b) Appeals of any site plan decision by the Planning Board may be made by any person aggrieved by such decision to Superior Court pursuant to M.G.L. c.249 s.4. Applicants who have been granted approval or conditional approval of a site plan for a use otherwise permitted as of right under this ordinance may proceed with construction of the project as shown on the site plan, at their own

risk, upon issuance of a building permit, notwithstanding the pendency of any appeal.” (Ord. No. 21-1987, § 10, 12-15-87; Ord. No. 18-1988, 9-27-88; Ord. 9-24-96)

Sec. 31-71. Expiration of site plan approval.

Any approval granted hereunder shall lapse within two (2) years of said approval if substantial construction thereof has not commenced, except for good cause, by such date. (Ord. No. 21-1987, § 11, 12-15-87; Ord. No. 18-1988, 9-27-88)

**ARTICLE VIII
TELECOMMUNICATIONS OVERLAY
DISTRICT**

Section 31-72: Purpose and Intent

In all Zoning Districts, this Article is enacted in order to establish general regulations for the siting of telecommunications facilities and to enhance and fulfill the following goals:

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

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

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

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

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

-Provide for the removal of abandoned telecommunications facilities.

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

Section 31-73: Applicability

Section 31-73.1 *Amateur Radio; Receive Only Antennas:* This Article shall not govern any tower, or the installation of any antenna that is under 70 feet in height and is owned and operated by a federally-licensed amateur radio station operator or is used exclusively for receive only antennas.

Section 31-73.2 *Utilities and Public Service Uses:* Telecommunications facilities shall not be considered infrastructure, public services, or utilities, as defined or used elsewhere in the City's Ordinances and Regulations. Siting for telecommunication facilities is a use of land, and is regulated by this Article.

Section 31-74: Application Procedure

Telecommunications facilities shall require a Special Permit from the Zoning Board of Appeals for all Zoning Districts. In addition, a site plan for the construction of all freestanding telecommunications towers, which is in accordance with Article VII of the Lowell Zoning Ordinance, must be submitted to the Planning Board for approval. The Special Permit and site plan applications must be in accordance with the following regulations as set forth by the FCC:

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

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

-Requests for such facilities must be acted upon within a reasonable period of time. The time taken to act on an application will be considered reasonable as long as it is no longer than the time the local government usually takes to act on the other requests of comparable magnitude that

have nothing to do with telecommunications facilities.

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

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

Section 31-75: Criteria for Consideration

In addition to the criteria for consideration specified under Section 31-15 of the Lowell Zoning Ordinance, the standards and requirements of this Article and the Site Plan Review Regulations shall be considered by the Zoning Board of Appeals and Planning Board.

Section 31-76: Submittal Requirements

In addition to the application materials required under Article VII of the Site Plan Review Regulations, the applicant for a telecommunications facility shall provide the following with a Special Permit application:

(a) Scaled elevation perspective of the proposed telecommunications tower and associated structures.

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

(c) Engineering information detailing the minimum and optimal height and coverage required for the facility.

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

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

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

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

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

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

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

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

(g) For new telecommunications towers, a written commitment from the applicant that allows

for the maximum allowance of co-location on the telecommunications tower. This commitment shall become a Condition of Approval. This commitment shall, at a minimum, require the applicant to supply available co-location for reasonable fees and costs to other telecommunications providers. Failure to provide such a commitment is evidence of the applicant's unwillingness to cooperate with the orderly and well-planned development of the City of Lowell, and grounds for denial.

(h) A visual impact analysis prepared by a qualified professional that includes photo-simulations of the proposed telecommunications facility that at a minimum simulate the views of the facility from habitable structures on abutting properties and from the closest public roads.

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

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

Section 31-77: Design and Performance Standards

Section 31-77.1 Telecommunications Tower Color: Telecommunications towers shall either maintain a galvanized steel finish, subject to any applicable standards of the Federal Aviation Administration (FAA), or to be painted a neutral color as approved by the Planning Board, so as to reduce visual obtrusiveness.

Section 31-77.2 Design of Accessory Structures: The design of accessory structures shall, to the maximum extent possible, use materials, colors, textures, screening, and landscaping that will blend the telecommunications facility with the natural setting and built environment. All accessory structures shall also be subject to all other Site Plan Review Regulation requirements.

Section 31-77.3 Telecommunications Tower Lighting: Telecommunications towers shall not be artificially lit, unless required by the Federal Aviation Administration (FAA) or other applicable authority. If lighting is required, the Planning Board shall review the available lighting alternatives and approve

the design that would cause the least disturbance to the surrounding views.

Section 31-77.4 Signs: Telecommunications towers shall not contain any permanent or temporary signs as defined in the Section 31-22 of the Lowell Zoning Ordinance, writing, symbols, or any graphic representation of any kind, with the exception of safety warning signs or equipment information signs. All signs must be kept to a minimum as approved by the Planning Board.

Section 31-77.8 Telecommunication Facility Setbacks: The following requirements shall supersede any less stringent standards found elsewhere in City Ordinances and Regulations:

1. Telecommunications towers shall have a minimum front, side, and rear yard setback equal to the height of the tower.
2. Telecommunications tower guys and accessory structures shall satisfy the minimum setback requirements of the underlying Zoning District.

Section 31-77.6 Security Fencing: The perimeter of telecommunication facilities shall be enclosed by security fencing not less than six feet in height and shall also be equipped with appropriate anti-climbing controls, such as barb wire.

Section 31-77.7 Landscaping: A minimum of 10% of the site must be landscaped with vegetation meeting the requirements listed in the Appendix of the Lowell Subdivision Ordinance. The proposed landscaping must adequately screen the site as approved by the Planning Board.

Section 31-77.8 Height: The height of each tower shall be reviewed and approved by the Zoning Board of Appeals. The maximum height of a telecommunications tower shall be 199 feet. This standard shall supersede any more stringent standards found elsewhere in the City Ordinances or Regulations.

Section 31-78: Co-Location

Section 31-78.1 Design for Co-Location: All telecommunications towers shall be designed structurally, electrically, and in all other respects to accommodate both the applicant's antennas and comparable antennas for at least two additional users

if the telecommunications tower is over 100 feet in height, or for at least one additional user if the tower is over 60 feet in height.

Section 31-78.2 Review Procedure for Co-Location: The co-location of additional antennas on an existing telecommunications tower shall require a Special Permit. With the Special Permit review process, the ZBA may limit the number of users to be located on a tower. Co-Location shall not require a site plan except if any one of the following are met:

An additional equipment building is proposed.

1. The additional antennas require an increase in the height or bulk of the telecommunications tower structure.
2. The additional antennas and any associated accessory structures require the removal of trees or understory vegetation.

Section 31-78.3 Co-Location Requirements: A proposal for a new commercial wireless telecommunication service tower shall not be approved unless the Planning Board finds that the telecommunications equipment planned for the proposed tower cannot be accommodated on an existing or approved tower or building which will meet the needs of the tower due to one or more of the following reasons:

1. The planned equipment would exceed the structural capacity of the existing or approved tower or building, as documented by a qualified and licensed professional engineer, and the existing or approved tower cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost.
2. The planned equipment would cause interference materially impacting the usability of other existing or planned equipment at the tower or building as documented by a qualified and licensed professional engineer and the interference cannot be prevented at a reasonable cost.
3. Existing or approved towers and buildings within the area cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified and licensed professional engineer.

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

Section 31-79: Maintenance Guarantee

Recognizing the hazardous situation presented by abandoned and unmonitored telecommunications facilities, the Planning Board shall set the form and amount of security that represents the cost for removal and disposal of abandoned telecommunications facilities in the event that a facility is abandoned and the facility owner is incapable or unwilling to remove the facility in accordance with Section 31-80.

Section 31-80: Removal of Abandoned Facilities

Section 31-80.1 *Abandoned by Inoperation:* A telecommunications facility shall be considered abandoned and be removed by the owner of the facility if it is not operated for a continuous period of 12 months. If the owner of the facility does not remove the facility upon the Planning Officer's order, then the Planning Board shall, after holding a public hearing with notice to the owner and abutters, issue a declaration of abandonment. The owner of the facility shall dismantle and remove the facility within 90 days of receipt of the declaration of abandonment by the Planning Board. If the abandoned facility is not removed within 90 days, the City may use the security to pay for this action without further notice.

Section 31-80.2 *Abandonment by Neglect:* A telecommunication facility shall be maintained in compliance with the standards contained in the Building Code adopted by the City of Lowell. If, upon inspection by the City, it is concluded that any part of a facility fails to comply with the Building Code and the facility constitutes a danger to persons of property, then upon notice provided to the owner of the facility, the owner shall bring the facility into compliance with the Building Code. If the owner fails to bring the facility into compliance within the time frame determined by the Code Enforcement Officer, then the Planning Board shall, after holding a public hearing with notice to the owner and abutters, issue a declaration of abandonment. The owner of the facility shall dismantle and remove the facility within 90 days of receipt of the declaration of abandonment by the Planning Board. If the abandoned facility is not removed within 90 days, the

City may use the security to pay for this action without further action.

(Ord. 7-14-98)

**ARTICLE IX
ARTIST OVERLAY DISTRICT**

Section 31-85: Artist Overlay District Established; Purpose and Intent.

(a) There is hereby established an overlay district to be known as the "Artist Overlay District." Such district shall be comprised of the area set forth in the attached addendum and incorporated herein.

(b) The establishment of the "Artist Overlay District" is with the intent and for the purpose of encouraging artists, to both live and work in the downtown area thereby promoting a venue for and encouraging further concentration of art, cultural and entertainment attractions in the downtown area.

Section 31-86: Artist Live/Work Space; Special Permit Requirement.

The use of a building or structure for "Artist Live/Work Space" for art use by an artist shall, in the Artist Overlay District, require a special permit from the Zoning Board of Appeals. Such use shall be compatible with the provisions of Section 31-32.4.1.

Section 31-87: Criteria For Consideration.

In addition to the criteria for consideration specified under Section 31-15 of the Lowell Zoning Ordinance, the standards and requirements of this Article and the Site Plan Review Regulations shall be considered by the Zoning Board of Appeals and Planning Board.

(Ord. 12-1-98)

**ARTICLE X. PLANNED DEVELOPMENT-
MIXED USE (PD-MU)**

[Note: Article X. Planned Development-Mixed Use was erroneously adopted as Article IX on March 29, 2000. At the discretion of the editor, this Article has been renumbered, to reflect the prior adoption of Article IX. Artist Overlay District.]

Section 31-90: Purpose of Article

This article will establish within this chapter a new zoning district to be called "Planned Development – Mixed Use (PD-MU)," the purpose of which is to

promote the economical and efficient use of land, an improved level of physical amenities, appropriate and harmonious physical development, creative and imaginative design and the overall improvement of the urban environment for the welfare of the entire community. More specifically, this article is intended to promote and encourage the planned and orderly development of sites that have been previously developed and which are now vacant or under utilized.

Section 31-91: Qualifications Required for PD-MU Zoning

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

- (1) Any PD-MU zone shall contain not less than five (5) contiguous acres of land, while a minimum of 30% of the site must be occupied or have been occupied by buildings or structures for a period of not less than 30 years.
- (2) The applicant 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.
- (3) 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.
- (4) The Planning Board shall be satisfied that adequate financing exists for the development.

Section 31-92. Use Regulations

The following described primary and accessory uses are to be allowed in the PD-MU zone:

- (1) Primary uses:

It is anticipated that primary uses will be from one or more of the following categories:

Residential ,retail, service, general office, research and development, and recreational facilities. It is further intended to ensure that adequate open space and development regulations will create a favorable environment for abutting uses as well as ensuring the compatibility and harmonious existence of development within the PD-MU zone. Businesses located within this District are encouraged to provide street level uses which allow for, and facilitate, pedestrian activity for area residents, workers, and visitors.

- (2) Accessory uses:

The limitations on accessory uses contained in Sections 31-21 (a) , 31-21 (f), and 31-21 (i) shall not apply in any PD-MU zone. Any other use, which is ancillary, and ordinarily incident to, any of the foregoing primary uses will also be deemed to be appropriate. For all uses that were not indicated in the approved Comprehensive Plan and which are not indicated in Section 31-92, the applicant should refer to Section 31-32 of the Lowell Zoning Code, which has been amended to incorporate the new PD-MU zone.

Section 31-93. Setback, Landscaping, Open Space, Parking, etc., Standards.

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

- (1) Dimensional requirements. More than one building may be located on a single lot within the PD-MU zone. There shall be no requirement for setbacks for any interior lot lines within the PD-MU zone (i.e. lot lines separating individual lots within the PD-MU zone). The maximum height shall be 100 feet and 8 stories. The maximum floor area ratio shall be 4.0. There shall be no minimum frontage requirement in the PD-MU zone. Parking areas shall be set back ten (10) feet from any building and five (5) feet from any external lot line.

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

- (1) Screening: All undesirable visual elements shall be properly screened including, but not limited to the following:
- (2) Trash storage - solid screening required; Open storage – solid screening required;
- (3) Utility equipment and structures; Parking as required in this chapter.
- (4) Landscaping: (Five (5) percent of required parking areas shall be required for landscaping. Such landscaping shall be distributed evenly throughout the entire parking area. This landscaping requirement is in addition to the parking requirement.

(c) Land within this district may be subdivided, but consistent with the original approved plan, so long as each separate lot within the PD-MU district meets the setback, floor area ratio, parking and landscaping requirements applicable to the PD-MU district as a whole. Any land so subdivided need not meet the minimal lot area otherwise set forth in the Zoning Ordinance, nor shall there be any required setbacks between lots in the PD-MU zone.

(d) All structures shall have vehicular access to a public street. The parking requirements for all uses within the PD-MU zone, (except for those uses indicated in Section 31-41(a) of the Zoning Code where one (1) stall per dwelling unit shall be required) shall be one (1) stall for each eight hundred (800) square feet of gross floor area for all lawful uses within the zone. There shall be a minimum of 300 square feet of paved area per parking space for all parking areas located within the PD-MU zone. The provisions of Section 31-42(e) shall not apply to parking areas located within the PD-MU zone.

(e) A minimum of one loading bay shall be required for any building in the PD-MU zone containing in excess of 15,000 square feet of gross floor area. Loading areas shall be designed so as to adequately accommodate anticipated deliveries and so as to be appropriately screened from abutting residential districts. The provisions of Sections 31-43, 31-44 and 31-45 shall not apply in the PD-MU zone.

Section 31-94. Rezoning Procedure.

(a) Application for a zone change to PD-MU zone shall be made in accordance with Massachusetts G.L. Chapter 40A, section 5;

(b) Prior to the granting of a PD-MU zone change, the applicant must submit to the Planning Board, along with the proposed zoning change the following (with copies to the Inspectional Services Department):

- (1) A description and map of the area to be rezoned, showing existing land use and zoning;
- (2) Proof of title to or agreement to purchase all property in the area;
- (3) A Comprehensive plan for the proposed PD-MU zone detailing proposed uses and showing prospectives, elevations and renderings to explain the physical aspects of the plan. The plan shall include existing as well as proposed buildings and other improvements. Architectural plans of proposed individual buildings should also be included;
- (4) A plan for utilities, transportation and safety facilities for project area;
- (5) Proof of availability of financing for project;
- (6) A written notarized statement by the legal applicant stating that such comprehensive plan will be adhered to and will not be modified without prior approval of the Planning Board;
- (7) An application shall be considered “not submitted” until all the items outlined above are in the hands of the Planning Board. The Planning Board, thereafter, shall hold a public hearing under the procedure outlined in MGL Chapter 40A, section 5, as amended. The applicant is required to notify organized and recognized citizen groups in adjacent areas to the proposed development, if any, at the time of original application, to amendment thereafter.
- (8) Applicant shall execute any time extensions requested by the Planning Board in order to fully evaluate the plan and zoning ordinance.

(c) Upon complete submission of the material under subsection (b) above, the Planning Board shall formally act on the Comprehensive Plan. The Planning Board shall also make its report and recommendation on the proposed PD-MU zone change, to the City Council under MGL Chapter 40A, section 5. Thereafter, upon approval of the zone change by the City council the applicant shall then follow regular procedures to obtain a building permit as detailed in this Ordinance and in

accordance with other applicable legal requirements. Detailed site plans and architectural plans will be submitted in accordance with zoning and subdivision laws, to the extent applicable.

(Ord. 3-28-00)

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