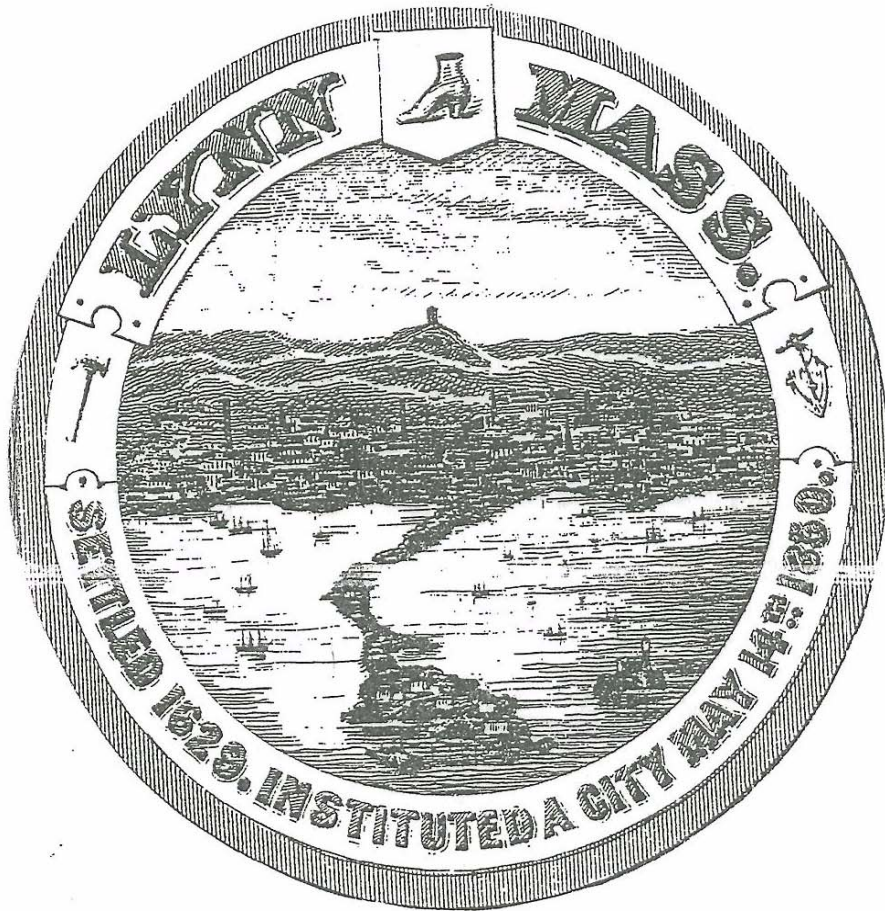


CITY OF LYNN

ZONE ORDINANCE



APPROVED JUNE 8, 1925
CITY COUNCIL

APPROVED JUNE 10, 1925
RALPH S. BAUER, MAYOR

WITH AMENDMENTS THROUGH
FEBRUARY, 2009

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CITY OF LYNN
ZONING ORDINANCE

IN THE YEAR ONE THOUSAND NINE HUNDRED AND TWENTY-SIX AN ORDINANCE
TO LIMIT BUILDINGS ACCORDING TO THEIR USE OR CONSTRUCTION TO SPECIFIC
DISTRICTS OF THE CITY OF LYNN

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

SECTION 1.

Purpose

To promote the health, safety, morals, convenience and general welfare of its inhabitants, to lessen the danger from fire, congestion and confusion, and to improve and beautify the City under and pursuant to the provisions of the Massachusetts General Laws, Chapter Forty A, and all amendments thereto, the use, height, area, construction, repair and alteration of buildings or structures and the use of premises in said City are hereby restricted and regulated as hereinafter provided.

SECTION 2.

DEFINITIONS

In this Ordinance, the following terms shall have the meaning hereby assigned to them.

- 2.1 Accessory Use: A use of a building or premises customarily incident to the use permitted in the district.
- 2.2 Automobile Repair/Body Shop: A repair shop for automobiles where power driven machinery is used, electric or acetylene gas welding, cleaning by explosive sprays, and similar activities of an objectionable nature.
- 2.3 Court: An open space other than a yard on the same lot with a building.
- 2.4 Elderly Housing Project: Any project which houses elderly persons exclusively shall be considered an elderly housing project.
- 2.5 Elderly Person: For the purpose of this Ordinance, an elderly person shall be anyone who has reached the age of sixty-five.
- 2.6 Family: One or more persons related by blood, adoption or marriage, or having a legal relationship as foster parent-foster child, occupying a dwelling unit and living as a single, non-profit housekeeping unit, exclusive of domestic employees; provided, however, that a group of four persons or less who occupy a dwelling unit and live as a single non-profit housekeeping unit, although not so related by blood, adoption or marriage or not having such a legal relationship as foster parent-foster- child, shall be deemed to constitute a family. The City Council may grant permission under the provisions of Section 12 for a group of five (5) or more persons not so related or not having a legal relationship to be deemed to constitute a family and thusly occupy a dwelling unit and live as a single non-profit housekeeping unit.
- 2.7 Food Service Establishment: Any place where food is prepared and intended for individual portion service, and includes the site at which individual portions are provided. The term includes any such place regardless of whether consumption is on or off the premises and whether there is a charge for the food. The term includes, but is not limited to, restaurants, sandwich shops, take-out operations, delicatessens, and catering operations. The term does not include residential kitchens (except as provided in 105 CMR 590.028), retail

food stores, supply vehicles, or kitchens in churches, social clubs or fraternal organizations.

- 2.8 Front Yard: A yard across the full width of the lot and extending from the front line of the building to the front line of the lot.
- 2.9 Garage: Any garage other than a private garage, or where automobiles are equipped for operation, repaired, or kept for remuneration or hire, equipping and repairing to be done only by hand tools.
- 2.10 Height: The height of a building shall be the vertical distance measured from the mean level of the grade of the street to the mean height of the roof, except that a parapet exceeding three feet in height shall be considered a part of the height.
- 2.11 High Rise Building: A high-rise building is defined to be a building that has a height in excess of five stories or sixty (60) feet in height.
- 2.12 Inner Court: A court not extending to a street or yard. A court extending only to a side lot line shall be deemed an inner court.
- 2.13 Lot: A parcel of land used or set aside and available for use as a site of one or more buildings and buildings accessory thereto or for any other definite purpose, in one ownership and not divided by a public or private way which is open or dedicated to public use, not including any land within the limits of a public or private way upon which such lot abuts.
- 2.14 Non-Conforming Use: A use of a building or land which does not agree with the use requirements for the use district in which it is located.
- 2.15 Outer Court: A court extending to a street or yard.
- 2.16 Private Garage: A garage for not more than two (2) automobiles for storage only, in which space may be rented to persons not occupants of the premises.
- 2.17 Rear yard: A yard across which the full width of the lot extending from the rear line of the building to the rear line of the lot.
- 2.18 Side yard: A yard between the building and the adjacent side line of the lot and extending from the front yard to the rear yard.

2.19

Story: A story of a building shall mean any horizontal portion through such building between the floor and ceiling of which the ceiling is six feet or more above the mean level of the street or way on which the building abuts or on which it is numbered, or if there is no street or way, than the average level of the lot at the building.

2.20

Accessory Structure: A structure being utilized for an accessory use including but not limited to a garage, shed or an attached open deck.

SECTION 3.

Establishment of Districts

3.1 For the purpose of this Ordinance, the City of Lynn is divided into sixteen(16) types of districts designated as:

- 3.1.1 Single Residence Districts (R1)
- 3.1.2 General Residence Districts (R2)
- 3.1.3 Apartment House Districts Class 1.... (R3)
- 3.1.4 Apartment House Districts Class 2 (R4)
- 3.1.5 High Rise Building District(R-5)
- 3.1.6 Business District Class 3 B-3)
- 3.1.7 Business Districts (B)
- 3.1.8 Central Business District (CBD)
- 3.1.9 Light Industrial Districts (LI)
- 3.1.10 Heavy Industrial Districts(HI)
- 3.1.11 Waterfront Zone 1 District..... (WFI)
- 3.1.12 Waterfront Zone 1A District.....(WF1A)
- 3.1.13 Waterfront Zone 2 District.....(WF2)
- 3.1.14 Waterfront Zone 3 District.....(WF3)
- 3.1.15 Washington Street District.....(W)
- 3.1.16 Sagamore Hill Corridor Overlay.....(SHCO)

3.2 ZONING MAP Said districts are shown, defined, and bounded on the map, entitled Zoning Map City of Lynn, dated June 8, 1926, as MAP amended from time to time and as amended by this Ordinance, signed by the City Engineer, and on file with the City Clerk, and said map and all explanatory matter thereon are hereby made a part of this Ordinance.

3.3 INTERPRE- TATION The district boundaries shall be shown on the Zone Map, the scale of the map and figures entered to serve as guides. Where boundaries are indicated as parallel to a street line and approximately one hundred (100) feet from the street line, the distance shall be one hundred (100) feet. Where Zone lines apparently follow property lines, they shall be so interpreted. Where building lines for apartment house buildings and industrial districts are established by the City, the Zone lines shall be measured from the building lines. When a district boundary line divides a lot in a single or joint ownership at the time such boundary line is established, a use authorized on the less restricted portion may be extended into the more restricted portion, but in no event except by decision of the Board of Appeals, made after due notice and hearing to all parties interested. Where a business or industrial district adjoins a residential district, the business or industrial building shall have no openings on side streets for the receiving or delivery of goods. In case of doubt, the Zone lines shall be determined by the Building Commissioner.

SECTION 4

USE REGULATIONS

4.1
APPLICABILITY

Except as provided in the Zoning Act or in this Ordinance, no building, structure, water body, or lot shall be used in any district for the purposes set forth in Section 4 Table of Use Regulations. Any use not listed shall be construed to be prohibited. The Building Commissioner shall make all determinations as to the applicability of a use in all districts, appeals to the Building Commissioner's determinations shall be made to the Board of Appeals.

4.2
INTERPRETATION

In Section 4, Table of Use Regulations, the uses permitted by right in the district are designed by the letter (P). Uses designated by the symbol (-) shall not be permitted in the district. Those uses that may be permitted by special permit are designated by (SP). All special permits are granted by the City Council unless otherwise specified. All special permits shall be processed in accordance with Section 12.

Existing and future uses of land, buildings or structures shall be allocated among the categories set forth in Section 4, Table of Use Regulations. Each use set forth in the principal use column of such table shall be defined by reference to the Subsection of Section 5 appearing next to such principal use and shall be subject to conditions as may be set forth therein and in such Subsection.

4.3
OTHER
REGULATIONS

Uses permitted by right or by special permit shall be subject, in addition to use regulations, to all other provisions of this Ordinance.

REFERENCE USE		RESIDENTIAL ZONES					BUSINESS ZONES			INDUSTRIAL ZONES		WATERFRONT ZONES					
		R1	R2	R3	R4	R5	B3	B	CBD	LI	HI	WF1	WF1A	WF2	WF3	WS	SHCO
RESIDENTIAL																	
4.1.1	One family detached house	P	P	P	P	P	P	SP	SP	SP	SP	---	---	---	---	---	P
4.1.2	Two family house	---	P	P	P	P	SP	SP	SP	SP	SP	---	---	---	---	---	P
4.1.3	Boarding house or lodging house	---	---	---	---	---	SP	SP	SP	SP	SP	---	---	---	---	---	---
4.1.4	Group residence (5)	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	---	---	---	---	---	---
4.1.5	Row house	---	---	P	P	P	SP	SP	SP	SP	SP	---	---	---	---	P	P
4.1.6	Apartment house (6)	---	---	P	P	P	SP	SP	SP	SP	SP	---	---	---	---	P	P
4.1.7	Multi-family residential high rise (6)(7)	---	---	---	---	SP	SP	SP	SP	SP	SP	P	P	P	P	P	P
4.1.8	Yard or garage sales (3)	P	P	P	P	P	---	---	---	---	---	---	---	---	---	---	P
4.1.9	Artist/Live/Work Space (6)	---	---	---	---	---	---		P	---	---	---	---	---	---	---	---
AGRICULTURAL																	
4.2.1	Farm	P	P	P	P	P	P	P	P	P	P	---	---	---	---	---	---
4.2.2	Nurseries and truck gardens	P	P	P	P	P	P	P	P	P	P	---	---	---	---	---	---
4.2.3	Greenhouses	P	P	P	P	P	P	P	P	P	P	---	---	---	---	---	---
4.2.4	Commercial greenhouse	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	---	---	---	---	---	---

REFERENCE USE		RESIDENTIAL ZONES					BUSINESS ZONES			INDUSTRIAL ZONES		WATERFRONT ZONES					
		R1	R2	R3	R4	R5	B3	B	CBD	LI	HI	WF1	WF1A	WF2	WF3	WS	SHCO
RESIDENTIAL																	
4.2.5	Open air stand	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	---	---	---	---	---	---
4.2.6	Poultry or fowl preparation	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	---	---	---	---	---	---
4.2.7	Public Parks/Open Space	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
INSTITUTIONAL																	
4.3.1	Churches and/or parish houses	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
4.3.2	Schools	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
4.3.3	Public libraries or museums	P	P	P	P	P	P	P	P	SP	SP	P	P	P	P	P	P
4.3.4	Hospitals and nursing homes (2)	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	---	---	---	---	---	---
4.3.5	Philanthropic institutions	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	---	---	---	---	---	---
4.3.6	Cemetery	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	---	---	---	---	---	---
4.3.7	Funeral homes (1)	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	---	---	---	---	---	---
4.3.8	Private clubs, not for profit	P	P	P	P	P	SP	SP	SP	SP	SP	---	---	---	---	---	P
4.3.9	Public buildings	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
4.3.10	Telephone exchange	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP

REFERENCE USE		RESIDENTIAL ZONES					BUSINESS ZONES			INDUSTRIAL ZONES		WATERFRONT ZONES					
		R1	R2	R3	R4	R5	B3	B	CBD	LI	HI	WF1	WF1A	WF2	WF3	WS	SHCO
RESIDENTIAL																	
4.3.11	Billboards/Outdoor Advertising	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	---	---	---	---	---	---
BUSINESS																	
4.4.1	Retail stores (8)(9)	---	---	---	---	---	---	P	P	SP	SP	P	P	P	P	P	P
4.4.2	Retail trade custom work shop (8)	---	---	---	---	---	---	P	P	SP	SP	P	P	P	P	P	P
4.4.3	Professional offices	---	---	---	---	---	P	P	P	SP	SP	P	P	P	P	P	P
4.4.4	Clinic	---	---	---	---	---	SP	P	P	SP	SP	SP	SP	SP	SP	SP	SP
4.4.5	General offices (4)	---	---	---	---	---	SP	P	P	SP	SP	P	P	P	P	P	P
4.4.6	Banks (9)(10)	---	---	---	---	---	SP	P	P	SP	SP	---	---	---	---	P	---
4.4.7	Banks with drive-in facilities (10)	---	---	---	---	---	---	P	P	SP	SP	---	---	---	---	---	---
4.4.8	Food service establishment	---	---	---	---	---	---	SP	SP	SP	SP	P	P	P	P	P	---
4.4.9	Places of assembly for private recreation	---	---	---	---	---	---	SP	SP	SP	SP	P	P	P	P	P	P
4.4.10	Gasoline and oil filling stations	---	---	---	---	---	---	SP	SP	SP	SP	---	---	---	---	---	---
4.4.11	Sales room for motor vehicles	---	---	---	---	---	---	P	P	SP	SP	---	---	---	---	---	---
4.4.12	Hotels	---	SP	SP	SP	SP	---	SP	SP	SP	SP	P	P	P	---	P	---

REFERENCE USE		RESIDENTIAL ZONES					BUSINESS ZONES			INDUSTRIAL ZONES		WATERFRONT ZONES					
		R1	R2	R3	R4	R5	B3	B	CBD	LI	HI	WF1	WF1A	WF2	WF3	WS	SHCO
RESIDENTIAL																	
4.4.13	Research and Development	---	---	---	---	---	---	---	---	---	---	SP	SP	---	SP	---	---
4.4.14	Conference Center	---	---	---	---	---	---	---	---	---	---	P	P	P	P	---	---
4.4.15	Yacht Club	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---
4.4.16	Marina	---	---	---	---	---	---	---	---	---	---	P	P	P	P	---	---
4.4.17	Transit Facility	---	---	---	---	---	---	---	---	---	---	SP	SP	---	SP	---	---
4.4.18	Electronic Transmission Line/Poles/Apparatus (11)	---	---	---	---	---	---	---	---	---	---	P	P	P	P	---	---
4.4.19	Adult Book Store/Adult Picture Theater	---	---	---	---	---	SP	SP	SP	---	---	---	---	---	---	---	---
INDUSTRIAL																	
4.5.1	Fuel storage	---	---	---	---	---	---	---	---	SP	SP	---	---	---	---	---	---
4.5.2	Contractor's storage yard	---	---	---	---	---	---	SP	---	SP	SP	---	---	---	---	---	---
4.5.3	Shoe factories	---	---	---	---	---	---	---	---	SP	SP	---	---	---	---	---	---
4.5.4	Auto repair/body shop	---	---	---	---	---	---	---	---	SP	SP	---	---	---	---	---	---
4.5.5	Ice establishment	---	---	---	---	---	---	---	---	SP	SP	---	---	---	---	---	---
4.5.6	Light manufacturing	---	---	---	---	---	---	---	---	P	P	---	---	---	SP	---	---
4.5.7	Heavy manufacturing	---	---	---	---	---	---	---	---	SP	SP	---	---	---	---	---	---

REFERENCE USE		RESIDENTIAL ZONES					BUSINESS ZONES			INDUSTRIAL ZONES		WATERFRONT ZONES						
RESIDENTIAL		R1	R2	R3	R4	R5	B3	B	CBD	LI	HI	WF1	WF1A	WF2	WF3	WS	SHCO	
4.5.8	Marine Industry	---	---	---	---	---	---	---	---	---	---	---	---	---	---	SP	---	---

FOOTNOTES

- (1) Special permit required from Board of Appeals
- (2) Special permit required from the City Council for all new projects or additions and expansions to existing facilities
- (3) Yard or garage sales require a permit from the City Council Committee on Licenses.
- (4) General offices which shall be limited to offices used for one or more of the following uses subject to the granting of a special permit from the City Council in accordance with Section 12:
 - Banks and financial institutions
 - Real Estate
 - Insurance
 - Medical or dental clinics with out-patient services only
- (5) Those requirements and restrictions relative to bulk and height of structure, yard sizes, set backs, open space and building coverage as are presently applicable to a single residence.
- (6) Residential reuse of existing buildings, for uses set out in Section 4.1.6, 4.1.7, and 4.1.9 of this Ordinance, within the Central Business District (CBD) shall be permitted by right on floors above the ground floor, up to twenty-five (25) residential units per building, if said buildings are wholly or in part within 1,500 feet of the land upon which it is situated near the Central Square Commuter Rail Station. The reuse of these buildings for residential purposes shall include the use and/or redesign of at least seventy-five (75%) percent of the street floor level for retail, restaurant, office, showrooms, galleries, government, museums, philanthropic, or similar type uses said non-residential uses on the street floor level shall be permitted by right.. Further, accessory uses permitted by the Lynn Zone Ordinance shall also be allowed in all permitted residential units. Further, accessory uses related to residential uses located on the floors above the ground floor shall be permitted in all below grade areas, and on the ground floor if they do not occupy any portion of the building that directly abuts any public street or right of way. All developments consistent with the conditions noted in this Footnote shall also be subject to Section 16A, entitled Central Business District Site Plan Review, of the Lynn Zone

Ordinance. All existing buildings reused in accordance with this provision shall have entrances and exits to the upper floor residential units that are separate and distinct from any and all activities on the street floor level. Such buildings reused with Artist Work/Live Work space above the ground floor may provide direct access to associated showrooms and galleries on the street level.

- (7) Multi-family residential high rise is permitted so long as 75% of the first floor of all buildings on primary streets, including Route 1A/Lynnway, are dedicated to retail uses.
- (8) Multi-family residential and high rise uses are only permitted above the second floor in the Waterfront 2 District.
- (9) No drive-thrus, drive-ins, and/or twenty-four (24) hour business uses, in whole or in part, are permitted in the WF1, WF1A, WF2, WF3, WS, and SHCO Districts.
- (10) The term shall not include check cashing stores, businesses pawn shops or money wire/transfer businesses.
- (11) Public Service Corporations who transmit electricity and are regulated by M.G.L. c. 164 and 166 shall be exempt from the dimensional requirements for the WF1, WF1A, WF2, and WF3 Districts.

SECTION 5.

CLASSIFICATION OF USES

5.1 RESIDENTIAL USES

5.1.1 One Family Detached House: A detached dwelling designed and occupied by a single family.

5.1.2 Two Family House: A detached dwelling designed for and occupied by two families.

5.1.3 Boarding or Lodging House: A building in which three or more persons, either individually or as families, are housed for hire in individual rooms, with or without meal, and shall include tourist houses.

5.1.4 Group Residences: As defined in Section 424.1 of the Massachusetts State Building Code.

5.1.5 Row House: Dwellings for one or two families each in a connected row of three or more houses, each two houses separated by a fire proof division with no openings.

5.1.6 Apartment House: A dwelling for more than two families under one roof. All apartment houses over three stories shall be provided with elevator service.

5.1.7 Multi-Family Residential High Rise: A residential apartment building that has a height in excess of five stories or sixty feet.

5.1.8 Yard or Garage Sales: The conducting of "yard" sales by the resident owner or a tenant with the permission of the owner no more than twice within a calendar year and with a permit received from the City Council Committee on Licenses. The numerical restriction shall not apply to non-profit organizations.

5.1.9 Artist work/living space: A dwelling unit where up to fifty (50%) of the gross floor area can be used for the production, display, and sale of various forms of arts or crafts.

5.2 AGRICULTURE

5.2.1 Farm: Any parcel of land over five acres which is used in the raising of agricultural products, livestock, poultry and dairy products. It includes necessary farm structures. It excludes the raising of fur bearing animals, piggeries, riding stables and dog kennels.

5.2.2 Nurseries and Truck Gardens: Any parcel of land which is used in the raising of agricultural products. It includes necessary farm structures, and excludes the raising of livestock, poultry, fur bearing animals, riding stables and dog kennels.

5.2.3 Greenhouses: A structure designed for the propagation of plant and plant materials incidental to and accessory to the principal use of the lot or building, and not used for retail or wholesale trade purposes.

5.2.4 Commercial Greenhouses: A greenhouse, salesroom or stand for the sale of nursery, garden or farm products.

5.2.5 Open Air Stand: The use of any premises for the sale of goods, wares or merchandise from an open stand which is not accessory to or part of any building on said premises.

5.2.6 Poultry/Preparation: A building used for the slaughter and preparation of poultry or fowl for retail or wholesale trade purposes.

5.2.7 Park/Open Space area dedicated to recreational uses for the public. The term shall include, but not be limited to, land to protect existing and future well fields, aquifers, and recharge areas, watershed land, agricultural land, grasslands, fields, fresh and salt water marshes and other wetlands, ocean river, stream, beaches, dunes and other coastal lands, lands to protect scenic vistas, land for wildlife or nature preserve and land for recreational use.

5.3 INSTITUTIONAL

5.3.1 Churches and/or Parish Houses: Use of land, buildings and structures for public worship carried on by a recognized religious sect or denomination which may include religious instruction, maintenance of a convent, parish house and similar facility and activities whose purpose is substantially related to furthering the beliefs of such sect or denomination.

5.3.2 Schools: Use of land, building or structures for providing learning a general range of subjects on land owned or leased by the Commonwealth or any of its agencies, subdivisions or bodies politic or by a recognized religious sect or denomination, or by a non-profit educational entity which may include athletic facilities, dormitories, administrative offices and similar facilities and activities whose purpose is substantially related to further learning.

- 5.3.3 Public Libraries or Museums: Use of land, buildings or structures for providing facilities for research, public education, and public display for a general range of subjects on land owned or leased by the Commonwealth or any of its agencies, subdivisions or bodies politic.
- 5.3.4 Hospitals and Nursing Homes: A public or private facility for the care and treatment of ill or injured people, with all traditional and incidental support facilities including parking facilities.
- 5.3.5 Philanthropic Institutions: Charitable or non-profit library, museum, art gallery or other similar use.
- 5.3.6 Cemetery: Public and private facilities or land used for burials or cremations.
- 5.3.7 Funeral homes: An establishment where the dead are prepared for burial or cremation and where funeral services are held.
- 5.3.8 Private Clubs, not for Profit: A building or buildings used to house a non-profit social, fraternal or service organization which is not an adjunct to or operated as or in conjunction with a public tavern, café or similar place of business.
- 5.3.9 Public Buildings: Buildings used for local, county, State or Federal government purposes.
- 5.3.10 Telephone Exchange (with no service yard or garage): Underground facilities or above ground structures for telephone communication purposes.
- 5.3.11 Billboards/Outdoor Advertising: Signs governed by Massachusetts General Laws Chapter 16.
- 5.4 BUSINESS USES
- 5.4.1 Retail Stores: Drugstore, book, stationary, gift shop, antique shop, florist, television and radio sales, hardware store, news store, neighborhood grocery, dry goods and variety store or similar retail facility.
- 5.4.2 Retail Trade Custom Work Shop: Similar to 5.4.1., and including those retail activities requiring the assembly or manufacture of articles to be sold on the premises such as dress shops, tailor shops, etc. The assembly and/or manufacturing activities shall be accessory to the principle use.

- 5.4.3 Professional Offices: Offices used for one or more of the following uses: attorney-at-law, medical or dental, engineer, architect, landscape architect, interior designer or accountant.
- 5.4.4 Clinic: Four or more doctors, dentists, or similar related occupations or entity however organized, whether conducted for profit or not for profit, whether or not it is advertised, announced, established, or maintained for the purpose of providing ambulatory, medical, surgical, dental, physical, rehabilitation, or mental health services.
- 5.4.5 General Offices: Offices used for a general range of businesses and business services, including, but not limited to, any manufacturing or manufacturing related assembly.
- 5.4.6 Banks: Bank, loan agency, or similar financial facility.
- 5.4.7 Banks with drive-in facilities: Same as 5.4.6, but with a drive-up teller.
- 5.4.8 Food Service Establishment: Any place where food is prepared. The term includes any such place regardless of whether consumption is on or off the premises and regardless of whether there is a charge for the food. The term includes, but it is not limited to, restaurants, sandwich shops, take-out food operations, delicatessens, food preparation operations, and catering operations. The term does not include residential kitchens (except as provided in 105 CMR 590.028) retail food stores, supply vehicles or kitchens in churches, social clubs or fraternal organizations.
- 5.4.9 Places of Assembly for Commercial Recreation: Facilities such as theatres, cinemas, bowling alleys, carnivals, circus, boat rides, shooting galleries, pool or billiards parlors and similar commercial amusement places.
- 5.4.10 Gasoline and Oil Filling Stations: Sale of motor vehicle fuel, related products and general engine repair services, including self service gas stations subject to Section 8.3.8.
- 5.4.11 Salesrooms for Motor Vehicles: Salesroom and related dealership facilities including open air display for automobiles, boats, motorcycles, farm or garden implements or similar light motor vehicles.
- 5.4.12 Hotels: Commercial establishments offering lodging and usually meals to the general public.

- 5.4.13 Research and Development: Any one or more uses for the investigation, development, scientific and laboratory and similar uses and any related activities. The term shall also include limited manufacturing provided the (1) the manufacturing activity is related to research uses; (2) no manufacturing activity customarily occurs within 50 feet of the property line, and (3) substantially all manufacturing activity occurs inside of the buildings.
- 5.4.14 Conference Center: A center where conferences are held.
- 5.4.15 Yacht Club: An organization of yachtsmen and yachswomen for the purpose of encouraging and directing the sport of yachting.
- 5.4.16 Marina: A boat basin offering dockage and other service for small craft.
- 5.4.17 Transit Facility: A facility or establishment dedicated to the movement of persons and goods from one place to another, including bus stations, train stations, and water shuttle stations.
- 5.4.18 Electric Transmission Lines/Poles/Apparatus: Electric lines, poles, and apparatus maintained by Public Service Corporations who transmit electricity and are regulated by M.G.L. c. 164 and 166.
- 5.4.19 Adult Bookstores and Adult Motion Picture Theaters: (a) Shall have the meanings set forth in Massachusetts General Laws, Chapter 40A, Section 9A, (b) Adult Bookstores and Adult Motion Picture Theaters may be allowed by Special Permit granted by the City Council, in only Business Zones, (c) No adult bookstore or adult motion picture theater shall be located less than two hundred feet from the property boundary lines of any lots in residential use, (d) No adult bookstore or adult motion picture theater shall be located less than one thousand (1,000) feet from any other adult bookstore or adult motion picture theater, (e) no adult bookstore or adult motion picture theater shall be located less than two hundred (200) feet from the property boundary lines of any establishment licensed under the provisions of Chapter 138, Section 12 of the Massachusetts General Laws, (f) if substantial use or construction of any adult bookstore or adult motion picture theater has not commenced within one year of the issuance of the Special Permit, or within one year of such time required to pursue or await an appeal if such appeal be taken, the Special Permit shall lapse and shall be null and void.

5.5 INDUSTRIAL USES

- 5.5.1. Fuel Storage: A facility or structure to store fuel oils or derivatives.
- 5.5.2. Contractor's Yard/Storage Yard: A facility or building such as a lumber yard, contractor's yard, with open air storage capacity for the operation of a construction contracting business and/or the sale at wholesale or retail of materials (not including a junkyard), provided that all operations shall be such as to confine to the premises dust, noise, odors, and other objectionable effects.
- 5.5.3. Shoe factories: A facility or building for the production, assembly and transshipment of footwear.
- 5.5.4. Auto Repair/Body Shops: An establishment where the principal service to the repair and painting of automobiles or similar vehicles, subject to Section 8.3.8.
- 5.5.5. Ice Establishments: A facility or establishment for the production of ice for commercial purposes.
- 5.5.6. Light Manufacturing: Research or testing laboratory, printing plant, manufacturing establishment or other assembly, packaging, finishing or processing use, provided that all operations shall be such as to confine disturbing smoke fumes, dust, odors, vibrations, and noise to the premises.
- 5.5.7. Heavy Manufacturing: A facility or building for the manufacture of various products or materials such as asphalt, ore refining, dyestuff, explosives, fish packing, paints, oil, inks, rubber, tanning and activities of similar nature (including kennels for the housing and training of racing dogs and junkyards).
- 5.5.8. Artist work/living space: A dwelling unit where up to fifty (50%) percent of the gross floor area can be used for the production, display, and sale of various forms of arts or crafts.
- 5.5.9. Marine Industry: Industries related to the maritime traffic, harbor, fishery, development of marine science and technology, marine environment, marine tourism, and marine information, and other industries related to the management, preservation, development or utilization of the sea and marine resources.

SECTION 6.

ACCESSORY USES

6.1
APPLICABILITY

Accessory uses shall be permitted only on the same lot building to which they are accessory. All accessory uses shall be such only as they do not alter the character of the premises on which they are located or impair the neighborhood.

6.2
PRIVATE GARAGE

A private garage for the use of an occupant shall be permitted as an accessory use with each dwelling in a residential district.

6.3.
ACCESSORY
MANUFACTURE

Where manufacturing of any kind is allowed as an accessory use, it shall be restricted to such light manufacturing as is incidental to a permitted use and where the product is customarily sold on the premises by the producer to the consumer.

6.4.
HOME OCCUPATIONS

The use of room or rooms in a dwelling in a residence as an office, or studio or workroom for home occupations by a resident in the house as an accessory use, provided that no goods are publicly displayed or offered for sale and that no sign is used. Such use shall be clearly incidental to the use of the dwelling as a place of residence and shall not alter the character of the premises in which they are located or impair the neighborhood. No outside storage of occupation related materials or commercial vehicles shall be allowed. These permits are to be renewed yearly by the Board of Appeals.

6.5.
MULTI-FAMILY/RETAIL

In multi-family residential buildings with Multi-Family/sixty units or more, one newsstand, barbershop, retail beauty salon laundry and dry cleaning service center, and dining room for occupants thereof when conducted and entered only from within the building where no signs advertising the same are visible from the outside of the building.

6.6.
YARD SALES

The conducting of "Yard" sales by the resident owner or a tenant with permission of the owner no more than twice within a calendar year, but only after requesting and receiving a permit from the City Council Committee on Licenses. Non-profit organizations may apply not more than four times a year. An alternate date, such as a rain date, shall be submitted with each application. The permit shall not exceed three (3) days. The fee for the permit shall be five dollars (\$5.00). Violation of this Section shall be punishable by a fine of twenty-five dollars (\$25.00) per day per violation. Applications will be supplied to the City Council's Office and permits may be obtained at the City Clerk's Office.

6.7.
SIGNS

In single residence districts, real estate signs containing not over nine square feet of surface and advertising the sale or rental of only the premises on which they are located are allowed, and bulletin boards in connection with private clubs (not for profit), and government buildings or properties.

6.1.1
ACCESSORY
STRUCTURE

No accessory structure, other than swimming pool, or attached open deck, shall be located in the side yard. No accessory structure shall be located less than three (3) feet from a property line or six (6) feet from any other structure located on or off the property. Detached accessory structures shall be limited in height to one story or fifteen (15) feet from average grade to the highest roof. Attached or detached open deck shall be limited in height to four (4) feet.

SECTION 7.

NON-CONFORMING USES

7.1.1.
CONTINUED USE

Any building or part of building or any land which at the time of adoption of this ordinance is being put to a non-conforming use may continue to be used for the same non-conforming purpose.

The provisions of this Ordinance shall not apply to existing buildings or structures or to the existing use of any building, structure or premises, but it shall apply to any alteration of a building or structure to provide for its use for a purpose, or in a manner, substantially different from the use in which it was put before alteration.

7.2.
ABANDONMENT

When a non-conforming use has been abandoned, it shall not be reestablished and future use shall be in conformity with this Ordinance.

7.3
DISCONTINUANCE

When a non-conforming use has been discontinued for a period of one year, it shall not be re-established and future use shall be in conformity with this ordinance.

Further, no building or structure with regard to which a nonconforming use has been or is superseded by a use permitted in the district in which it is located, shall again be devoted to any use prohibited in the district involved.

7.4
ALTERATION

No building devoted to a non-conforming use shall be altered, except as permitted by the Board of Appeals, or except as ordered by the Building Commissioner to make it safe, or extended nor shall it in any ten year period be repaired to more than fifty (50) percent of its replacement value at the time of the last application for a permit to repair.

7.5
DAMAGED OR DESTROYED

Any non-conforming building or structure damaged or destroyed by fire, flood, earthquake or Act of God may be reconstructed within 12 months and used as before such calamity. Nothing shall prevent the strengthening or restoring to a safe condition of any building, or part thereof, declared unsafe by the Building Commissioner.

7.6
GRANITE REMOVAL

In residence districts, the removal of sod, loam, clay, sand, gravel, quarried stone, from any land or premises, except when incidental to or in connection with the construction thereon of a building for which a permit has been issued, shall be deemed a non-conforming use of land, but may be permitted by the Board of Appeals on petition therefore, after public notice and hearing and

under such conditions as the Board of Appeals may impose and make part of the permit.

7.7
NON-CONFORM-
ING BUILDING

If a plan of land not requiring approval under the subdivision control law is either endorsed to that effect or caused to be so endorsed by the Planning Board as provided in Massachusetts General Laws, Chapter 41, Section 81P, any building or part of building then situated on a lot depicted in such a plan which, as shown in such a plan, would have complied at the time of its construction with the then existing minimum area, frontage, width and depth requirements, if any, of the City of Lynn, shall in regard to each of said minimum zoning requirements, be entitled to full non-conforming use status under this section if, because of new lot boundaries adopted in such a plan, such building or part of building, as shown in such a plan, is not in compliance with this ordinance.

SECTION 8

DIMENSIONAL REGULATIONS

8.1
DIMENSIONS

Minimum lot area frontage, minimum front, side and rear yards, maximum height, maximum building area, and minimum open space shall be proscribed in Section 8 Table of Dimensional Regulations.

TABLE OF DIMENSIONAL REGULATIONS

Zoning District	Min. lot area (SF)	Min. frontage (ft)	Min. yards (ft)			Max. Stories	Max. height (ft)	Max. building area (%)	Min. open space (%) and landscaping requirement
			Front	Sides	Rear				
Single Residence	10,000	75	(8) 10	7.5	15	2.5	35	30	---
General Residence	12,000	75	(8) 10	7.5	15	2.5	35	30	---
Apartment House I	15,000	50	(8) 10	(1)	15	3.0	40	40	10
Apartment House II	15,000	50	(8) 10	(1)	15	5.0	60	40	10
High Rise Residence	15,000	50	(2) (8) 10	(3) 10	(4) 15	5.0	(6) 60	40	---
Business III	---	50	(8) (10)	---	---	2.5	35	---	---
Business	---	50	(8) (10)	(5)	(9) ---	5.0	(6) 60	---	---
Central Business District	---	50	(8) (10)	(5)	(9) ---	5.0	(6) 60	---	---
Light Industrial	---	50	(8) (10)	(5)	(9)	5.0	(6) 60	70	(7) ---
Heavy Industrial	---	50	(8) (10)	(5)	(9) ---	5.0	(6) 60	70	(7) ---

Section 8 entitled Dimensional Regulations is hereby amended as follows:

Zone District	Min. Lot Area (SF)	Min. Frtg (feet)	Min Front (2)	Yards Both Sides	(ft) Rear	Max. Stories	Max Building Area (5)	Min Height Feet and stories (11)	Min. Open Space (%) landscaping Requirements	Floor Area Ratio (max)
WF1	40,000	50	10	50 total 15 minimum on each side yard	15	240 feet or 20 stories (6)	70%	36 feet or 3 stories	35%	2.8 (12)
WF1A	40,000	50	10	50 total, 15 minimum on each side	15	100 feet or 8 stories	70%	36 feet or 3 stories	35%	2.8 (12)
WF2	40,000	50	10	50 total, 15 minimum on each side	15	60 feet or 5 stories (6)	70%	48 feet or 4 stories	35%	2.8 (12)
WF3	40,000	50	10	50 total, 15 minimum on each side	15	240 feet or 20 stories (6)	70%	36 feet or 3 stories	35%	2.8 (12)
WS	15,000	50	0	0 (14) or 15 (5)	15	48 Feet or 4 stories (6)	70%	24 feet or 2 stories	10%	2.8 (12)
SHCO	15,000	50	10	50 total, 15 minimum on each side	15	360 feet or 3 stories (6)	70%	24 feet or 2 stories	10%	2.8 (12)

FOOTNOTES:

1. For apartment houses, side yards shall be five (5) feet wide for the first story and two (2) feet shall be added for each additional story, but the side yard may be omitted if a fire wall is constructed on the lot line. Such firewall may contain no legal windows.
2. If the height of the building on the lot exceeds 3 stories, then for each additional story of the building height, there shall be an additional three (3) feet added to the front yard.
3. For each building less than four (4) stories or forty (40) feet, the lot shall have two (2) side yards, the minimum width of either shall never be less than ten (10) feet. Each corner lot shall have a side building line at least fifteen (15) feet from a parallel to the side street line to provide a side yard along the street side. If the height of the building on the lot exceeds three (3) stories, then for each additional story of the building height, there shall be an additional four (4) feet added to each side yard.
4. For each building less than four (4) stories or forty (40) feet, the lot shall have a rear yard of at least twenty (20) feet in average depth with a minimum depth of fifteen (15) feet. If the height of the building on the lot exceeds three (3) stories, then for each additional story of the building height, there shall be an additional four (4) feet added to the rear yard average.
5. In all districts there shall be for every one or two family or semi-detached house, and in single residence districts for all building and for every building on a business or industrial lot adjoining, on the street line, a lot zoned or used for single residence, general residence or apartment house districts, on a lot with frontage of fifty (50) feet or over, a side yard along each lot line, other than a street line or a rear line, the minimum width of which shall never be less than seven and one-half (7-1/2) feet of clear space, measured from the lot line.

Where the frontage is less than fifty (50) feet, the Board of Appeals shall adjust with due regard to the right of adjoining properties.

6. All buildings over the 60 foot height maximum require a special permit from the City Council. See Section 12 for procedures.
7. The open space required in the case of industrial buildings shall be provided in the rear or in part on the sides, so as in the opinion of the Building Commissioner, properly to insure the lighting and ventilation of the buildings.
8. Front Yards: In single residence and general residence and apartment house districts (and on any business or industrial lots, only in the manner, however, as provided by footnote 10, of the Table of Dimensional Regulations) between every building and each line or lines of the way or ways on which the building abuts, there shall be a front yard of clear depth of at least ten (10) feet except that on any way which shall hereafter be widened by public authority the said depth of ten (10) feet shall after such widening be measured from the same line as it would have been measured from the same line as it would have been had such widening not been made, and no dwelling or structure shall be moved, altered, reconstructed or enlarged so that a front yard less in clear depth shall result.

Projecting eaves and uncovered steps shall not be considered as coming within the meaning of this section, but fire escapes whether covered or uncovered, shall be considered as coming within the meaning of all the provisions of Section 8.

Dwelling erected less than ten feet from a way before June 29, 1926, may be extended upward and/or to either side, but no closer to the way than the existing front of the building.

9. In all districts there shall be a yard in the rear of every building used for dwelling purposes the minimum depth of which shall never be less than fifteen (15) feet. This provision need not apply to buildings on lots which back on parks, parkways, public lands, railways or waterfronts. Not over thirty-five (35) percent of the area of a rear yard may be covered with an accessory building or buildings, except that no accessory buildings or buildings shall be permitted or allowed on lots used for Restricted Type Apartment House.
10. A building on a business or industrial lot adjoining, on the street line, a lot zoned or used for single residence, general residence or apartment house district, shall have a front yard or front space equal to the front yard or front space of such abutting or adjoining residential or apartment house lot, but such front yard or front space shall not be required to be more than ten (10) feet from the inside sidewalk line, and between every such building and each side lot line, other than the street or rear line, there shall be a side yard, the minimum width of which shall never be less than seven and one-half (7-1/2) feet of clear space, measured from the side of the building to the side of the adjoining properties.
11. The limitations of height in feet as measured perpendicular from the building line shall not apply to chimneys, ventilators, skylights, tanks, bulkheads, penthouses, and other accessory features usually carried above roofs, nor to towers or spires of churches and other building, if such features are in no way designed for habitation or occupancy.
12. All parking areas and structures shall not be included in the calculation of Floor Area Ratio.
13. Public Service Corporations who transmit electricity and are regulated by M.G..L. c. 164 and 166 shall be exempt from the dimensional requirements for the WF1, SF1A, WF2, and WF3 Districts.

8.2. GENERAL PROVISIONS

8.2.1 UNENCLOSED PORCHES Unenclosed porches need not be included in determining the percentage of lot covered for the purpose of this section.

8.3 SUPPLEMENTAL DIMENSIONAL REGULATIONS

8.3.1 DISTANCE BETWEEN STRUCTURES REAR In apartment house districts, there shall be no less than twenty (20) feet of clear space between the rear of one structure or building and the front of any other structure used or to be used as

YARD

one- or two-family house and a clear space of not less than twenty-five (25) feet between the rear of one structure and the front of any other structure used or to be used as an apartment house, and no dwelling or structure in single residence, general residence or apartment house districts, shall be erected, moved, altered, reconstructed or enlarged so that the front yard is less in clear depth than the above named distance. For the purpose of this section, projecting eaves and uncovered steps shall not be considered as part of a structure.

Dwellings erected with a rear yard of less than 15 feet before June 29, 1926 may be extended upward and/or to either side provided that there exists 15 feet of clear space between rear of the buildings as extended and the nearest building.

8.3.2.
MINIMUM DISTANCE
BETWEEN BUILDINGS
ON ONE LOT

High Rise District--The minimum distance between multiple buildings on a lot in a single ownership, measured from the midpoint on any facing walls, shall not be less than the sum of the height of each facing wall plus twice the horizontal length of the shorter facing wall divided by six.

8.3.3.
SIDE YARD AND
BUILDING
EXTENSIONS

Dwellings erected before June 29, 1926, may be extended upward and to the rear in line with the existing side of the building, notwithstanding a side yard violation provided that there exists not less than 15 feet of a clear space between buildings on the side to be altered.

8.3.4.
COURTS

Courts shall have the following minimum dimensions:

8.3.4.1

For an outer court, six feet in width for the first story and four feet additional width for each additional story in height. Such a court shall not have a length greater than three times its width.

8.3.4.2

For an inner court, ten feet in width for the first story and five feet for each additional story of height. Such a court shall have a length of not less than twice its width. An inner court shall have an air intake at the bottom, with a cross section of at least twelve square feet, which shall be closed with a latticed or grilled door or doors, so as to allow the free passage of air.

8.3.4.3

Courts need not extend below the floor level of the part of a building used for dwelling purposes.

8.3.5
MINIMUM LIVING
SPACE

For High Rise Buildings: The minimum living space per dwelling unit shall not be less than 400 square feet measured between interior walls.

8.3.6.
APARTMENT HOUSE/
FIRST FLOOR LEVEL

The level of the first floor of an apartment or tenement house shall not be more than four feet above the mean level of the street or way on which the building abuts or is to be numbered and no space below such first floor shall be used for human occupancy.

8.3.7
BUILDING DISTANCE
TO CURB LINE

In no district shall any part of the first story of any building, except a detached post or pier of not more than four (4) square feet horizontal area, be within sixteen (16) feet of the point of intersection of the outer lines of the curbs at street corners and in no instance shall the horizontal distance between the post or pier and the building be less than four (4) feet.

8.3.8
PUBLIC
GARAGES, ETC.

No public garage, or automobile repair/body shop, greasing station, storage battery service station, or gasoline filling station, or any of their appurtenances or accessory uses, shall hereafter be erected or placed within twenty-five (25) feet of the street line of any residence district. No driveway to such premises shall be in any part within twenty-five (25) feet of any residence districts. No public garage, automobile repair shop, greasing station, storage battery service station, or gasoline filling station or any of their appurtenances or accessory uses, shall have any entrance or exit for motor vehicles any portion of which is within three hundred (300) feet of the line of any property used by any public or private school, public library, church, playground or institution for the sick, dependent, or for children under 16 years of age. All filling stations hereafter erected shall be so arranged that no filling shall be done into cars standing either on the street or sidewalk.

8.3.9
Separate Lot/Frontage

8.3.9.1
SEPARATE LOT

In single residence and general residence districts, each residential building shall be located on a separate lot.

8.3.9.2
FRONTAGE/
CURVED WAY

In single residence and general residence districts, each residential building shall not have less than 75 feet of frontage on a public way or a way shown on a definitive subdivision plan endorsed by the Planning Board in accordance with the provisions of M.G.L. Chapter 41 Section 81-A through 81-GG inclusively, except for lots along a curved way in which case the distance shall be measured through that portion of the building nearest the way along a line which is perpendicular to the radius of the curvature.

8.3.10.
LOT AREA ONE AND
TWO FAMILY HOUSES

In any district the construction of a single family residence requires a minimum lot area of 10,000 SF; and in any district a two family residence requires a minimum lot area of 12,000 SF.

SECTION 9.

OFF-STREET PARKING REQUIREMENTS

9.1
APPLICABILITY

In all districts, except the Central Business District, there shall be provided and maintained improved off-street parking spaces with the erection, establishment, or increase by units of dimensions of structures, and uses. The intent is that eventually all structures and uses be provided with sufficient off-street parking spaces to meet the needs of persons making use of such structures and land uses.

9.2.
PRE-EXISTING BUILDING

Buildings and structures in existence on the effective date of this section are not subject to these parking requirements, but any future buildings and uses or enlargement of existing buildings or uses hereafter established shall provide parking facilities as required in this section.

9.3.
COMPUTATION

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.

9.4.
SCREENING

All open off-street parking areas, permitted and/or with ten spaces or more which are located within a residential district, or within a business or industrial district, but adjacent to a residential district whether on the side or rear shall be screened from all adjoining lots in the residential district by a wall of solid and uniform appearance or a compact evergreen hedge planted so as to attain a height of not less than six feet shall be erected and properly maintained.

9.5
OFF-STREET PARKING

Off-street parking facilities shall be provided as follows, except for the Central Business District. Residential uses in the Central Business District consistent with Footnote Six (6) of Section 4.4, entitled Table of Use Regulations, shall be required to provide off-street parking spaces when a residential unit has three (3) or more bedrooms, in said instance, one (1) off-street parking space shall be provided for each bedroom. For example, studio, 1 and 2 bedroom units require no parking, 3 bedroom units require 3 off-street parking spaces, 4 bedroom units require 4 off-street parking spaces, etc.

TABLE OF PARKING REGULATIONS

Use	Minimum Requirements
Residence:	
Single-family	2 spaces per dwelling unit
Two-family or more	1.5 spaces per dwelling unit
Elderly	0.25 spaces per dwelling unit
Retail	3.5 spaces per 1,000 gross sq. ft.
Hotels, motels, loading and similar	1 space for each room or unit
Eating and drinking establishments	1 space for each 4 seats
Place of public assembly	1 space per 3 seats therein
Office	3.5 spaces per 1,000 gross sq. ft.
Schools	1 space for every five (5) students attending said school, but in no event shall there be less than six (6) spaces.
Hospitals, nursing homes, convalescent homes, group homes, and similar institutions	1 space for each 2 beds plus 1 space for each 2 employees
Industrial	1.5 spaces per 1,000 gross sq. ft.

9.6. DESIGN STANDARDS FOR OFF STREET PARKING

9.6.1. NET AREA For all required off-street parking spaces, each 250 square feet of net standing and maneuvering area shall be considered one space. However, if such spaces are located in a completely enclosed building, each 200 square feet of net standing and maneuvering area shall be considered one space. Each car space shall not be less than eight and one-half feet in width and twenty feet in length.

9.6.2. SETBACK 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.

9.6.3. OPEN AIR PARKING Open air parking shall be at least five feet from any property line or street line and no parking space shall be located less than 25 feet from the front building wall or less than 5 feet from the sidewall of any apartment building.

Open air parking within the Central Business District shall be permitted to the property line or street line with curb stops installed

and maintained at a minimum of three feet from the perimeter of the property or street line.

9.6.4.
COMBINED
FACILITIES

Parking required for two or more building or uses may be provided in combined facilities where it is evident that such facilities will continue to be available for the several buildings or uses.

9.6.5.
PRINCIPAL USE

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:

In the case of multi-family apartment buildings, the required parking facilities may be provided on lots not more than 200 feet away from the building to be served.

In industrial districts, and in the case of institutional uses, in any district, the required parking facilities may be provided on the lots not more than 1000 feet away from the building to be served, except by Special Permit.

In the Central Business District, the required parking facilities may be provided on lots not more than 500 feet away from the building to be served.

9.6.6.
OWNERSHIP

In all cases, off-site parking lots shall be under the same ownership as the building or buildings which they serve. Where a certificate of occupancy has been issued conditional to the maintenance of off-site parking facilities, such certificate of occupancy shall lapse in the event of the sale or conveyance of the land used for such parking facilities or the unavailability of such parking facilities for required parking.

9.6.7.
MIXED USE

In the case of mixed use, the parking spaces required shall be the same as the requirements for the various individual uses, computed separately in accordance with this section; parking spaces for one use shall not be considered as providing the required parking facilities for any other use unless it can be clearly demonstrated that the need for parking occurs at different times.

9.6.8.
SURFACING

Required off-street parking facilities provided shall be graded and surfaced with tar, asphalt or concrete, drained, and maintained to the satisfaction of the Building Commissioner to the extent necessary to avoid nuisance of dust, erosion or excessive water flow across public ways.

SECTION 10.

OFF-STREET LOADING REQUIREMENTS

10.1.
APPLICABILITY

It is the intention of this section that all future buildings and uses that require the delivery of goods and items as part of their function be provided with necessary space for off-street loading.

10.2.
OPENINGS ONTO
RESIDENTIAL STREETS

Where in a business or industrial district adjoins a residence district, business or industrial buildings shall have no opening on side streets for the receiving or delivery of goods.

10.3.

COMPUTATION

10.3.1.
EXTENSION
OF EXISTING
BUILDING

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.

10.3.2.
TWO OR MORE
USES

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

10.3.3.
FRACTIONAL

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.

10.5.3.
ACCESSORY
DRIVEWAY

All accessory driveways and entrances shall be graded, surfaced, drained and suitably maintained to the satisfaction of the Building Commissioner to the extent necessary to avoid nuisances of dust, erosion, or excessive water flow across public ways.

10.5.4.
REDUCTION

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 section. Such facilities shall be designed and used in such a manner as to no time to constitute a nuisance or hazard or unreasonable impediment to traffic

SECTION 11.

SCREENING REQUIREMENTS

- 11.1 An opaque and uniform wall, fence, or a compact evergreen hedge planted to attain a height of not less than six (6) feet shall be erected and properly maintained on the side and/or rear of the business or industrial lot that has any of the following business or industrial uses of land and building adjoining any residential district or a residential property in an industrial or business district.

- 11.1.1. All outdoor areas or facilities for the storage of fuel, materials, or utility installations.

- 11.1.2. All lubrication, washing, repairing and disposal not conducted entirely within a gasoline station or similar establishment.

- 11.1.3. Any principal use not conducted wholly within a building.

SECTION 12.

SPECIAL PERMITS

12.1
AUTHORITY

Permission of the City Council shall be required for any use listed in the Table of Use Regulations Section 4 as requiring a Special Permit unless otherwise noted and in addition the following:

- Dyer's establishment
- Feed establishment
- Building material
- Garage (three or more cars - public or private)
- Laundry
- Junk business
- Sanitarium
- Stable
- Stone mason
- Food establishment where alcohol beverages in addition to food are served
- Enclosed ice or roller skating rink
- Carousel
- Circus
- Carnival
- Inclined railways
- Ferris wheel
- Flying horses
- Electric or other type of boat rides within or without building or structure
- Bowling alley - a room or rooms where pool or billiards are played on tables, however operated, coin or otherwise
- Shooting gallery and similar commercial amusement places

12.1.1. Permission of the City Council shall be required by the owner, lessee, tenant or occupant of any land within the City of Lynn, for the purpose of filling in or depositing upon any improved or unimproved land in the City of Lynn of any rubbish, waste, refuse, ashes, cans, wood, organic material, garbage, paper bags, or papers, and the elevation of such fill shall not exceed by 2 feet the elevation of the street or way on which the land abuts whether such premises are or are not now being used for such purpose or purposes.

12.1.2. Permission of the City Council may be granted for five (5) or more persons not related by blood, adoption or marriage, or not having the legal relationship of foster parent-foster child, to be deemed to constitute a family and thusly occupy a dwelling unit and live as a single, non-profit housekeeping unit

12.2.
PROCEDURE

Public Hearings: Any person or persons desiring to obtain the permission of the Council, for any purpose for which permission is required under this Ordinance, shall make written application therefore to the City Clerk as he/she is Clerk of the City Council, and the Council shall hold a public hearing thereon after notification as required by law and render a decision. It may make rules for such hearings and shall send notification as required by law, and shall at such hearings hear such owners and others who may desire to be heard. No application shall be approved by the council without considering the effects upon the neighborhood and the City. A permit may be issued with conditions such as will protect the community and such conditions shall be specified in writing on the permit and may from time to time be changed in the interest of the community. If a permit would result in substantial injury it shall be refused.

No application for a permit for any of the aforesaid, including uses permitted in light industrial and heavy industrial zoning districts, shall be received by the Building Commissioner, except when accompanied by the written approval of the City Council.

12.3.
COMMENCEMENT

All licenses presently issued under provisions of this section terminate if substantial use or construction has not commenced within two years from ordination of this Ordinance.

12.4.

A special permit granted under Section 12 of the Lynn Zoning Ordinance shall be terminated after a period of two (2) years from the date when the Special Permit is granted.

Termination shall result if substantial use or construction has not commenced within the two-year period. The termination period shall also include any time required to pursue or await the determination of an appeal.

12.5.

All construction or operations under a building or special permit shall conform to any subsequent amendment of the ordinance or unless the use or construction is commenced within a period of 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.

12.6
PERMISSION FOR
OCCUPANCY

Permission of the City Council shall be required for use or occupancy of any premises or lot for the purposes set forth in Table 4.4 of this Ordinance as requiring a special permit unless otherwise noted, or unless a building permit has been issued as

provided in Section 12.2 for the use or occupancy of any premises or lot for:

A builder's yard/shop

Cemetery

Contractor's yard/shop

Junk yard/business

Sand or gravel pit

Stone mason's yard

General storage yard

Food establishment, either with or without alcoholic beverages

Commercial greenhouse

Open air stand

Any place where live chickens, geese, ducks, or other fowl are brought into or kept for the purpose of selling or killing or plucking

The renting of a portion of a one-family detached house in a single family residence district to a person or persons not members of the family (as defined in section 2.6) of the owner of the premises. This section not applicable to people who are not in the typical relationship of landlord and tenant. It is not the intent of this provision to prohibit or regulate group homes or group residences.

The use of land, either, improved or unimproved, for the filling in or depositing therein of any rubbish, waste, refuse, ashes, cans, wood, organic material, garbage, paper bags or paper and the elevation of such fill shall not exceed by 2 feet the elevation of the street or way on which the land abuts whether such premises are or are not now being used for such purpose or purposes: enclosed ice or roller skating rink, carousel, circus, carnival, inclined railways, ferris wheel, flying horses, electric or other type of boat rides within and without building or structures, bowling alley, a room or rooms where pool or billiards are played on tables, however operated coin or otherwise, shooting gallery and similar commercial amusement places, kennels for the keeping, training or housing of racing dogs, or for anything permitted in the Light Industrial and Heavy Industrial Zoning Districts and no use or occupancy permit for any of the aforesaid purposes shall be granted by any city department or official except when application therefore is accompanied by the written approval of the City Council.

SECTION 13.

APPEALS

13.1.
BOARD OF APPEALS
MEMBERSHIP

A Board of Appeals is hereby established to consist of five members.

13.2.
MEMBERSHIP

The members of such Board shall be elected by the City Council for terms of one, two, three, four, and five years, respectively, and thereafter one each year for a five year term. Elections to said Board shall be made as soon as practicable after the adoption of this Ordinance, and thereafter annually on or before the fifteenth day of January. A member elected to fill a vacancy shall serve for the unexpired term. The Board shall keep minutes of its proceedings, and its members shall serve without compensation. No member shall act in any case in which he is interested and in case any member is so disqualified, or is absent because of illness or other cause, an associate member shall act in case of such vacancy, inability to act or interest on the part of a member of said board. The Mayor shall designate four such associate members who shall act in the manner prescribed in General Laws, Chapter 40A, Section 12.

13.3.
PROCEDURE

Any person aggrieved by the refusal of the Building Commissioner to issue a permit under the provisions of this ordinance, and any person aggrieved by the issuance of a permit or by a decision of the Building Commissioner made under the provisions of this Ordinance, may appeal to the Board of Appeals as provided in Section 8, 9, and 10, Chapter 40 A of the General Laws (as amended December 22, 1975) except for those matters solely within the jurisdiction of the City Council.

The Board of Appeals may, on petition, after public notice, a hearing, and subject to such appropriate conditions and safeguards as it may impose, in specific cases, determine and vary the application of the district regulations herein established in harmony with their general purpose and intent as follows:

13.4.
VARIANCES

Permit such variances as authorized under the provisions of Section 10, Chapter 40 A of the General Laws.

13.5.
SPECIAL PERMITS

Grant a special permit for the following purposes and subject to the following conditions:

13.5.1.
ALTERATION OF NON-
CONFORMING
BUILDINGS

Permit the alteration of non-conforming buildings used for commercial or industrial use by addition or additions thereto of the same class or a higher class of construction as the existing non-conforming building, provided that such addition or additions shall not exceed twenty-five (25) percent of the floor area of the existing non-conforming building nor shall the maximum height of such alteration exceed the height of the existing non-conforming building; and further provided that such addition or additions are to be used for the same non-conforming purpose as the existing building and as part of the existing building, provided that the existing non-conforming use and any addition or alteration shall conform to the present parking requirements of the City of Lynn Zoning Ordinance.

13.5.2.
HOME OCCUPATIONS

Grant permits for the use of a room or rooms in a dwelling in a residence district as an office, studio or workroom for home occupations by a person resident in the house as an accessory use, provided that no goods are publicly displayed or offered for sale and that no sign is used. Such use shall be clearly incidental to the use of the dwelling as a place of residence and shall not alter the character of the premises in which they are located or impair the neighborhood. No outside storage of occupation materials or commercial vehicles shall be allowed. These permits are to be renewed yearly through the Board of Appeals.

SECTION 14.

GENERAL REGULATIONS

14.1.
AMENDMENTS

The Zoning Ordinance may from time to time be changed by amendment, addition or repeal, but only pursuant to Massachusetts General Laws, Chapter 40A, Section 5.

If any area is hereafter changed from one use to another by a change in district boundaries under the foregoing provisions, no such change shall apply to the use of buildings or premises existing at the time of the passage of such an amendment.

14.2.
PLOTS

Applications for building or use or occupancy permits shall be accomplished by a plot of the lot in duplicate, drawn to scale, showing the actual dimensions of the lot, together with streets and alleys adjacent thereto, the exact location and size of buildings already upon the lot, and of the building or buildings to be erected. A record of such applications and plots shall be kept on file with the office of the Building Commissioner.

14.3.
OCCUPANCY PERMIT

No building erected, altered or in any way changed as to construction or use under a permit or otherwise, and no premises shall be occupied or used without an occupancy permit signed by the Building Commissioner which permit shall not be issued until the building and its uses and accessory uses and the use of all premises comply in all respects with this ordinance. With such conditions as he may deem it wise to impose, the Building Commissioner may issue a temporary certificate for a specified part of the building.

14.4.
ENFORCEMENT

Except as otherwise provided, this Ordinance shall be administered by the Building Commissioner who shall issue all permits for erection, alteration or addition to any building. He shall approve no application of any kind, plans and specifications and intended use for which are not in all respects in conformity with this ordinance. If a use otherwise permitted would cause injury to property or be otherwise detrimental to the community, a permit shall be refused. To aid the Building Commissioner in his work, it shall be the duty of every police officer to know that all work on buildings on his beat is being done under a proper permit and to notify the Building Commissioner if it is not being so done.

14.5.
VARIATIONS

In general, this Ordinance is supplementary to other laws and ordinances affecting the use, height, area and construction of buildings and the use of premises. Where this Ordinance imposes greater restrictions upon the construction or use of buildings or the use of premises than are imposed by existing provisions of laws or ordinances, the provisions of this Ordinance shall control.

14.6.
EFFECT

This Ordinance shall take effect subject to all requirements and pertinent sections of Massachusetts General Laws, Chapter 40A.

14.7.
INVALIDITY

The invalidity of any portion of this Ordinance shall not affect the validity of any other portion.

14.8.
PENALTY FOR VIOLATION

Whoever, himself or by his servant or agent, or as the servant or agent of any other person, or any firm or corporation violates any provision of this ordinance shall be punished by a fine of not more than three hundred dollars (\$300.00) unless otherwise provided for with in this Ordinance, each day of violation shall constitute a separate offense which may be recovered on complaint before the District Court of Southern Essex County.

SECTION 15.

PLANNED UNIT DEVELOPMENT DISTRICT

15.1.

DESCRIPTION OF DEFINITION OF ZONE

15.1.1.

The City Council may grant a Special Permit for the construction and occupancy of a Planned Unit Development in a district zoned for such hereinafter defined and limited. The power granted herein is granted pursuant to the provisions of Chapter 40A, Section 9, of the General Laws of the Commonwealth of Massachusetts.

15.1.2.

A Planned Unit Development District shall mean an area of land controlled by a single land owner to be developed as a single entity in which a mixture of residential, open spaces, commercial, and industrial uses, and a variety of building types and designs are determined to be sufficiently advantageous to render it appropriate to grant a Special Permit to depart from the normal requirements of the district to the extent authorized by the Lynn Zone Ordinance.

15.1.3.

The tract of land controlled by a single owner at the time of application shall not be less than sixty thousand (60,000) square feet.

15.1.4.

The purpose of the Planned Unit Development District is to provide for a mixture of land usage at a specified location in the City of Lynn at greater density and intensity than would be normally allowed provide that land usage does not detract from the livability and aesthetic qualities of the environment.

15.1.4

The City Council may, upon being petitioned, designate areas for Planned Unit Development Districts; provided, however, that no Planned Unit Development District shall be approved in areas of the City currently zoned, R1, R2, R3 or R4.

15.1.6.

All applications for a special permit under this section shall be subject to the provisions of Section 16, Site Plan Review.

15.2.

APPLICATION PROCEDURE

15.2.1.

SUBMISSION OF PRELIMINARY PLAN

15.2.1.1.

The applicant shall file a preliminary plan accompanied by the form titled, "Submission of the Preliminary Plan, Planned Unit Development", to the Planning Board at a regularly scheduled meeting. A copy of the preliminary and the above-mentioned form shall also be filed in the City Clerk's Office. A fee of \$500.00 certified check made out to the City of Lynn, shall accompany the submission of the preliminary plan. The fee shall cover the cost of notification of abutters and advertisement.

- 15.2.1.2. The Planning Board, within 30 days upon receipt of the Plan and notification form by the City Clerk, shall review and determine whether the proposed project is consistent with the most suitable development of the City.
- 15.2.1.3. The Planning Board may suggest modifications and changes to the preliminary plan in anticipation of the filing of the definitive plan.
- 15.2.2. CONTENTS OF PRELIMINARY PLAN: PLANNED UNIT DEVELOPMENT
- 15.2.2.1. Planned Unit Development Boundaries, north point, date, scale, legend, and title, "Preliminary Plan, Planned Unit Development", the names of applicant, and engineer or designer.
- 15.2.2.2. Names of all abutters, land uses, and approximate location and width of all adjacent streets.
- 15.2.2.3. In a general manner, the existing and proposed lines of streets, ways, easements, and of any public areas within or next to the Planned Unit Development.
- 15.2.2.4. The approximate boundary lines of existing and proposed lots with approximate areas and dimensions.
- 15.2.2.5. The proposed system of drainage, including adjacent existing natural and artificial waterways, and the topography of the land in a general manner.
- 15.2.2.6. Existing buildings and significant structures in a general manner. The preliminary plan shall also reveal those buildings which presently exist which are to be removed.
- 15.2.3. SUBMISSION OF A DEFINITIVE PLAN
- 15.2.3.1. The applicant shall submit an application for a special permit accompanied by the original of the definitive plan, plus ten (10) copies thereof.
- 15.2.3.2. The City Clerk shall transmit the original and copy of the definitive plan to the Planning Board. A copy shall also be forwarded to the Clerk of the Council and to the Mayor.
- 15.2.3.3. Within sixty (60) days of the filing of the definitive plan, the Planning Board shall submit to the City Council a report discussing

the feasibility of the project and the consistency of the project with regard to the most suitable development of the City.

- 15.2.3.4. The City Council, upon receipt of the report of the Planning Board, and within 65 days of the filing of the definitive plan, shall hold a public hearing, notice of which shall be given in a local newspaper, once in each of two successive weeks, with the first publication to be not less than fourteen (14) days before the date of the hearing and notice shall be given to owners of all property abutting the proposed development of land in the same ownership in accordance with Chapter 40 A of the Massachusetts General Laws. Notice shall be given by certified mail by the City Clerk. The list of abutters shall be prepared by the petitioner, certified by the Office of Assessors.
- 15.2.3.5. The City Council shall, within ninety (90) days following the public hearing, provide by written certification either that the application is approved as submitted, approved subject to modification, or denial of the project. If the City Council fails to issue its findings within ninety (90) days, the plan shall be deemed approved and the special permit is granted.
- 15.2.3.6. Approval of a special permit for a planned unit development by the City Council shall require a two-thirds (2/3) vote of the City Council.
- 15.2.3.7. If the project is denied, the developer shall not be allowed to submit substantially the same proposal for a period of at least two years.

15.2.4. CONTENTS OF A DEFINITIVE PLAN

- 15.2.4.1. The application of a special permit and site plan review shall be accompanied by the original copy of the definitive plan and other data required to be submitted in triplicate and shall contain the following data:
- a. It shall be drawn at a scale of one inch equals forty feet unless another scale is requested and found suitable by the City Planner.
 - b. The plan shall be prepared by a 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 buildings, setbacks, and all 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 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 or proposed building or lot.
- i. The dimensions of the existing and proposed buildings in feet.
- j. The distance between buildings on the same lot.
- k. Percent of the lot coverage.
- l. The distance of existing and proposed buildings from the lot lines in feet.
- m. 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, existing and proposed.
- p. The use designation of each building or part thereof, and of each section of open ground, plaza, or usable roof space.
- q. Numbering of parking spaces.
- r. Height of all buildings, above average finished grade of abutting streets.
- s. The number of apartments, hotel rooms, meeting rooms, and restaurant and theater.
- t. Total square feet of floor space and of all landscape and recreation areas, and depiction of materials to be used (grass, five (5) foot shrubs, etc.).

u. Deed or other recorded instrument that shows the applicant to be the owner or owner under option of the land to be designated as a Planned Unit Development.

v. Any structure to be demolished.

15.3. DETERMINANT OF SITE PLAN REVISION

15.3.1. The site plan shall be subject to the following conditions, and the City Council, with the advice of the Planning Board, shall make a determination whether or not the project meets all the following conditions:

15.3.1.1. Site of structure and uses in an appropriate location.

15.3.1.2. Use or uses when developed will not adversely affect the health, safety, light, air, public access, and general welfare.

15.3.1.3. The ingress and egress for traffic flow is designed properly so that there will be no serious hazard to vehicles or pedestrians.

15.3.1.4. That adequate parking facilities are provided for each use and structure in the development.

15.3.1.5. That the project is consistent with the most suitable development of the City.

15.3.1.6. In these instances where it is in the public interest to protect certain scenic values and opportunities, there shall be a determination made which shall weigh the affect which the development has on the visual corridors of public concern. The plan shall insure that major facilities or functions, which require siting within these scenic vistas, are designed to be visually compatible with the natural characteristics.

15.4. In a Planned Unit Development, the following uses may be proposed:

15.4.1. Residential--Multi-family residential which may include apartments or condominiums in low, mid, or high-rise structures.

15.4.2. Commercial Entertainment

15.4.2.1. Hotel, Motel

15.4.2.2. Restaurant

- 15.4.2.3. Theater
- 15.4.3. Commercial
 - 15.4.3.1. Store, salesroom or showroom for the conduct of retail business, excluding facilities for the sale of motor vehicles, mobile homes, house trailers.
 - 15.4.3.2. Personal Services
 - 15.4.3.3. Bank or other financial services
 - 15.4.3.4. Business or professional offices
- 15.4.4. Industrial Use--In general, uses which are believed not to be injurious to the safety or general welfare of the areas as enumerated in the Zone Ordinance.
- 15.5. AREA REGULATIONS
 - 15.5.1. Open Space: In all Planned Unit Developments, at least 15% of the land, shall be set aside as permanent open space. The required areas for common open space use shall either be reserved for private use or may be dedicated to the City. Land dedicated to the City shall be maintained by the person or persons responsible for the Planned Unit Development. Satisfactory written agreements or other arrangements acceptable to the City shall be made for perpetual preservation and maintenance of all common areas to be set aside and reserved for private use. A covenant shall be placed on the land such that no lot can be used, sold, or built upon until such time as the written agreement has been accepted by the City. Specifically, in the case of corporate ownership, the development shall include in the deed to the owners beneficial rights in said common land and an easement shall be conveyed to the City of Lynn against development of said land and the erection thereon of any structures other than for non-profit recreational use. The possibility of further subdivision of open space shall be eliminated by deed restriction or agreement in a form acceptable to the City.
 - 15.5.2. Setback Requirements--Non-residential buildings may be built to the street line provided that the street is 50 feet in width and the zoning on the opposite side of the street is non-residential. In all other cases, the building shall be set back one quarter the height of the average of principal buildings, but not less than 25 feet from all front and rear lot lines.

15.5.3. Floor Area -The floor area in all buildings in a Planned Unit Development shall not exceed a floor area ratio of 3, excluding parking structures, malls, and plazas.

15.6. PARKING REGULATIONS

15.6.1. In all Planned Unit Development Districts, adequate off-street parking shall be provided for all vehicles normally visiting the property at any one time. The parking may be ground level, underground, or in a garage structure.

15.6.2. The design standards for off-street parking shall be in compliance with Section 9 of the Lynn Zone Ordinance.

15.6.3. The off-street loading requirements for all uses located within a Planned Unit Development shall comply with Section 9.

SECTION 16.

SITE PLAN REVIEW

- 16.1. PURPOSE: The purpose of this section is to insure that the design and layout of commercial, industrial, and residential development will not be detrimental to the City of Lynn's neighborhoods and environment.
- 16.2. APPLICABILITY: Except for developments consistent with Footnote Six (6) of Section 4.4 which shall be subject to Section 16A, any applicant for a special permit from the City Council, as provided for in Section 12 of the City of Lynn Zone Ordinance or for a special permit from the Board of Appeals as provided in Section 7.4 and 13.5.1, the granting of which shall allow for a building to be erected or externally enlarged or an area for parking, loading, or vehicular service to be established or substantially changed shall require site plan review (see Section 4.4 Table of use Regulations).
- 16.2.1. All Planned Unit Development shall be subject to site plan review.
- 16.2.2. All light manufacturing uses in light industrial districts (LI) and heavy industrial districts (HI) shall be subject to site plan review.
- 16.3. PROCEDURE: With each application, there shall be submitted to the Planning Department a fee of \$100, certified check made out to the City of Lynn, and the material required under Section 16.4 and as may be required under Section 16.5.
- 16.3.1 Within ten (10) days of receipt of a complete application, the Planning Department shall transmit a copy of the application to the Ward Councilor or Councilors, Building Department, Department of Public Works, Department of Community Development, Office of Economic Development, Water and Sewer Commission, Police, Fire, Health, or any other Department or board determined by the Planning Department to have an interest in the proposed project.
- 16.3.2 The agencies, board or commissions herein named shall review the application and report their recommendations in writing to the Planning Department no later than fifteen (15) days after receipt of the application and plan. The Planning Department shall not take further action on such application until it has received the above reports thereon or until fifteen (15) days have elapsed after distribution of such application without submission of a report.
- 16.3.3 The Planning Department shall schedule a project review meeting with the applicant within thirty (30) days of the submission of a completed application and shall make a written recommendation to the City Council or Board of Appeals within forty-five (45) days of the submission of the application.

- 16.3.4 The Special Permit Granting Authority (SPGA) shall act to approve or approve with conditions, or disapprove within 90 days of the receipt of the Planning Department's recommendation. Failure by the SPGA to take final action within said ninety (90) days following the date of the receipt of the Planning Department's recommendation shall be deemed to be an approval of the application as originally submitted to the Planning Department. Reasons for disapproval shall be clearly spelled out in the SPGA's report.
- 16.4. MINIMUM REQUIREMENTS: The applicant shall submit fifteen (15) copies of the following materials as a minimum requirement:
- 16.4.1. A site plan at suitable scale, but not to exceed 1"=100', and prepared by a qualified engineer, architect, or surveyor to include method of egress and access, lot lines, existing and proposed buildings, their foundation, size, total gross floor area, building height, location of solid waste containers, existing and proposed topography (two foot contour intervals) wetlands, area subject to the 100 year flood, surface water, and existing and proposed landscape features such as required screening and buffer areas, fences, walls, planting areas and walks, and existing and proposed lighting.
- 16.4.2. A water and sewer utilities plan, which may be included on the site plan.
- 16.4.3. A storm drainage plan, which may be included on the site plan, including design capacity and peak capacity calculations.
- 16.4.4. A plan for the control of erosion and sedimentation caused by the proposed construction.
- 16.4.5. A plan showing the location of all required parking spaces, and the proposed method of access to and from the parking area, and the proposed internal circulation plan for the parking areas.
- 16.5. ADDITIONAL MATERIALS, AS MAY BE REQUIRED: The applicant shall submit the following additional materials as may be required by the Planning Department not less than 30 days prior to the final date that a decision must be rendered by the SPGA on the application.
- 16.5.1. Surface and water pollution - A report on the impact of storm water runoff on adjacent and downstream surface water bodies, subsurface groundwater and the water table.
- 16.5.2. Soils - The potential dangers of erosion and sedimentation caused by the operation and maintenance of the proposed development.

- 16.5.3. General Environmental Impact - A report on the relationship of the proposed development to the major botanical, zoological, geological, and hydrological resources of the site, the compatibility of the proposed development with adjacent or surrounding land uses and neighborhoods.
- 16.5.4. Traffic Impacts - A report on existing traffic volume, composition, peak hour levels, and existing street capacities, estimated average daily traffic generation, composition, peak hour levels, and directional flows resulting from the proposed development, proposed methods to mitigate the estimated traffic impact, and the Methodology and sources used to service existing date and estimations.
- 16.5.5. Architectural plans and specifications of all structures including signs.
- 16.6. SPECIAL PERMIT GRANTING AUTHORITY DECISION: The SPGA shall submit its written notice of its action to the Building Inspector after considering the following matters:
- 16.6.1. Protection and enhancement of important existing site features.
- 16.6.2. Protection of adjoining premises against detrimental uses by provision of surface water drainage, sound and sight buffers, and preservation of views, light, and air.
- 16.6.3. Convenience and safety of vehicular and pedestrian movement within the site, the location of driveway openings in relation to traffic or to adjacent streets.
- 16.6.4. Adequacy of the arrangement of parking and loading spaces.
- 16.6.5. Adequacy of the methods of disposal of refuse and other wastes.
- 16.6.6. Prevention of pollution of surface and groundwater, soil erosion, increase run-off, and flooding.
- 16.6.7. Relationship of structures and open space to the natural landscape and existing buildings.

16A CENTRAL BUSINESS DISTRICT SITE PLAN REVIEW

16A.1

PURPOSE AND INTENT

To insure the design and operation of mixed use in the Lynn Central Business District as permitted by Footnote Six (6) of Section 4.4 will be consistent with surrounding land uses. The intent of the site plan review process is to regulate rather than prohibit uses through reasonable conditions which may be recommended by the Lynn Central Site Plan Review Committee (SPRC) concerning reuse of buildings, location of signs, landscaping, design of parking areas, access and egress, drainage, sewage, water supply and fire safety.

16A.2

APPLICABILITY

A site plan review is required for all projects consistent with Footnote 6 of Section 4.4.

16A.3

RELATIONSHIP TO A BUILDING PERMIT

The building inspector shall not issue a building permit unless and until a site plan review has been completed, and a letter with or without site plan conditions has been forwarded to the Building Commissioner by the SPRC. In the instance where the SPRC fails to forward a letter within the specified time period, the proposed site plan shall be considered approved as submitted in accordance with Section 16A.7.

The Building Commissioner may reject all or some of the SPRC site plan conditions and issue a building permit. However, the Building Commissioner shall, in writing, and within 14 days, inform the SPRC as to the reasons for rejecting all or some of the recommendations. If the Building Commissioner accepts all or some of the recommendations of the SPRC, said recommendations shall become conditions of the building permit and shall be met prior to the issuance of an occupancy permit.

16A.4

SITE PLAN SUBMISSION CRITERIA

The applicant shall submit 7 copies of a site plan proposal drawn at scale not to exceed one inch equals 40 feet (1" = 40'). The site plan review materials shall be submitted to the Office of Economic and Community Development, said office shall forward all materials to the SPRC. At a minimum, the submitted materials shall include the following as applicable:

- (a) a cover letter generally describing the nature and location of the project;
- (b) parcel lot lines for the proposed project and surrounding parcels;
- (c) use of all buildings abutting the proposed project;
- (d) proposed parking plan, if applicable, including location of access and egress;
- (e) location and type of residential access;
- (f) location and type of commercial access;

- (g) location of existing and any proposed buildings on the project site;
- (h) rendering of all façades of proposed buildings;
- (i) location of solid waste containers, if any;
- (j) areas subject to a one hundred (100) year flood, if any;
- (k) provisions for drainage, sewage, and fire safety as applicable to City of Lynn Ordinances;
- (l) proposed landscaping, including all screening and buffering of parking areas, electronic transformers, solid waste containers and similar ancillary facilities;
- (m) existing and proposed fencing, walls and lighting;
- (n) location, material, and size of all signs;
- (o) location of handicapped access, if applicable.

16A.5
SITE PLAN
REVIEW
CRITERIA

The SPRC shall at a minimum review all site plans for the following:

- (a) Consistency with the overall character of the surrounding area.
- (b) Protection and enhancement of important existing site features.
- (c) Protection of adjoining premises against detrimental uses by provision of surface water drainage, sound and light barriers, and preservation of light and air.
- (d) Convenience and safety of vehicular and pedestrian movement within the site, the location of driveway openings in relation to traffic and/or adjacent streets.
- (e) Adequacy and arraignment of parking and loading spaces, as applicable.

16A.6
SITE PLAN
REVIEW
COMMITTEE
COMPOSITION

The Site Plan Review Committee (SPRC) shall be comprised of five (5) members as follows: A representative from each of the following City of Lynn Departments and/or entities: Office of Economic and Community Development/EDIC, Lynn Housing Authority and Neighborhood Development, Lynn Building Department, Lynn Planning Department/DPW, a member of the Lynn Business Community.

16A.7
REVIEW
SCHEDULE

The SPRC shall hold a meeting with the applicant no later than fifteen (15) days after submitting the proposed site plan to the Office of Economic and Community Development. The SPRC shall hold as many meetings as necessary within a thirty-five (35) day review period to review the proposal. With the approval of both the applicant and the SPRC, the review period may be extended for an additional thirty (30) days. However, within forty-five (45) days of the submission of the plan to the Office of Economic and Community Development (or seventy-five (75) days if the review period is mutually extended), the SPRC shall provide recommendations in writing to the Building Commissioner. If no meeting is held with the applicant within fifteen (15) days of submission or (or seventy-five (75) days if the review

period is mutually extended), the application shall be deemed approved as submitted.

SECTION 16B

SITE PLAN REVIEW – WF1, WF2, WF3, WS, AND SHCO

16B.1
PURPOSE

The purpose of this section is to ensure that the design and layout of all commercial, residential, industrial development in the Zoning Districts of WF1, WF2, WF3, WS, and SHCO are consistent with the City of Lynn Zone Ordinance as amended and the Lynn Waterfront Master Plan.

16B.2
SITE PLAN REVIEW

All new projects developed in zones WF1, WF1A, WF2, WF3, WS, and SHCO shall be subject to the site plan review as required under Section 16 of the City of Lynn Zone Ordinance. In addition, there shall be created a Waterfront Zone Site Plan Review Committee, consisting of seven members, which is responsible to ensure that all such projects are consistent with the Lynn Waterfront Master Plan, which has been adopted and approved by the City of Lynn. Said Waterfront Zone Site Plan Review Committee shall consist of four individuals, one of whom shall be a member of the local business community, appointed by the City Council President. The Committee shall further consist of the Director of the Department of Community Development or the Director of the Economic Industrial Corporation of Lynn, the Commissioner of the Department of Public Works and the Director of the Housing Authority of the City of Lynn. This section shall not apply to projects permitted as of right under Section 4.4.18 of this Ordinance.

Any person, individual, or corporation desiring to develop a project within areas identified by the City of Lynn Waterfront Master Plan must submit its site plan proposal to the Waterfront Zone Site Plan Review Committee. No City of Lynn permit, special or otherwise, may be issued until the applicant and the Lynn City Council receives a written recommendation of any kind, for approval, denial, or otherwise from the Waterfront Zone Site Plan Review Committee, which shall be issued no later than 35 days after receipt of a complete proposed plan as outlined in 17.1.15 below.

The Building Department shall not issue a building permit unless and until a site plan review has been completed, and a letter with or without site plan conditions has been forwarded to the building commissioner by the Waterfront Zone Site Plan Review Committee. In the instance where the Waterfront Zone Site Plan Review Committee fails to forward a letter within the specified time period, the proposed site plan shall be considered approved.

The Building Commissioner may reject all or some of the Waterfront Zone Site Plan Review Committee site plan conditions and issue a building permit, in accordance with any and all, ordinances, laws, and regulations. However, the Building Commissioner shall, in writing and within 14 days, inform the Lynn City Council and

Waterfront Zone Site Plan Review Committee as to the reasons for rejecting all or some of the recommendations and must state the reasons for his/her determination that the site plan proposal is consistent and/or inconsistent with the City of Lynn Waterfront Zone Master Plan. If the Building Commissioner accepts all or some of the recommendations of the Waterfront Zone Site Plan Review Committee, said recommendations shall become conditions of the building permit and shall be met prior to the issuance of an occupancy permit.

16B.3
SITE PLAN
SUBMISSION
CRITERIA

The applicant shall submit 7 copies of a site plan proposal drawn to scale not to exceed one inch equals 40 feet (1" = 40'). The site plan review materials must be submitted to the Office of Community Development, and said office shall forward the materials to the Waterfront Zone Site Plan Review Committee. At a minimum, the submitted materials shall include the following as applicable:

- (a) A cover letter generally describing the nature and location of the project;
- (b) Parcel lot lines for the proposed project and surrounding parcels;
- (c) Use of all buildings abutting the proposed project;
- (d) Proposed parking plan, if applicable, including location of access and egress;
- (e) Location and type of residential access;
- (f) Location and type of commercial access;
- (g) Location of existing and any proposed buildings on the project site;
- (h) Rendering of all facades of proposed buildings;
- (i) Location of solid waste containers, if any;
- (j) Areas subject to a one hundred (100) year flood, if any;
- (k) Provisions for drainage, sewage, and fire safety as applicable to City of Lynn Ordinances;
- (l) Proposed landscaping, including all screening and buffering of parking areas, electronic transformers, solid waste containers and similar ancillary facilities;
- (m) Existing and proposed fencing, walls and lighting;
- (n) Location, material, and size of all signs;
- (o) Location of handicapped access, if applicable.

16B.4

The Waterfront Zone Site Plan Review Committee shall at a minimum review all site plans for the following:

- (a) Consistency with the overall character of the surrounding area.
- (b) Consistency with all sign, design guidelines, landscaping and buffering requirements of the City of Lynn.
- (c) Protection and enhancement of important existing site features.

- (d) Protection of adjoining premises against detrimental uses by provision of surface water drainage, sound and light barriers, and preservation of light and air.
- (e) Convenience and safety of vehicular and pedestrian movement within the site, the location of driveway openings in relation to traffic and/or adjacent streets.
- (f) Adequacy and arrangement of parking and loading spaces, as applicable.
- (g) Consistency and uniformity with the City of Lynn Waterfront Master Plan.

16B.5 The Waterfront Zone Site Plan Review Committee shall hold a meeting with the applicant no later than fifteen (15) days after submitting the proposed site plan to the Office of Community Development. The Waterfront Zone Site Plan Review Committee shall hold as many meetings as necessary within a thirty-five (35) day review period to review the proposal. With the approval of both the applicant and the Waterfront Zone Site Plan Review Committee, the review period may be extended for an additional thirty (30) days. However, within forty-five (45) days of the submission of the plan to the Office of Community Development (or seventy-five (75) days if the review period is mutually extended), the Waterfront Zone Site Plan Review Committee shall provide recommendations in writing to the Building Commissioner. If no meeting is held with the applicant within fifteen (15) days of submission or if meeting is held and no action is taken within forty-five(45) days of submission (or seventy-five (75) days if the review period is mutually extended), the application shall be deemed approved as submitted.

SECTION 17 REGULATION OF THE DEVELOPMENT, CONSTRUCTION, AND ERECTION OF WIRELESS TELECOMMUNICATIONS TOWERS AND ASSOCIATED TELECOMMUNICATIONS FACILITIES IN THE CITY OF LYNN

17.1. TITLE

An Ordinance Amending the City of Lynn Zone Ordinance to Provide for the Regulation of the Development, Construction and Erection of Wireless Telecommunications Towers and Associated Telecommunications Facilities in the City of Lynn is hereby established, and said Ordinance shall provide as follows:

17.2 PURPOSES

The general purpose of this Amendment is to regulate the placement, construction, and modification of towers and telecommunications facilities in order to protect the health, safety, and welfare of the public, while at the same time not unreasonably interfering with the development of the competitive wireless telecommunications marketplace in the City of Lynn.

Specifically, the purposes of this Article are:

- (a) To regulate the appropriate location of Towers and Telecommunications Facilities in the City of Lynn;
- (b) To protect residential areas and land uses from potential adverse impact of Towers and Telecommunications Facilities;
- (c) To minimize adverse visual impact of Towers and Telecommunications Facilities through careful design, sighting, landscape screening, and innovative camouflaging techniques;
- (d) To promote and encourage shared use/collection of Towers and Antenna Support Structures as a primary option rather than construction of additional single-use Towers;
- (e) To promote and encourage utilization of technological designs that will either eliminate or reduce the need for erection of new Tower structures to support antenna and Telecommunications Facilities;
- (f) To avoid potential damage to property caused by Towers and Telecommunications Facilities by ensuring such structures are soundly and carefully designed, constructed, modified, maintained, and removed when no longer used or determined to be structurally unsound; and
- (g) To ensure that Towers and Telecommunications Facilities are compatible with surrounding land uses.

17.3 DEFINITIONS

The following words, terms, and phrases, when used in this section, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (a) Accessory Equipment means any equipment serving or being used in conjunction with a Telecommunications Facility or Support Structure. This equipment includes, but is not limited to, utility or transmission equipment, power supplies, generators, batteries, cables, equipment, buildings, cabinets and storage sheds, shelters or other structures.
- (b) Antenna shall mean Communications equipment that transmits and receives electromagnetic radio signals used in the provision of all types of wireless communications services. Any structure or device used to collect or radiate electromagnetic waves for the provision of cellular, paging, personal communications services (PCS) and microwave communications. Such structures and devices include, but are not limited to, directional antennas, such a panels, microwave dishes and satellite dishes, and omni-directional antennas, such as whips.
- (c) Antenna Support Structure means any building or structure other than a tower which can be used for location of telecommunication facilities.
- (d) Applicant means any Person that applies for a tower development permit.
- (e) Application means the process by which the Owner of a parcel of land within the City submits a request to develop, construct, build, modify, or erect a tower upon such parcel of land. Application includes all written documentation, verbal statements, and representations, in whatever form or forum, made by an Applicant to the City Council concerning such a request.
- (f) Commissioner means the Building Commissioner for the City of Lynn.
- (g) Engineer means any engineer licensed by the Commonwealth of Massachusetts.
- (h) Equipment means antennas, antenna support structures, monopoles, stealth telecommunication facilities, support structures, telecommunication facilities, towers, utility poles, wireless facilities and wireless support structures.
- (i) Monopole means a single, freestanding pole-type structure supporting one or more Antenna. For purposes of this Ordinance, a Monopole is not a Tower.
- (j) Owner means any Person with fee title or a long-term (exceeding ten (10) years) leasehold to any parcel of land within the City who desires to develop or construct, build, modify, or erect a Tower upon such parcel of land.

- (k) Person is any natural person, firm, partnership, association, corporation, company, or other legal entity, private or public, whether for profit or not for profit.
- (l) Stealth means any tower or telecommunications facility which is designed to enhance compatibility with adjacent land uses, including, but not limited to, architecturally screened roof-mounted antennas, antennas integrated into architectural elements, and towers designed to look other than like a tower such as light poles, power poles, and trees.
- (m) Stealth Telecommunications Facility means any Telecommunications Facility that is integrated as an architectural feature of a structure so that the purpose of the Facility for providing wireless services is not readily apparent to a casual observer.
- (n) Support Structure (s) means a structure designed to support Telecommunications Facilities including, but not limited to, Monopoles, Towers, Utility Poles and other freestanding self- supporting structures.
- (o) Telecommunications Facilities means any cables, wires, lines, wave guides, antennas, and any other equipment or facilities associated with the transmission or reception of communications which a person seeks to locate or has installed upon or near a tower or antenna support structure. However, *telecommunications facilities* shall not include:
- (1) Any satellite earth station antenna two (2) meters in diameter or less which is located in an area zoned industrial or commercial; or
 - (2) Any satellite earth station antenna one (1) meter or less in diameter, regardless of zoning category.
- (p) Tower means a self-supporting lattice, guyed or monopole structure constructed from grade which supports telecommunications facilities. The term *tower* shall not include amateur radio operator's equipment, as licensed by the FCC.
- (q) Utility Pole means a structure that is designed for and used to carry lines, cables, or wires for telephone, cable television, or electricity, or to provide lighting.
- (r) Wireless Facility means the set of equipment and network components, exclusive of the underlying support structure or tower, including antennas, transmitters, receivers, base stations, power supplies, cabling, and associated equipment necessary to provide wireless data and telecommunications services to a discrete geographic area.
- (s) Wireless Support Structure means a new or existing structure, such as a monopole, lattice tower, or guyed tower that is designed to support or capable of supporting wireless facilities. A utility pole is not a wireless support structure.

17.4 DEVELOPMENT OF TOWERS

- (a) A Tower shall be a permitted use of land in zoning districts designated as “Heavy Industrial” and/or “Light Industrial.” No person shall build, erect, or construct a Tower upon any such parcel of land within a zoning district designated as “Heavy Industrial” and/or “Light Industrial” unless a special permit shall have been issued by the Lynn City Council. Application shall be made to the City of Lynn City Council in the manner provided in this chapter.
- (b) Towers are exempt from the maximum height restrictions of the districts where located. Towers shall be permitted to a height of one-hundred and twenty (120) feet.
- (c) No new tower shall be built, constructed, or erected in the City of Lynn unless the tower is capable of supporting another person’s operating telecommunications facilities comparable in weight, size, and surface area to the telecommunications facilities installed by the applicant on the tower within six (6) months of the completion of the tower construction.
- (d) Applicants for Telecommunications Facilities, Tower(s) or Antenna(s) shall locate, site and erect said Telecommunications Facilities, Tower(s) or Antenna(s) in accordance with the following priorities, one (1) being the highest priority and three (3) being the lowest priority.
 - 1. On existing Towers or other structures without increasing the height of the tower or structure;
 - 2. On City of Lynn-owned properties;
 - 3. On other properties within the City of Lynn.
- (e) If the proposed site is not the highest priority listed above, then a detailed explanation must be provided as to why a site of a higher priority was not selected. The applicant seeking such an exception must satisfactorily demonstrate the reason or reasons why such a permit should be granted for the proposed site and the hardship that would be incurred by the Applicant if the permit were not granted for the proposed site.
- (f) An Applicant may not by-pass sites of higher priority by stating the site proposed is the only site leased or selected. An Application shall address co-location as an option. If such option is not proposed, the Applicant must explain to the reasonable satisfaction of the Lynn City Council why co-location is commercially or otherwise impracticable. Agreements between providers limiting or prohibiting co-location shall not be a valid basis for any claim of commercial impracticability or hardship.
- (g) Notwithstanding the above, the Lynn City Council may approve any site located in an area in the above-list of priorities, provided that the City Council finds that the proposed site is in the best interest of the health, safety, and welfare of the citizens of Lynn and will not have a deleterious effect on the nature and character of the community and neighborhood.

- (h) The Applicant shall submit a written report demonstrating the Applicant's review of the above locations in order of priority, demonstrating the technical reasons for the site selection. If appropriate, based on selecting a site of lower priority, a detailed written explanation as to why sites of a higher priority were not selected shall be included with the Application.
- (i) Notwithstanding that a potential site may be situated in an area of highest priority or highest available priority, the Lynn City Council may disprove an Application for any of the following reasons:
 1. Conflict with safety or safety-related codes and requirements;
 2. Conflict with the historic nature or character of a neighborhood or historical district;
 3. The use or construction of a Telecommunications Facility, Tower or Antenna which is contrary to an already stated purpose of a specific zoning or land use designation;
 4. The placement and location of the Telecommunications Facility, Tower or Antenna which would create an unacceptable risk, or the reasonable probability of such, to residents, the public, employees, and agents of the City, or employees of the service provider or other services providers;
 5. Conflicts with provisions of this Ordinance, as amended.

17.5 APPLICATION OF TOWERS

- (a) Towers shall be designed to accommodate the maximum number of users technologically possible. The intent of this requirement is to reduce the number of towers which will need to be sited in the City. Locating on existing Towers or other structures without increasing the height, shall be preferred by the City. An application to develop a tower shall include:
 - (1) The name, address, and telephone number of the owner and lessee of the parcel of land upon which the tower is situated. If the applicant is not the owner of the parcel of land upon which the tower is situated, the written consent of the owner shall be evidenced in the application.
 - (2) The legal description, assessor's map, lot number, and the address of the parcel of land upon which the tower is situated.
 - (3) The names, addresses, and telephone numbers of all owners of other towers or usable antenna support structures within a five (5) mile radius of the proposed new tower site, including City-owned property.
 - (4) A locus plan to scale of one inch equals 100 feet (1" = 100').
 - (5) A Site Plan at a scale of one inch equals forty feet (1" = 40') which shall show all property lines, the exact location of the proposed structure,

streets, landscape features, residential dwellings, all buildings within five hundred feet (500') of the facility and all abutters to the property.

- (6) A description of the design plan proposed by the applicant in the City. Applicant must identify its utilization of the most recent technological design, including microcell design, as part of the design plan. The applicant must demonstrate the need for towers and why design alternatives, such as the use of a microcell, cannot be utilized to accomplish the provision of the applicant's telecommunications services.
- (7) An affidavit attesting to the fact that the applicant made diligent, but unsuccessful, efforts to install or collocate the applicant's telecommunications facilities on City-owned towers or usable antenna support structures located within a five (5) mile radius of the proposed tower site.
- (8) An affidavit attesting to the fact that the applicant made diligent, but unsuccessful, efforts to install or collocate the applicant's telecommunications facilities on towers or usable antenna support structures owned by other persons located within a five (5) mile radius of the proposed tower site.
- (9) Written technical evidence from an engineer(s) that the proposed tower or telecommunications facilities cannot be installed or collocated on another person's tower or usable antenna support structures owned by other persons located within a five (5) mile radius of the proposed tower site.
- (10) A written statement from an engineer(s) that the construction or placement of the tower will not interfere with public safety communications and the usual and customary transmission or reception of radio, television, or other communications services enjoyed by adjacent residential and non-residential properties.
- (11) Written, technical evidence from an engineer(s) that the proposed structure meets the standards set forth in Section 6.01, "Structural Requirements," of this Ordinance.
- (12) Written technical evidence from a qualified engineer(s) acceptable to the Fire Chief and the Building Commissioner that the proposed site of the tower or telecommunications facilities does not pose a risk of explosion, fire, or other danger to life or property due to its proximity to volatile, flammable, explosive, or hazardous materials such as LP gas, propane, gasoline, natural gas, or corrosive or other dangerous chemicals.
- (13) In order to assist the Building Department and the City Council in evaluating visual impact, the applicant shall submit color photo-realistic representation of the proposed tower as it would appear viewed from the closest residential property and from adjacent roadways.

- (14) The Federal Telecommunications Act of 1996 gives the FCC sole jurisdiction of the field of regulation of RF emissions and does not allow the City to condition or deny on the basis of RF impacts the approval of any telecommunications facilities (whether mounted on towers or antenna support structures) which meet FCC standards. In order to provide information to its citizens, the City shall make available, upon request, copies of ongoing FCC information and RF emissions standards for telecommunications facilities transmitting from towers or antenna support structures. Applicants shall be required to submit information on the proposed power density of their proposed telecommunications facilities and demonstrate how this meets FCC standards.
- (15) An affidavit attesting to the fact that the applicant made diligent, but unsuccessful, efforts to install or collocate the applicant's telecommunications facilities on City-owned properties or structures or usable antenna support structures located within a five (5) mile radius of the proposed tower site.
- (16) Written technical evidence from an engineer(s) that the proposed tower or telecommunications facilities cannot be installed or collocated on City of Lynn owned properties or structures located within a five (5) mile radius of the proposed tower site.
- (17) Documentation that demonstrates the need for the Telecommunications Facility to provide service primarily and essentially within the City. Such documentation shall include propagation studies of the proposed site and all adjoining planned, proposed, in-service or existing sites.
- (18) The name, address and phone number of the person preparing the report.
- (19) The Zoning District in which the property is located.
- (20) Size of the property stated, both in square feet and lot line dimensions, and a diagram showing the location of all lot lines.
- (21) The location of the nearest residential structure.
- (22) The location, size, and height of all structures on the property which is the subject of the Application.
- (23) The location, size, and height of all proposed and existing antennae and all appurtenant structures.
- (24) The type, locations, and dimensions of all proposed and existing landscaping and fencing.

- (25). The number, type, and design of the Tower(s) and Antenna(s) proposed and the basis for the calculations of the Tower's capacity to accommodate multiple users.
 - (26) In the case of a new Telecommunication Facility or Tower, the Applicant shall be required to submit a written report demonstrating its meaningful efforts to secure shared use of existing Tower(s) or Telecommunication Facilities or the use of City of Lynn owned properties and structures.
- (b) The Lynn City Council may require an applicant to supplement any information that it considers inadequate or that the applicant has failed to supply. The City Council may deny an application on the basis that the applicant has not satisfactorily supplied the information required in this subsection.

17.6 DESIGN GUIDELINES

17.6.1 SETBACKS

- (a) All towers shall be set back on all sides a distance not less than equal to the height of the tower.
- (b) Setback requirements for towers shall be measured from the base of the Tower to the property line of the parcel of land on which it is located.
- (c) Setback requirements may be modified, as provided in Section 6.01, when placement of a Tower in a location will reduce the visual impact. For example, adjacent to trees which may visually hide the Tower.

17.6.2 STRUCTURAL REQUIREMENTS

All towers must be designed and certified by an engineer to be structurally sound and, at minimum, in conformance with the State Building Code, and any other standards outlined in this ordinance. All towers in operation shall be fixed to land.

17.6.3 SEPARATION OF BUFFER REQUIREMENTS

For the purpose of this section, the separation distances between towers shall be measured by drawing or following a straight line between the base of the existing or proposed structure and the proposed base, pursuant to a site plan of the proposed tower. Tower separation distances from residentially zoned lands shall be measured from the base of a tower to the closest point of residentially zoned property. The minimum tower separation distances from residentially zoned land and from other towers shall be calculated and applied irrespective of City jurisdictional boundaries.

- (a) Towers shall be separated from all residentially zoned lands by a minimum of two-hundred (200) feet or two-hundred (200%) percent of the height of the proposed Tower, whichever is greater.

- (b) Proposed towers must meet the following minimum separation requirements from existing towers or towers which have a development permit but are not yet constructed at the time a development permit is granted pursuant to this section.
 - (1) Monopole tower structures shall be separated from all other towers, whether monopole, self-supporting lattice, or guyed, by a minimum of seven-hundred and fifty (750) feet.
 - (2) Self-supporting lattice or guyed tower structures shall be separated from all other self-supporting or guyed towers by a minimum of fifteen-hundred (1,500) feet.
 - (3) Self-supporting lattice or guyed tower structures shall be separated from all monopole towers by a minimum of seven-hundred and fifty feet (750’).

17.6.4 METHOD OF DETERMINING TOWER HEIGHT

Measurement of tower height for the purpose of determining compliance with all requirements of this section shall include the tower structure itself, the base pad, and any other telecommunications facilities attached thereto which extend more than twenty (20) feet over the top of the tower structure itself. Tower height shall be measured from grade.

17.6.5 ILLUMINATION

Towers shall not be artificially lighted except as required by the Federal Aviation Administration (FAA). Upon commencement of construction of a tower, in cases where there are residential uses located within a distance which is three-hundred (300%) percent of the height of the tower from the tower and when required by Federal law, dual mode lighting shall be requested from the FAA.

17.6.6 EXTERIOR FINISH

Towers not requiring FAA painting or marking shall have an exterior finish which enhances compatibility with adjacent land uses, as approved by the appropriate reviewing body.

17.6.7 LANDSCAPING, FENCING, AND SIGNS

All landscaping on a parcel of land containing towers, antenna support structures, or telecommunications facilities shall be in accordance with the applicable landscaping requirements in the zoning district where the tower, antenna support structure, or telecommunications facilities are located. The City may require landscaping in order to enhance compatibility with adjacent land uses. Landscaping shall be installed on the outside of any fencing.

Fencing shall be provided to control access to the towers and shall be compatible with the landscape.

Signs shall be posted announcing “No Trespassing”, and giving the name, address and telephone number of a person or persons to be contacted in case of an emergency at any time of the day or night.

17.6.8 STEALTH DESIGN

Insofar as it is practical to do so, all applications for towers shall be of stealth design.

17.7 TELECOMMUNICATIONS FACILITIES ON ANTENNAE SUPPORT STRUCTURES

Any telecommunications facilities which are not attached to a tower may, by Special Permit, be permitted on any antenna support structure at least forty (40) feet tall, regardless of the zoning restrictions applicable to the zoning district where the structure is placed. Telecommunications facilities are prohibited on all other structures. The owner of such structure shall, by written certification to the City Council, establish the following at the time an application is submitted for such special permit.

- (a) The height from grade of the telecommunications facilities shall not exceed the height from grade of the antenna support structure by more than twenty (20) feet;
- (b) That any telecommunications facilities and their appurtenances, located above the primary roof of an antenna support structure, are set back one (1) foot from the edge of the primary roof for each one (1) foot in height above the primary roof of the telecommunications facilities. This setback requirement shall not apply to telecommunications facilities and their appurtenances, located above the primary roof of an antenna support structure, as such facilities are appropriately screened from view through the use of panels, walls, fences, or other screening techniques approved by the City. Setback requirements shall not apply to stealth antennas which are mounted to the exterior of antenna support structures below the primary roof, but which do not protrude more than eighteen (18) inches from the side of such an antenna support structure.

17.8 TOWERS MODIFICATION OF EXISTING

- (a) A tower existing prior to the effective date of this Ordinance, which was in compliance with the City’s zoning regulations immediately prior to the effective date of this Ordinance, may continue in existence as a non-conforming structure. Such non-conforming structures may be modified or demolished and rebuilt without complying with any of the additional requirements of this Section, except for Sections 6.03, “Separation or Buffer Zone Requirements,” 6.10 “Certification and Inspections,” and 6.11 “Maintenance,” provided:

- (1) The Tower is being modified or demolished and rebuilt for the sole purpose of accommodating, within (6) months of the completion of the modification or rebuild, additional telecommunications facilities comparable in weight, size, and surface area to the discrete operating telecommunications facilities of any person currently installed to the tower.
 - (2) An application for a Special Permit is made to the City Council which shall have the authority to issue a Special Permit after a formal hearing. The grant of a Special Permit pursuant to this section allowing the modification or demolition and rebuilding of an existing non-conforming tower shall not be considered a determination that the modified or demolished and rebuilt tower is conforming.
 - (3) The height of the modified or rebuilt tower and telecommunications facilities attached thereto do not exceed the maximum height allowed under this Ordinance.
- (b) Except as provided in this section, a non-conforming structure or use may not be enlarged, increased in size, or discontinued in use for a period or more than one hundred eighty (180) days. This Ordinance shall not be interpreted to legalize any structure or use existing at the time this Ordinance is adopted which structure or use is in violation of the zoning ordinance prior to the enactment of this section.

17.9 CERTIFICATION AND INSPECTIONS

- (a) All towers shall be certified by an engineer to be structurally sound and in conformance with the requirements of the State Building Code and all other construction standards set forth by Federal, State, and local law. For new monopole towers, such certification shall be submitted with an application pursuant to Section 5 of this Ordinance and every five (5) years thereafter. For existing monopole towers, certification shall be submitted within sixty (60) days of the effective date of this Ordinance and then every five (5) years thereafter. For a new lattice or guyed towers, such certifications shall be submitted with an application pursuant to Section 5 of this Ordinance and every two (2) years thereafter. For existing lattice or guy towers, certification shall be submitted within sixty (60) days of the effective date of this Ordinance and then every two (2) years thereafter. The tower owner may be required by the City to submit more frequent certifications should there be reason to believe that the structural and electrical integrity of the tower is jeopardized.
- (b) The City or its agents shall have authority to enter onto the property upon which a tower is located, between the inspections and certifications required above, to inspect the tower for the purpose of determining whether it complies with the State Building Code and all other construction standards provided by Federal, State and local laws.

- (c) The City reserves the right to conduct such inspections at any time, upon reasonable notice to the City owner. All expenses related to such inspections by the City shall be borne by the tower owner.

17.10 MAINTENANCE

- (a) Tower owners shall at all times employ ordinary and reasonable care and shall install and maintain in use nothing less than commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries, or nuisances to the public.
- (b) Tower owners shall install and maintain towers, telecommunications facilities, wires, cables, fixtures, and other equipment in substantial compliance with the requirements of the National Electric Safety Code and all FCC, State, and local regulations, and in such manner that will not interfere with the use of other property.
- (c) All towers, telecommunications facilities, and antenna support structures shall at all times be kept and maintained in good condition, order, and repair so that the same shall not menace or endanger the life or property of any person.
- (d) All maintenance or construction of towers, telecommunications facilities, or antenna support structures shall be performed by licensed maintenance and construction personnel.
- (e) All towers shall maintain compliance with current RF emission standards of the FCC.
- (f) In the event that the use of a tower is discontinued by the tower owner, the tower owner shall provide written notice to the City of its intent to discontinue use and the date when the use shall be discontinued.

17.11 CRITERIA FOR SITE PLAN APPROVAL AND SPECIAL PERMITS

- (a) In addition to every other requirement for a tower application as provided in this section, every application for the location of a telecommunications tower shall include the following:
 - (i) A description of how the plan addresses any adverse impact that might occur as a result of approving the application.
 - (ii) A description of off-site or on-site factors which mitigate any adverse impacts which might occur as a result of the application.
 - (iii) A technical study that documents and supports the criteria submitted by the applicant upon which the application is based. The technical study shall be certified by an engineer and shall document the existence of the

facts related to the proposed applications and its relationship to surrounding rights-of-way and properties.

- (iv) For a modification of the setback requirements, the application shall identify all parcels of land where the proposed tower could be located, attempts by the applicant to contract and negotiate an agreement for collocation, and the result of such attempts.
 - (v) The City Council may require the application to be reviewed by an independent engineer under contract to the City to determine whether the antenna study supports the basis for the application requested. The cost of review by the City's engineer shall be reimbursed to the City by the applicant.
- (b) The City Council shall consider the following additional criteria:
- (i) That the tower will be compatible with and not adversely impact the character and integrity of the surrounding properties.
 - (ii) Off-site or on-site conditions exist which mitigate the adverse impacts, if any, created by the application.
 - (iii) In addition, the City Council may include conditions on the site where the tower is to be located if such conditions are necessary to preserve the character and integrity of the neighborhoods affected by the proposed tower and mitigate any adverse impacts which arise in connection with the approval of the application.
- (c) In addition to the requirements of subparagraphs (a) and (b) of this section, in the following cases, the applicant must also demonstrate, with written evidence, the following:
- (1) In the case of a requested modification to the setback requirement, Section 6.01, that the setback requirement cannot be met on the parcel of land upon which the tower is proposed to be located and the alternative for the person is to locate the tower on another site which is closer in proximity to a residentially zoned land.
 - (2) In the case of a request for modification to the separation and buffer requirements from other towers of Section 6.03, "Separation or Buffer Requirements," that the proposed site is zoned "Heavy Industrial" or "Light Industrial" and the proposed site is at least double the minimum standard for separation from residentially zoned lands as provided in Section 6.03.
 - (3) In the case of a request for modification of the separation and buffer requirements from residentially zoned land of Section 6.03, if the person provides written technical evidence from an engineer(s) that the proposed

tower and telecommunications facilities must be located at the proposed site in order to meet the coverage requirements of the applicant's wireless communications system and if the person is willing to create approved landscaping and other buffers to screen the tower from being visible to residentially zoned property.

- (4) In the case of a request for modification of the height limit for towers and telecommunications facilities or to the minimum height requirements for antenna support structures, that the modification is necessary to: (i) facilitate collocation of telecommunications facilities in order to avoid construction of a new tower; or (ii) to meet the coverage requirements of the applicant's wireless communications system, which requirements must be documented with written, technical evidence from an engineer(s) that demonstrates that the height of the proposed tower is the minimum height required to function satisfactorily, and no tower that is taller than such minimum height shall be approved.

17.12 ABANDONMENT

- (a) If any tower shall cease to be used for a period of 365 consecutive days, the Building Commissioner shall notify the owner, with a copy to the applicant, that the site will be subject to a determination by the City Council that such site has been abandoned. The owner shall have thirty (30) days from receipt of said notice to show, by a preponderance of the evidence, that the tower has been in use or under repair during the period. If the owner fails to show that the tower has been in use or under repair during the period, the City Council shall issue a final determination of abandonment for the site. Upon issuance of the final determination of abandonment, the tower shall, within seventy-five (75) days, dismantle the tower.

17.13 INSURANCE

- (a) All applications submitted to the Lynn City Council for permission to develop, construct or erect antennas, antenna support structures, monopoles, stealth telecommunication facilities, support structures, telecommunication facilities, towers, utility poles, wireless facilities and wireless support structures shall be accompanied by written proof of insurance and/or cash bond covering accidents, personal injury, property damage and liability as well as the cost to remove abandoned equipment. The amount of said insurance and cash bond shall in no event exceed fifteen million (\$15,000,000.00) dollars per application. The amount established as insurance and/or cash bond shall be determined by the size and scope of the application, the amount of equipment sought to be developed, constructed or erected, throughout the City, the proximity to residential dwellings and the cost of the proposed project.

SECTION 18 LAND BASED WIND ENERGY CONVERSION FACILITIES FOR LYNN, MASSACHUSETTS

18.1 PURPOSE AND INTENT

It is the express purpose of this Ordinance to accommodate distributed generation, wind energy conversion facilities (not residentially-scaled facilities) in appropriate locations, while minimizing any adverse visual, safety, and environmental impacts of the facilities. The Ordinance enables the review of wind energy conversion facilities by the Lynn City Council in keeping with the City's existing Ordinances. This Ordinance is intended to be used in conjunction with other regulations adopted by the City, including historic district regulations, site plan review and other local Ordinances designed to encourage appropriate land use, environmental protection, and provision of adequate infrastructure development in the City of Lynn.

18.2 DEFINITIONS

Clear Area: Area surrounding a wind turbine to be kept free of habitable structures.

Distributed Generation: Energy generation that is located at or near the end-user.

Height: The height of a turbine measured to the tip of the bladed at its highest point.

Nacelle: The frame and housing at the top of the tower that encloses the gearbox and generator and protects them from the weather.

Rotor: The blades and hub of the wind turbine that rotate during turbine operation.

Special Permit Granting Authority (SPGA): The Lynn City Council.

Wind Energy Conversion Facility: All equipment, machinery and structures utilized in connection with the conversion of wind to electricity. This includes, but is not limited to, all transmission, storage, collection and supply equipment, substations, transformers, site access, service roads and machinery associated with the use. A wind energy conversion facility may consist of one or more wind turbines.

Wind Monitoring or Meteorological ("test" or "met") Towers: Tower used for supporting anemometer, wind vane, and other equipment to assess the wind resource at a predetermined height above the ground.

Wind Turbine: A device that converts kinetic energy of the wind into rotational energy to turn an electrical generator shaft. A wind turbine typically consists of a rotor, nacelle and supporting tower.

18.3 DISTRICT REGULATIONS

18.3.1 USE REGULATIONS

All wind energy conversion facilities or wind monitoring towers shall require a building permit and may be permitted as follows and irrespective of whether the use is a principal or accessory use:

18.3.1.1 WIND ENERGY CONVERSION FACILITY

The construction of any wind energy conversion facility shall be permitted in the Heavy Industrial municipal zoning district, subject to issuance of a Special Permit and provided the proposed use complies with all Dimensional and Special Permit Regulations set forth in Sections 3 and 4 of this Ordinance (unless waived by the SPGA).

18.3.1.2 WIND MONITORING OR METEOROLOGICAL TOWERS

Wind monitoring or meteorological towers shall be permitted in the Heavy Industrial municipal zoning district subject to issuance of a building permit for a temporary structure.

18.3.2 SITE CONTROL

The applicant shall submit documentation of the legal right to install and use the proposed facility at the time of application for a Special Permit. Documentation should also include proof of control over the setback or clear areas, if required under Section 3.3.2. Control shall mean legal authority to prevent the use of any structure within the setback or clear area for human habitation or other use permitting human occupancy.

18.3.3 DIMENSIONAL REQUIREMENTS

All wind energy conversion facilities shall comply with the requirements set forth in this section, unless waived by the SPGA as part of the Special Permit review process.

18.3.1 HEIGHT

Wind energy conversion facilities shall be no higher than 450 feet above the natural grade. The height of all wind turbines shall be measured to the highest point reached by the rotor blades. The SPGA may allow this height to be exceeded as part of the Special Permit process if the project proponent can demonstrate that the additional height is needed and that the additional benefits of the higher tower outweigh any increase adverse impacts. Monopole towers are the preferred type of support for wind turbines.

18.3.2 SETBACK OR CLEAR AREA

- a) Each wind energy conversion facility and its associated equipment shall comply with the building setback provisions of the zoning district in which the facility is located.
- b) In addition, the following setbacks shall be observed:
 1. In order to ensure public safety and to protect the interests of neighboring property owners, the minimum distance from the base of any wind turbine tower to any property line, dwelling, business or institutional use shall be equal to the total height of structure to the highest point. This setback is considered a “Clear Area.”
 2. The setback or Clear Area(s) should be kept free of all habitable structures so long as the facility is in place; however, these areas need not be cleared of trees or other vegetation. Setbacks shall be measured from the outside surface at the base of the turbine tower. The SPGA may reduce the Clear Area as appropriate based on site specific considerations and if the project is consistent with the Special Permit granting criteria of the City.

18.4 SPECIAL PERMIT REGULATIONS

The SPGA shall grant a Special Permit only if it finds that the proposal complies with the provision of this Ordinance (unless waived) and is consistent with the applicable criteria for granting Special Permits.

18.4.1 GENERAL

Proposed wind energy conversion facilities shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable electrical, construction, noise, safety, environmental and communications requirements.

18.4.2 DESIGN STANDARDS

18.4.2.1 VISUAL IMPACT

The proponent shall demonstrate through project siting and proposed mitigation that the wind energy conversion facility minimizes any impact on the visual character of surrounding neighborhoods and the community. This may include, but not be limited to, information regarding site selection, turbine design, buffering, lighting and cable layout.

18.4.2.2 COLOR

Wind energy conversion facilities shall be painted a non-reflective color that blends with the sky and clouds.

18.4.2.3 EQUIPMENT SHELTERS

All equipment necessary for monitoring and operation of the wind energy conversion facilities should preferably be contained within the turbine tower. If this is infeasible, ancillary equipment may be located outside the tower, provided it is contained either within an underground vault, or enclosed within a separate structure or behind a year-round landscape or vegetated buffer.

18.4.2.4 LIGHTING AND SIGNAGE

- a) Wind turbines shall be lighted only if required by the Federal Aviation Administration (FAA). The proponent shall provide a copy of the FAA's determination to establish the required markings and/or lights for the structure.
- b) Lighting of equipment structures and any other facilities on site (except lighting required by the FAA) shall be shielded from abutting properties.
- c) Signs on the facility shall be limited to:
 - 1. Those needed to identify the property and the owner and warn of any danger; and
 - 2. Educational signs providing information on the technology and renewable energy usage.
- d) All signs shall comply with the requirements of the City's sign regulations.

18.4.3 ENVIRONMENTAL STANDARDS

18.4.3.1 WETLANDS

Wind energy conversion facilities shall be located in a manner consistent with all applicable location and State wetlands regulations. Wetland buffer areas may be used for the purposes of providing a Clear Area.

18.4.3.2 LAND CLEARING/OPEN SPACE/ RARE SPECIES

Wind energy conversion facilities shall be designed to minimize land clearing and fragmentation of open space areas and shall avoid permanently protected

open space when feasible. Wind turbines should be sited to make use of previously developed areas wherever possible. Wind energy conversion facilities shall also be located in a manner that does not have significant negative impacts on rare species in the vicinity (particularly avian species, bats, etc.).

18.4.3.3 STORMWATER

Stormwater run-off and erosion control shall be managed in a manner consistent with all applicable State and local regulations.

18.4.3.4 NOISE

The wind energy conversion facility and associated equipment shall conform to Massachusetts Noise Regulations (310 CMR 7.10). An analysis, prepared by a qualified engineer, shall be presented to demonstrate compliance with these noise standards and be consistent with Massachusetts Department of Environmental Protection guidance for noise measurement.

18.4.3.5 SHADOWING/FLICKER

Wind energy conversion facilities shall be sited in a manner that does not result in significant shadowing or flicker impacts. The proponent has the burden of proving that this effect does not have significant adverse impact on neighboring or adjacent uses either through siting or mitigation.

18.4.4 SAFETY STANDARDS

No hazardous materials or waste shall be discharged on the site of any wind energy conversion facility. If any hazardous materials or wastes are to be used on site, there shall be provisions for full containment of such materials or waste. An enclosed containment area designed to contain at least 110 percent of the volume of the hazardous materials or waste stored or used on the site may be required to meet this requirement.

The wind energy conversion towers shall also be designed to prevent unauthorized access (for example, by construction of a fenced enclosure or locked access).

18.5 USE BY TELECOMMUNICATIONS CARRIERS

Wind energy conversion facilities may be used to locate telecommunications antennas, in compliance with the City of Lynn Zone Ordinance, and subject to the following requirements:

- a) All ground-mounted telecommunications equipment shall be located in either a shelter, within the wind turbine tower or otherwise screened from view year round (either through effective landscaping or existing natural vegetated buffers).

- b) Antennas shall be flush-mounted to be in keeping with the design of the wind turbine tower.
- c) All cabling associated with the personal wireless facility shall be contained within the tower structure or enclosed within a conduit painted to match the turbine mount.

18.6 MODIFICATIONS

All modifications to a wind energy conversion facility made after issuance of the Special permit shall require approval by the SPGA in accordance with the City's existing process for modifications to Special Permit approvals.

18.7. MONITORING AND MAINTENANCE

- 18.7.1 After the wind energy conversion facility is operational, the applicant shall submit to the City at annual intervals from the date of issuance of the Special Permit a report detailing operating data for the facility (including, but not limited to, days of operation, energy production, etc.).
- 18.7.2 The applicant shall maintain the wind energy conversion facility in good condition. Such maintenance shall include, but not be limited to, painting, structural integrity of the foundation and support structure and security barrier (if applicable), and maintenance of the buffer areas and landscaping if present.
- 18.7.3 Notice shall be provided to the City of any change in the owner of the facility.

18.8 ABANDONMENT OR DISCONTINUATION OF USE

- 18.8.1 At such time that a wind energy conversion facility is scheduled to be abandoned or discontinued, the applicant will notify the City by certified US Mail delivered to the Building Commissioner, of the proposed date of abandonment or discontinuation of operations. In the event that an applicant fails to give such notice, the facility shall be considered abandoned or discontinued if the facility is inoperable for 180 days. In the case of a multi-turbine facility, the SPGA shall determine in its decision what proportion of the facility would be inoperable for the facility to be considered abandoned.
- 18.8.2 Upon abandonment or discontinuation of use, the owner shall physically remove the wind energy conversion facility within ninety (90) days from the date of abandonment of discontinuation of use. This period may be extended at the request of the operator and at the discretion of the SPGA. "Physically remove" shall include, but not be limited to:
 - a) Removal of the wind turbine and tower, all machinery, equipment, equipment shelters, security barriers and all appurtenant structures from the subject property.

- b) Proper disposal of all solid or hazardous materials and wastes from the site in accordance with local and state solid waste disposal regulations.
- c) Restoration of the location of the wind energy conversion facility to its natural condition, except that any landscaping, grading or below-grade foundation may remain in the after-condition.

18.9. If an applicant fails to remove a wind energy conversion facility in accordance with this section of this Ordinance, the City shall have the authority to enter the subject property and physically remove the facility. The SPGA may require the applicant to provide a form of surety (i.e. post a bond, letter of credit or establish an escrow account or other) at the SPGA's election at the time of construction to cover costs of the removal in the event the City must remove the facility. The amount of such surety shall be equal to 150 percent of the cost of compliance with this section. The applicant shall submit a fully-inclusive estimate of the costs associated with removal, prepared by a qualified engineer. The amount shall include a mechanism of a Cost of Living Adjustment after 10 and 15 years.

18.10. TERM OF SPECIAL PERMITS

A Special Permit issued for any wind energy conversion facility shall be valid for 25 years, unless extended or renewed. The time period may be extended or the Special Permit may be renewed upon satisfactory operation of the facility. If the Special Permit is not renewed or extended the facility must be taken down. The Special Permit can be revoked for violations of City, State or Federal laws or regulations, at which time the facility must be taken down.

18.11 APPLICATION PROCEDURES

18.11.1 SPECIAL PERMIT GRANTING AUTHORITY (SPGA)

The SPGA for wind energy conversion facilities shall be the City Council

18.11.2 PRE-APPLICATION CONFERENCE

Prior to the submission of an application for a Special Permit under this regulation, the applicant must meet with the SPGA at a public meeting to discuss the proposed wind energy conversion facility in general terms and to clarify the filing requirements. The SPGA shall meet with an applicant under this regulation within 21 days following a written request submitted to the SPGA and the City Clerk. If the SPGA fails to meet with an applicant who has requested such a meeting within 21 days of said request and said meeting has not been postponed due to mutual agreement, the applicant may proceed with a Special Permit application under this regulation without need for a pre-application conference.

18.11.3 PRE-APPLICATION FILING REQUIREMENTS

The purpose of the conference is to inform the SPGA as to the preliminary nature of the proposed wind energy conversion facility. As such, no formal filings are required for the pre-application conference. However, the applicant is encouraged to prepare sufficient preliminary architectural and/or engineering drawings to inform the SPGA of the location of the proposed facility, as well as its scale and overall design.

18.11.4 APPLICATION AND PROFESSIONAL FEES

The application fee to the SPGA shall be \$175.00. The application fee shall include costs required to advertise the application as required by State and municipal law. In addition to the application fees, the City may engage in the services of a technical expert/consultant to verify information presented by the applicant. The cost for such a technical expert/consultant will be at the expense of the applicant.

18.11.5 ADDITIONAL REQUIREMENTS

Within 30 days of the pre-application conference, or within 21 days of filing an application for a Special Permit, the applicant shall arrange for a balloon or crane test at the proposed site to illustrate the height of the proposed facility. The date, time and location of such test shall be advertised in a newspaper of general circulation in the City at least 14 days, but not more than 21 days, prior to the test. In addition, notice shall be provided to the City, abutters and abutting Historic Commissions and an identical courtesy notice shall be sent to the City Clerk of all adjacent cities.

18.11.6 APPLICATION FILING REQUIREMENTS

The following shall be included with an application for a Special Permit for each wind energy conversion facility:

18.11.6.1 GENERAL FILING REQUIREMENTS

- a) Name, address, telephone number and original signature (photo-reproductions of signatures will not be accepted) of applicant and any co-applicants. Co-applicants may include the landowner of the subject property or the operator of the wind energy conversion facility. If telecommunications antennas are proposed, a telecommunications carrier should be a co-applicant.

- b) If the applicant or co-applicant will be represented by an agent, the name, address and telephone number shall be provided as well as original signature authorizing the agent to represent the applicant and/or co-applicant shall be provided. Photo-reproductions of signatures will not be accepted.
- c) Documentation of the legal right to install and use the proposed facility and proof of control over the clear area, per Section 03.2 of these regulations.

18.11.6.2 LOCATION FILING REQUIREMENTS

- a) Identify the subject property by including the city as well as the name of the locality, name of the nearest road or roads, and street address, if any.
- b) Tax map and parcel number of subject property.
- c) Zoning district designation for the subject parcel (submit copy of City zoning map with parcel identified).
- d) A line map to scale showing the lot lines of the subject property and all properties within 300 feet of the property lines, as well as the location of all buildings, including accessory structures, on all properties shown.

18.11.3 SIGHTING AND DESIGN FILING REQUIREMENTS

18.11.3.1 VICINITY/SITE MAP

A one-inch-equals-40 feet vicinity plan, signed and sealed by a Registered Professional Engineer or Licensed Surveyor showing the following:

- a) Property lines for the subject property and all properties adjacent to the subject property within 300 feet.
- b) Outline of all existing buildings, including purpose (e.g., residential buildings, garages, accessory structures, etc.) on subject property and all adjacent properties within 300 feet. Distances, at grade, from the proposed wind energy conversion facility to each building on the vicinity plan shall be shown.
- c) Proposed location of the wind energy conversion facility, including all turbines, fencing, associated ground equipment, transmission infrastructure and access roads, including:
 1. Location of all roads, public and private, on the subject property an

on all adjacent properties within 300 feet including driveways proposed to serve the wind energy conversion facility.

2. All proposed changes to the existing property, including grading, vegetation removal and temporary or permanent roads and driveways.
 3. Representations, dimensioned and to scale, of the proposed facility, including cable locations, parking areas and any other construction or development attendant to the wind energy conversion facility.
- d) Tree cover and average height of trees on the subject property and adjacent properties within 300 feet.
 - e) Contours at each two feet Above Main Sea Level (AMSL) for the subject property and adjacent properties within 300 feet.
 - f) Representation of location of view point for the sight-line diagram referenced below.

18.11.2 SIGHT LINES AND PHOTOGRAPHS

- a) Sight-line representation. A sight-line representation shall be drawn from representative locations that show the lowest point of the turbine tower visible from each location. Each sight line shall be depicted in profile, drawn at one inch equals 40 feet. The profiles shall show all intervening trees and buildings. There shall be at least two sight line representations illustrating the visibility of the facility from surrounding areas such as the closest habitable structures or nearby public roads or areas.
- b) Existing (before condition) photographs. A color photograph of the current view shall be submitted from at least two locations to show the existing situation.
- c) Proposed (after condition). Each of the existing-condition photographs shall have the proposed wind energy conversion facility superimposed on it to accurately simulate the wind energy conversion facility when built and illustrate its total height, width, and breadth.

18.11.3 ELEVATIONS

Sighting elevations, or views at-grade from the north, south, east and west for a 50-foot radius around the proposed wind energy conversion facility.

Elevations shall be at either one-quarter inch equals one foot or one-eighth inch equals one foot scale and show the following:

- a) Wind energy conversion facility and, if applicable, the security barrier and associated equipment, with total elevation dimensions of all parts of the facility.
- b) Security barrier. If the security barrier will block views of the wind energy conversion facility, the barrier drawing shall be cut away to show the view behind the barrier.
- c) Any and all structures on the subject property.
- d) Existing trees and shrubs at current height and proposed trees and shrubs at proposed height at time of installation, with approximate elevations dimensioned.
- d) Grade changes, or cuts and fills, to be shown as original grade and gradeline, with two-foot contours above mean sea level.

18.11 MATERIALS

- a) Specifications for the proposed wind energy conversion facility shall be provided for all equipment and attendant facilities.
- b) Materials of the proposed wind energy conversion facility specified by type and specific treatment. These shall be provided for the wind turbine tower and all other proposed equipment/facilities.
- c) Colors of the proposed wind energy conversion facility represented by a color board showing actual colors proposed.

18.11.5 LANDSCAPE PLAN

A Landscape Plan including existing trees and shrubs and those proposed to be added or removed, identified by size of specimen at installation and species.

18.11.6 LIGHTING PLAN

If lighting of the site or turbine is proposed (other than FAA lights), the applicant shall submit a manufacturer's computer-generated point-to-point printout, indicating the horizontal foot-candle levels at grade, within the property to be developed and 25 feet beyond the property lines. The printout shall indicate the locations and types of luminaries proposed.

18.11.4 ENVIRONMENTAL REQUIREMENTS

18.11.4.1 NOISE FILING REQUIREMENTS

The applicant shall provide a statement listing the existing noise levels and the maximum future projected noise levels from the proposed wind energy conversion facility. Such statement shall be certified and signed by a qualified engineer, stating that noise projections are accurate and meet the noise standards of this ordinance and applicable State requirements.

18.11.4.2 OTHER

The applicant shall submit information illustrating how the project is consistent with the environmental standards of this ordinance.

18.11.5 ENFORCING AUTHORITY

The Department of Inspectional Services shall be the enforcing Authority of this Ordinance.

18.11.6 VIOLATION FEES

Violation of the Ordinance shall result in a fine with each day being a continuing violation.