



CITY OF LYNN

City Council

NOVEMBER 9

2004

IN THE YEAR TWO THOUSAND AND FOUR AN ORDINANCE ESTABLISHING A NON-CRIMINAL DISPOSITION FOR VIOLATIONS OF ORDINANCES, BY-LAWS, RULES AND REGULATIONS IN WHICH THE CITY OF LYNN IS THE ENFORCEMENT AUTHORITY

Be it ordained by the City Council of the City of Lynn and by the authority of the same as follows, to wit:

Section 1-1. Rules of construction and definitions.

In the construction of the Ordinances of the City of Lynn, the following rules of construction shall be observed, unless such construction would be inconsistent with the manifest intent of the city council, the context of the provisions of the ordinances, or unless other definitions are laid out in the individual chapter.

Agency shall mean any appointed multiple member body, department, other administrative unit or other division of the government of the city.

City shall mean the City of Lynn, in the county of Essex, and the Commonwealth of Massachusetts.

CMR or the words "Code of Massachusetts Regulations" shall mean the official administrative regulations of the state of Massachusetts.

City Charter or "charter" shall mean the Charter of the City of Lynn. *Commonwealth* shall mean the Commonwealth of Massachusetts. *Council* shall be construed to mean the city council of the City of Lynn. *County* or "this county" shall mean the County of Essex, in the Commonwealth of Massachusetts.

Employee shall mean an individual, other than an "official," compensated by the city or any **city** agency, whether part-time or full-time, whether **as** a common law employee or independent contractor.

Following shall mean next after.

Mayor shall be construed to mean the Mayor of the City of Lynn.



CITY OF LYNN

In City Council

Month shall mean a calendar month.

Oath shall be construed to include an affirmation in all cases in which by law an affirmation may be substituted for an oath and in such cases the words "swear" and "sworn" shall be equivalent to the words "affirm" and "affirmed."

Official or "officer" shall mean any person holding any elected office of the city or any appointed position of the city, including members of all city boards and commissions.

Ordinance shall mean the individual sections of these ordinances, identified by a section number, as follows "Sec. ___".

Ordinances shall mean "The Ordinances of the City of Lynn" as most recently amended, and shall refer to those who vote or orders of the city council designed for the permanent regulation of any matter within the jurisdiction of the city council as laid down in the city charter.

Owner shall be construed to mean and include every person who alone or severally with others (a) has legal title to any building or land; or (b) has care, charge, or control of any building or land in any capacity, including but not limited to, agent, executrix, administrator, administratrix, trustee, or guardian of the estate of the holder of the legal title, or (c) is a lessee under a written letting agreement; or (d) mortgagee in possession; or (e) is a agent, trustee, or other person appointed by the courts.

Person shall extend and be applied to associations, businesses, corporations, firms, partnerships, committees, unions, and bodies politic and corporate, as well as to individuals.

Personal Property shall be construed to mean and include every species of property, except real property as defined in this chapter. *Preceding* shall mean next before.

Real Property shall be construed to mean and include land, together with all things attached to the land so as to become a part thereof.

CITY OF LYNN

In City Council—

Regulation or "regulations" shall mean the rule, or rules of any officer, board of commission, excluding the city council, which is or are designed for the permanent regulation of any matter within the jurisdiction of the said board, commission, or officer as laid down by the city charter, or these ordinances.

Statute references. Whenever reference is made to G.L. or to Mass.Gen it shall mean *the* Massachusetts General Laws, as most recently amended.

Street or "way" or "highway" shall include streets, highways, avenues, roads, alleys, sidewalks, lanes, viaducts and all other public ways in the street, including any bridge which is part thereof, all of which shall have been decreed, dedicated, or accepted by the city.

Tenant or "occupant" when applied to a building or land, shall include any person holding a written or oral lease or who occupies the whole or a part of such building or land, either alone or with others.

Written or "in writing" shall be construed to include any representation of words, letters, or figures, whether by printing or otherwise.

Year. The word "year" shall be construed to mean a calendar year.

Section 1-2. Rules of Construction.

In the construction of this Ordinance and of all ordinances, the following rules of construction shall be observed, unless inconsistent with the manifest intent of the council or the context of the ordinance clearly requires otherwise:

- (a) **Computation of time.** The time within which an act is to be done shall be computed by excluding the first and including the last calendar day, and if the last day is a Sunday or a legal holiday, that day shall not be counted in the computation.

CITY OF LYNN

In City Council —

- (b) **Conflicting provisions.** If any provisions of this Ordinance conflict with one another, accepted rules of statutory construction shall be applied to resolve the conflict.
- (c) **Definitions.** Unless expressly otherwise provided, definitions given within a chapter, article, or section shall apply only to words or phrases used in that chapter, article, or section.
- (d) **Delegation of authority.** Whenever a provision of these ordinances appears requiring the head of a department or some other officer of the city to do some act or perform some duty, or granting some right to such official, it shall be construed to authorize such department head or officer to designate, delegate, and authorize subordinates to do the required act or perform the required duty, or it shall grant to them such right, unless the terms of the provisions designate otherwise.
- (e) **Gender.** A word importing only the male gender shall extend and be construed as to apply to the female gender and to firms, partnerships, and corporations, as well as to males. A word importing the female gender only shall extend and be construed as to apply to the male gender and to firms, partnerships, and corporations; as well as to females,
- (f) **Joint authority.** Words purporting to grant joint authority to three (3) or more officers or other persons shall be construed as giving such authority to a majority of such officers or persons.
- (g) **Number.** A word importing the singular number only may extend and be applied to several persons or things as well as to one person or thing.
- (h) **Tense.** Words used in the past or present tense shall include the future, as well as the past and present, unless the context clearly indicates otherwise.
- (i) **Time.** Words stating a time or hour of a day shall mean the official time of the city.



CITY OF LYNN

In City Council _____ 20

(j) All chapters and ordinances shall, unless expressly otherwise provided, be interpreted according to the terms and conditions provided in this chapter. (Amended 3-10-97).

Section 1-3. Severability.

It is hereby declared that the sections, 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, invalid, or inoperative by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of these ordinances.

Section 1-4. Catch-lines of sections.

The catch-lines of the several sections of these ordinances printed in boldface type are intended as mere catchwords to indicate the contents of the sections, and shall not be deemed to be taken to be titles of such sections nor any part thereof.

Section 1-5. Recodification and review.

Pursuant to section 9-9 of the Charter of the City of Lynn for the year following the initial review of the city charter, under section 9-8 of the Charter, and at five year intervals thereafter, the city council shall cause to be prepared a proposal recodification of all city ordinances, and any revisions thereto deemed appropriate or necessary. The city council shall adopt the proposed revision or recodification with or without amendment prior to the expiration of the calendar year in which such recodification and revisions are submitted to the council. Such revisions or recodification shall be prepared under the supervision of the city solicitor, or if the city council so directs, by special council retained for such purposes.

Section 1-6. General penalty: criminal and non-criminal disposition.

(a) Any person who violates a provision of these ordinances or of any ordinance of the city, whether included in these ordinances or any hereafter enacted, whereby any



CITY OF LYNN

In City Council

act or thing is enjoined, or prohibited or required, shall unless other provision is expressly made, be liable for a penalty as set forth in subsection (c) herein for each offense; provided, however, that whenever a higher penalty is permitted under the General Laws of Massachusetts, such higher penalty shall be the maximum penalty for each offense; and provided- further, that this section shall not preclude the city from proceedings to restrain the violation of any provision of these ordinances by injunction where such proceeding is more apt. In all instances, except as otherwise provided, each day a violation continues shall constitute a separate offense.

(b) Whoever violates any provision of these ordinances, the violation of which is subject to a specific penalty, may also be penalized by a non-criminal disposition as provided in the General Laws, chapter 40, 21D. The non-criminal method of disposition may also be used for violations of any rule or regulation of any municipal officer, board or department, which is subject to a specific penalty.

In the absence of a specific schedule of penalties, as provided for in subsection (c), all ordinances whether included in these Ordinances or any hereafter enacted, may be enforced by police officers through non-criminal disposition as deemed appropriate according to the following schedule: **General Schedule of Non-criminal Fines**

First Offense.....	\$50.00
Second Offense..... ;.....	150.00
Third Offense.....	300.00

(c) Notwithstanding the provisions of the section (a) or (b) of this section 1-7, it is the intention of this subsection that the following ordinances, and regulations are to be included within the scope of the non-criminal disposition for violation of ordinances according to Chapter 40, section 21D of the General Laws. The specific penalties, as listed herein, shall apply in such cases. The following municipal personnel shall be



CITY OF LYNN

In City Council

20

enforcing persons for the purposes of this subsection. Enforcing persons may, in their sole discretion, issue a written warning, in lieu of a fine, for first time violations.

<u>Ordinance</u>	<u>Fine</u>	<u>Enforcing</u>
	<u>Personnel</u>	
Animal Control	\$ 25	Animal Control Officer, Police Officers
Building Code 780 CMR	\$ 50	Building Inspectors
Cemetery Rules & Regulations City of Lynn	\$ 50	Public Works
Electrical Permits Inspectors, 527CMR12	\$ 50	Electrical Fire Prevention
Graffiti City of Lynn	\$ 50	Police Officers, Health Inspectors, Building Inspectors, Parking Officers
Ordinance	Fine	<u>Enforcing</u> <u>Personnel</u>
Litter Ordinance City of Lynn	\$ 50	Building Inspector, Health Inspectors, LHA Inspectors, Police Officers, Fire Prevention



CITY OF LYNN

In City Council

Lynn Woods Rules & Regulations City of Lynn	\$ 50	Public Works, Police Officers
Noise Ordinance City of Lynn	\$ 50	Police Officers, Animal Control, Building Inspectors
Occupancy Permit City of Lynn	\$ 100	Health Inspectors
Park Rules & Regulations City of Lynn	\$ 50	Police Officers
Refuse Container City of Lynn	\$ 100	Police Officers, Health Inspectors, Building Inspectors
Removal of Snow & Ice City of Lynn	\$ 25	Public Works, Police Officers, Building Inspectors, Health Inspectors
Repairing Motor Vehicles on Public Way City of Lynn	\$ 50	Police Officers, Building Inspectors, Health Inspectors
Sanitation Ordinance City of Lynn	\$ 100	Health Inspectors, Building Inspectors, Public Works
Sign Ordinance City of Lynn	\$ 100	Building Inspectors
Anti-Smoking Regulations	\$ 100 1 st Offense \$200 2 nd Offense \$300 3 rd Offense	Board of Health Police Officers
Spray Booth Ordinance City of Lynn	\$ 100	Fire Prevention



CITY OF LYNN

In City Council

Storing of Motor Vehicles -in Residential Area City of Lynn	\$ 50	Police Officers, Building Inspectors, Health Inspectors, Parking Officers
Weeds and Plants A Nuisance	\$ 100	Building Inspectors Health Inspectors LHA Inspectors
<u>Ordinance</u> Personnel	Fine	<u>Enforcing</u>
Street Number City of Lynn	\$ 50	Fire Prevention, Building Inspectors, Health Inspectors, Police Officers
Street Opening Ordinance City of Lynn	\$ 50	Public Works Personnel Police Officers
Ward Ordinance City of Lynn	\$ 100	Health Inspectors, Building Inspectors Police Officers
Zoning Ordinance City of Lynn	\$ 50	Building Inspectors, Health Inspectors
105 CMR	\$ 50	Health Inspectors, Building Inspectors
105CMR590 —Chapter 2	\$ 100	Food Inspectors
527 CMR	\$ 100	Fire Prevention
310 CMR	\$ 100	Fire Prevention
502 CMR	\$ 100	Fire Prevention



CITY OF LYNN

In City Council

MGL Chapter 148	\$ 100	Fire Prevention
MGL Chapter 21E	\$ 100	Fire Prevention
MGL Chapter 110 <i>—Section 5</i>	\$ 300 per month	Building Inspectors Health Inspectors City Clerk
MGL Chapter 141	\$ 100	Fire Prevention
MGL Chapter 142	\$ 100	Fire Prevention
MGL Chapter 146 <i>—Section 81-89</i>	\$ 100	Fire Prevention
MGL Chapter 269 <i>—Section 13</i>	\$ 100	Fire Prevention

Most Common Violations: —CMR: Unsafe & Unsanitized Conditions

- Repair of Vehicle in Public Way
- Dumpster Overflowing
- Unsafe Structure
- Storage of Unregistered Vehicles-Residential
- Working without a Permit
- Violation of Zone Ordinance

Section 1-7. Disposition of fines and penalties.

All fines and penalties provided for pursuant to or included in these ordinances, except otherwise specially provided for, shall inure to the use and benefit of the city, and shall be credited to the general revenue account.

Section 1-8. Criminal Disposition

Whenever a fine remains unpaid for a period of thirty (30) days after demand is made, the enforcing authority specifically retains the right to initiate criminal proceedings, in lieu of the non-criminal disposition as stated in this Ordinance.



CITY OF LYNN

In City Council----- 20

Section 1-9. Persons liable for violation of ordinances.

When an act is prohibited by an ordinance, not only the persons actually doing the prohibited act, but also the employers and all other persons concerned therein, shall be liable to the penalty prescribed therefor.

Section 1-10. Territorial applicability.

These Ordinances shall refer only to the omission or commission of acts within the territorial limits of the city and to that territory outside the city over which the city has jurisdiction or control by virtue of any constitutional or Charter provisions or any law.

Section 1-11. Enactment clause of ordinances.

All ordinances of the city shall be denominated ordinances; and the enacting style shall be, "Be it ordained by the city council of the City of Lynn, as follows:

Section 1-12. Forms of expression used by the city council.

Whenever the city council expresses anything by way or command, the form of expression shall be "ordered", and when such council expresses opinions, principles, facts, or purposes the form shall be "resolved".

Section 1-13 Repeal of inconsistent provisions

All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

Section 1-14 Effective Date

This ordinance shall take effect thirty-one (31) days after its final adoption as advertised.