City of Fall River, *In City Council*

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

That Chapter 86 of the Revised Ordinances of the City of Fall River, Mass., 1999, which chapter relates to Zoning, be deleted in its entirety, and replaced thereof with the following:

CITY OF FALL RIVER
IN CITY COUNCIL
MAR 1 2 2013
Referred to Planning Board and Committee on Ordinances and Legislation

CITY OF FALL RIVER
IN CITY COUNCIL
JUN 2 5 2013
Passed through first reading, as amended, 7 yeas, with Councilors Camara and Rego abstaining

7-18-13 Copy to Planning Board

CHAPTER 86: FALL RIVER ZONING ORDINANCE[1]

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[1] **Cross references:** Any rezoning ordinance saved from repeal, § 1-8(6); any ordinance establishing the official plot of the city, the zoning map or any amendments thereof not included in this revision saved from repeal, § 1-8(11); buildings and building regulations, ch. 10; environment, ch. 26; historical preservation, ch. 38; housing, ch. 42; streets, sidewalks and other public places, ch. 66; waterways, ch. 82.

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ARTICLE I. PURPOSE AND AUTHORITY

Sec. 86-1. Title.

This ordinance, ordained in accordance with the provisions of Chapter 40A of Massachusetts General Laws shall be known as the "Fall River Zoning Ordinance", or "Ordinance", herein.

Sec. 86-2. Purpose of chapter.

The purpose of this chapter is to promote the health, safety, convenience and general welfare of the City; to encourage the most appropriate use of land throughout the City; to prevent overcrowding of the land; to conserve the value of the land and buildings; to lessen congestion in the streets; to avoid undue concentration of population; to provide adequate light and air; to facilitate adequate provisions for transportation, water, sewage, schools, parks and other public requirements; and to preserve and increase the amenities of the City, all as set forth in Massachusetts General Laws, Chapter 40A, as amended.

Sec. 86-3. [Reserved.]

Sec. 86-4. Repeal or modification of chapter.

(a) Procedure. This chapter and the zoning map that is a part of this chapter shall not be repealed or modified except in conformity with M.G.L.A. c. 40A, § 5.

(b) Effect on existing permits. Construction or operations under a building or special permit shall conform to any subsequent amendment of this chapter unless the use or construction so authorized is commenced within six 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.

(Ord. No. 1997-2, § 21-3, 1-28-1997) **State law references:** Adoption and amendment of zoning ordinances, M.G.L.A. c. 40A, § 7.

Sec. 86-5. Effect of chapter on existing ordinances; conflicting regulations.

Nothing contained in this chapter shall be construed as repealing or modifying any existing ordinance or regulation of the city, but this chapter shall be in addition thereto; provided that whenever this chapter imposes greater restrictions upon the construction, alteration, enlargement, reconstruction, raising up, moving or use of buildings, structures or premises than other ordinances or provisions of law, such greater restrictions shall prevail. (Ord. No. 1997-2, § 21-4, 1-28-1997)

Sec. 86-6. Severability.

The invalidity of any section or provision of this chapter or of any boundary line or district or part thereof, as laid down upon the zoning map, shall not affect the validity of any other section or provision of this chapter, or of any other boundary line or district or part thereof, as laid down upon the zoning map. (Ord. No. 1997-2, § 21-5, 1-28-1997)

Sec. 86-7. Authority.

This chapter has been enacted pursuant to authority granted by M.G.L. c. 40A, The Zoning Act, and the Home Rule Amendment, Article 89 of the Massachusetts Constitution.

The provisions of this chapter shall apply to all buildings, structures or land within the boundaries of the City.

In interpreting and applying the provisions of this chapter, the requirements contained herein are declared to be the minimum requirements for the purposes set forth, and also, as further set forth by M.G.L. c. 40A, as amended.

Secs. 86-8--86-30. [Reserved.]

***Cross references:** Administration, ch. 2.

ARTICLE II. DEFINITIONS

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

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

ACRE: An Acre shall be 43,560 square feet.

AGRICULTURE: 'Farming' or 'agriculture' shall include all farming in all of its branches and the cultivation and tillage of the soil, dairying, the production, cultivation, growing and harvesting of any agricultural, aquacultural, floricultural or horticultural commodities, the growing and harvesting of forest products upon forest land, the raising of livestock including horses, the keeping of horses as a commercial enterprise, the keeping and raising of poultry, swine, cattle and other domesticated animals used for food purposes, bees, fur-bearing animals, and any forestry or lumbering operations, performed by a farmer, who is hereby defined as one engaged in agriculture or farming as herein defined, or on a far as an incident to or in conjunction with such farming operations, including preparations for market, delivery to storage or to market or to carriers for transportation to market.

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

ARTIST: A person regularly engaged in and who derives at least 20% of his/her annual income from art or creative work either written, composed, created or executed for a "one of a kind, limited" production exclusive of any piece or performance created or executed for industry oriented distribution or related production.

ARTIST LOFT: Artist loft space used, or designed to be used, by artists primarily for "art use" may also be used by artists as a residence. Such residency shall be limited to one family per residential unit. Each unit shall have a minimum of 800 square feet (s.f.) of floor area for one occupant and a minimum of 1,200 square feet (s.f.) of floor area for two or more family members.

ART USE: The production of art or creative work either written, composed or executed for a "one of a kind, limited" production exclusive of any piece or performance created or executed for industry-oriented distribution or related production. Such use may include fine and applied arts including painting or other like picture, traditional and fine artisanry, sculpture, writing, creating film, creating animation, music and theater including lessons, choreography and the performing arts, but shall not include adult entertainment, or adult use.

AUTOMOBILE REFUELING STATION: A structure, building or premises or any portion thereof where gasoline, oil, alternative fuels or other similar products are stored and sold by an attendant and/or on a self-service basis to the public, without repair service or garage, but may also include retail sales.

AUTOMOTIVE REPAIR GARAGE: Automotive repair garage shall mean a repair facility not including auto body or paint shops, provided all servicing and repairs are carried out inside the building.

AUTOMOTIVE SERVICE STATION: Means a full service gasoline station or service station for minor repairs, with or without self-service gasoline pumps, where no major repairs are made provided that all lubrication and minor repairs are carried out inside the building.

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

BOARDING OR LODGING HOUSE: A dwelling or that part of a dwelling where sleeping accommodations are let, with or without kitchen facilities, to four (4) or more persons not within the second degree of kindred to the person conducting it, and shall include rooming houses, boarding houses and tourist homes, but shall not include hotels, motels, inns, sorority, fraternity and cooperative residences, convalescent homes, nursing homes, rest homes, dormitories of charitable or philanthropic institutions or convalescent or nursing homes licensed under G.L. c. 111, s. 71 or rest homes so licensed, or group residences licensed or regulated by agencies of the commonwealth.

BODY ART ESTABLISHMENT: Any building or structure where the practices of body piercing and/or tattooing, whether or not for profit, are performed. For the purpose of this chapter, body art establishments shall not be classified as an establishment that provides services to the general public.

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

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

BUILDING COMMISSIONER/INSPECTOR OF BUILDINGS: The building commissioner /inspector of buildings shall be that individual as defined under the Massachusetts State Building Code, as amended from time to time.

BUILDING HEIGHT: The vertical distance of the highest point of the roof as measured from the mean ground level at all elevations of a building.

BUILDING INTEGRATED WIND ENERGY FACILITY: A wind energy facility shall be considered to be building integrated if it is designed to be permanently mounted on a building or other inhabitable structure. This definition applies to wind turbines of any capacity that are designed to be operated in direct contact with a building. This definition also covers, for the purposes of this zoning provision, other wind energy facilities primarily used for land-based applications which may be permanently mounted and operated on a building.

BUILDING PERMIT: A building permit is a required approval of a project by a licensed inspector of buildings/building commissioner which is consistent with the local, state and federal building codes. In addition, the permit must meet the criteria set forth under the local zoning ordinances.

COMMUNICATION TOWER: A tower, antennas, cables, radio, electronic and associated equipment used by FCC licensed carriers for the purposes of transmitting and receiving voice and data via radio waves.

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

DECK: A horizontal platform supported by any combination of posts, beams, foundations, and/or joists with or without handrails, steps or terraces and not covered by a permanent roof.

DOOR, FRONT: An entry that serves as the principal entrance for residents or visitors to one or more offices, dwelling units or retail establishments on a lot, and includes obvious design elements that identify it as a primary entrance.

DORMITORY: A building used as group living quarters for a student body or religious order as an accessory use for a university, college, boarding school, convent, or similar institutional use.

DRIVEWAY: A vehicular passageway providing access between a street or way and a parking space, parking area, garage, or loading area, or between two such areas on a lot or lots.

DRIVE THRU: An establishment where goods or services are rendered directly to the occupants of motor vehicles.

DWELLING: A building designed for or occupied as a residence.

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

DWELLING UNIT: A room or rooms connected together, constituting a separate, independent housekeeping establishment and physically separated from any other rooms or dwelling units which may be in the same structure, and containing independent cooking and sleeping facilities.

FAÇADE: The exterior face of a building, which is treated in an architectural fashion.

FAMILY: One or more persons occupying a single dwelling unit, provided that, unless all members are related by blood, marriage or adoption, no such family shall contain more than five persons, but further provided that domestic servants employed on the premises may be housed on the premises without being counted as a family.

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

1. Roofed porches and balconies, whether enclosed and unroofed porches and balconies above the second floor.

2. Elevator shafts and stairwells on each floor.

3. Accessible attic space with clear headroom of at least five feet, whether finished or unfinished, except as hereafter excluded. Accessible attic spaces that are only accessible via pull-down stair or ceiling hatch.

4. Interior balconies, mezzanines and penthouses.

5. Basement and cellar areas, except as hereafter excluded.

The following areas are excluded from the gross floor area:

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

2. Basement and cellar areas devoted exclusively to uses accessory to the operation of a commercial or industrial building.

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

4. Attic space and other areas for elevator machinery in any building or mechanical equipment accessory to the operation of a commercial or industrial building.

5. Attic space that is not accessible and attic space with less than five feet of clear headroom. [ORD. 07-13-04]

FLOOR AREA RATIO: The floor area ratio is the gross floor area of a building divided by the area of the lot. Areas devoted to parking, to building mechanical systems and certain other areas are not counted when calculating gross floor area.

FRONTAGE: Frontage shall be an unbroken distance along the street right of way at the front of the lot, as measured from one side lot line to the other, and shall provide rights of access and safe, year-round, practical vehicular access for fire, police and emergency vehicles to existing or proposed structures of buildings. In the case of a lot that fronts on a curve or angle in the street, the unbroken distance shall be measured from one side lot line to the other along the line that marks the minimum required front yard set-back of the building on the lot.

FUEL STORAGE FACILITY: A structure, building or premises or any portion thereof where gasoline, oil, alternative fuels or other similar products are stored but not sold at retail (other than for on-site use).

FUNERAL AND/OR UNDERTAKING ESTABLISHMENT: All or part of a building used for funeral services. Such building may contain space and facilities for (a) embalming and the performance of other services necessary for the preparation of the dead for burial, (b) the storage of caskets, funeral urns, and other related funeral supplies, (c) the storage of funeral vehicles, (d) facilities for cremation, and (e) the living quarters of an individual whose bona-fide occupation is in the funeral establishment.

GARAGE: A building, separate or attached to a dwelling, in which one or more motor vehicles but no greater than three, one of which is owned by the owner or a tenant of the premises, are kept solely for the private or professional use of their owners, and in which no space is rented or used for any commercial vehicle with the exception of pickup trucks of less than one ton capacity. Note: references to other types of garages, such as public or residential/nonresidential parking garages, parking spaces or parking areas, as defined herein, are treated separately from garages under this code.

HEIGHT: With respect to wind turbines, the height of a wind turbine measured from natural grade to the tip of the rotor blade at its highest point, or blade-tip height.

HOME OCCUPATION: An occupation, business, trade, service or profession, which is incidental to and conducted in a dwelling unit, by permanent residents thereof. No more than one home occupation can be conducted on any premises.

HOSPITAL: An institution, however named, licensed by the Massachusetts Department of Public Health, whether conducted for charity or profit, which is advertised, announced or maintained for the express purpose of diagnosis, medical or surgical treatment which is rendered within said institution.

HOTEL or MOTEL: A building or buildings intended and designed for transient, overnight or extended occupancy, divided into separate units within the same building with or without a public dining facility. If such hotel or motel has independent cooking facilities, such unit shall not be occupied by any guest for more than four (4) continuous months, nor may the guest reoccupy any unit within thirty (30) days of a continuous four-month stay, nor may the guest stay more than six (6) months in any calendar year.

KENNEL: One pack of collection of dogs on a single premises, whether maintained for breeding, boarding, sale, training, hunting or other purposes and including any shop where dogs are on sale, and also including every pack or collection of more than three (3) dogs, three months old or over

owned or kept by a person on a single premises irrespective of the purpose for which they are maintained.

LANDING: An intermediate platform on a flight of stairs.

LARGE WIND FACILITY: Equipment, machinery and structures utilized in connection with the conversion of wind (kinetic energy) into electrical power with a rated output of electrical power production equipment of greater than 100kW/0.1MW.

LIBRARY: A building, modular unit, or other structure used as a free public library in a city or town.

LOADING SPACE: That portion of a vehicle accommodation area used to load and/or unload goods to/from motor vehicles.

LOT: A parcel of land held in ownership that may be occupied by a building, including such open spaces as may be required by this chapter, which is at least of sufficient size to meet the minimum requirements of the district in which it is located. Such lot shall have frontage on any improved public way constructed (or adequately bonded to be constructed) to the city's specifications, or on an improved private way constructed to the city's specifications. (See "UNBUILDABLE LOT", also) The word "lot" includes the words "plot" and "parcel."

LOT AREA: The horizontal area of the lot exclusive of any area in a public or private way and for lots newly created after April 1, 2013, exclusive of any land below the high water line of any water body contained therein. At least fifty percent (50%) of lot area for all lots required for zoning compliance shall be land other than wetland for all lots newly created after April 1, 2013.

LOT DEVELOPMENT COVERAGE: The area of a lot, including the footprints of all structures, pools, parking areas, driveways, outside storage and assembly areas. The maximum lot coverage shall be determined as a percentage of the size of the lot.

LOT LINE, FRONT: A line dividing a lot from a street.

LOT LINE, REAR: Except for triangular lots, corner lots, and other such lots, the lot line opposite the front lot line.

MANUFACTURING: A use engaged in the basic processing and manufacturing of materials, or the manufacture from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales and distribution of such products, including, but not limited to, the following types of industries: food and kindred products, apparel, textiles and related products, electronic and electrical products, furniture and fixtures, printing and publishing, paper and allied products, plastic and allied products, primary and fabricated metal products, machinery, transportation and related equipment products, instruments and related products, including the storage of raw materials and containers used in or incidental to any of the foregoing provided that any open lot storage shall not exceed twelve (12) feet in height and that the area so used shall be enclosed by a tight wall or fence of at least the same height of the material so stored. Manufacturing shall not include recycling, as defined herein.

MEDICAL OR DENTAL CENTER OR CLINIC: A building designed and used for the diagnosis and treatment of human patients that does not include overnight care facilities.

MUNICIPAL FACILITY: Government office, service, or facility, including but not limited to police and fire stations, libraries, and administrative offices, owned or operated by the City of Fall River, the Fall River School Department, or any of their departments.

MUNICIPAL USE: Use of land or structures by the City of Fall River and others for maintenance operations, public utilities, public works and similar governmental functions.

MUSEUM: A public building, place, or institution devoted to the acquisition, conservation, study, exhibition, and educational interpretation of objects having scientific, historical, or artistic value.

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

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

ON-SITE WIND FACILITY: A wind project, which is located at a commercial, industrial, agricultural, institutional or public facility that will generate electricity on-site.

OPEN SPACE, LANDSCAPED: The parts of a lot designed and developed for pleasant appearance in trees, shrubs, ground cover and grass, including other landscaped elements, such as natural features of the site, walks and terraces. Such space shall not include rooftops or areas of the lot used for parking, access drives or other hard-surfaced areas except walks and terraces as noted above, designed and intended for non-vehicular use. Such hard-surfaced walks and terraces shall not exceed twenty-five percent (25%) of the total required landscaped open space.

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

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

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

For all parking areas, the following definitions shall apply:

1. Access drive shall mean the portion of a private parking area or commercial parking lot or structure used to provide access from the street to the parking spaces, but which does not abut a parking space on any side.

2. Angle parking shall mean parking spaces placed at an angle less than 90 degrees from a drive lane.

3. Drive lane shall mean the portion of a private parking area or commercial parking lot or structure which abuts a parking space on one or more sides, which is not used for vehicular parking, and which provides access from the parking space to a street with or without the use of an access drive.

4. Perpendicular parking shall mean parking spaces placed at an angle of 90 degrees from a drive lane.

PARKING SPACE: A parking space shall be a rectangle at least nine (9) feet by eighteen (18) feet exclusive of any required drive or aisle.

PARKING SPACE, OFF-STREET: An area of land adequate for parking an automobile with room for opening doors on both sides together with maneuvering room and proper access to a public or private way. Required off-street parking for three or more automobiles shall have individual spaces and shall be so designed, maintained and regulated that no maneuvering incidental to parking shall be on any public or private street or walk and so that any automobile may be parked or unparked without moving another.

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

PIGEON LOFT: Means the structure(s) for the keeping or housing of pigeons. There shall be at least one (1) square foot of floor space in any loft for each mature pigeon kept therein.

PORCH: A horizontal platform supported by any combination of posts, beams, foundations, and/or joists with or without handrails, steps or terraces covered by a permanent roof, but not enclosed with walls, windows or screens any higher than four (4) feet from the platform.

PROFESSIONAL OFFICE: Architecture, engineering, law, medicine, insurance, real estate, dentistry or other activity in which specialized services to clients are performed by persons possessing a degree from a recognized institution of higher learning demonstrating successful completion of a prolonged course of specialized intellectual instruction and study, and possessing evidence of professional capability such a membership in a professional society requiring standards of qualification for admission or licensing by the Commonwealth. A professional office shall not include professionals working in a nail, hair care, cosmetology or tattoo establishment.

PROJECTION: An architectural feature, often containing window and/or door assemblies, including bay windows, stairways, open landings, bulkheads, door porticos, eaves, and balconies that protrude beyond the primary wall plane of a building.

RATED NAMEPLATE CAPACITY: The maximum rated output of electric power production equipment. The manufacturer typically specifies this output with a "nameplate" on the equipment.

RECYCLING CENTER: A parcel of land, with buildings, within which materials are stored, separated and processed for shipment and eventual reuse in new products. All storage, separation and processing for shipment shall be contained within enclosed buildings. No use that has outdoor storage, separation or processing for shipment shall be considered a recycling center. Recycling centers shall not include facilities where recyclables are processed and/or treated so as to be placed in a condition in which they may be used again in new products or establishments that store, process or treat hazardous wastes. This definition of recycling center shall not apply to a municipal facility for the collection of recyclable materials.

RESTAURANT: A building, or portion thereof, including but not limited to a lunch room, cafeteria, ice cream parlor, which is designed, intended and used for the indoor sales and consumption of food prepared on the premises, and the incidental sale of food to "take out", except that food may be consumed outdoors in landscaped terraces, designed for dining purposes, which are adjuncts to the main indoor restaurant facility. Alcoholic and nonalcoholic beverages may be served, subject to local licensing. Drive-up or drive-through window may be allowed subject to site plan review.

RESTAURANT, TAKE-OUT: Any establishment which has as its principal business the preparation of food, frozen dessert, or beverage for sale to be consumed away from the premises of the establishment. This does not apply to restaurants that occasionally sell such items for consumption away from the premises, and does not apply to drugstores or grocery stores. Restaurants of a size greater than 1500 square feet cannot be considered take-out restaurants. If drive-through windows are an allowed use in the district in which the restaurant is located, take-out restaurants may have drive-through windows by special permit.

RETAIL: A facility selling goods, more specifically listed in the Table of Uses.

SANITARY LANDFILL: A refuse transfer station, a refuse incinerator, a refuse compost plant, a plant, a residual waste storage or treatment plant, or any other works for treating or disposing of garbage, refuse, offal and rubbish.

SENIOR CONGREGATE HOUSING: A form of elderly oriented housing in which each individual or two person family is provided with separate quarters which contain living and sleeping space and which may contain kitchen and bath facilities. Each such living space shall be considered the equivalent of one dwelling unit. Such housing shall also contain common dining, kitchen and social facilities. Limited supportive services may also be provided.

SERVICE BUSINESS: Service businesses are enterprises that are established and maintained for the purpose of providing services (rather than or in addition to products) to private and/or commercial customers.

SIDEWALK: A paved, surfaced, or leveled area, paralleling and usually separated from the street, used as a pedestrian walkway.

SIGN: A structure which consists of a device, light, letter, word, model, banner, pennant, trade flag, logo, insignia, or representation which advertises, directs, or announces a use conducted, goods, products, services, or facilities available which influence persons, or conveys information, including electric signs, but excluding window displays or merchandise and signs which are incidental to the displayed merchandise. Refer to Section 86-461 for additional sign provisions.

SMALL WIND ENERGY SYSTEM: All equipment, machinery and structures utilized in connection with the conversion of wind (kinetic energy) into electrical power. This includes, but is not limited to, storage, electrical collection and supply equipment, transformers, service and access roads, and one or more wind turbines, which have a total rated nameplate capacity of not more than 100kW/0.1MW.

SPECIAL PERMIT: A permit issued by the special permit granting authority for uses and/or structures which are in harmony with the general purpose and intent of the relevant zoning ordinance. Special permits may authorize (with conditions) those uses and/or structures, including those uses and/or structures, activities and other matters set forth in Mass. General Laws c. 40A § 9, as from time to time amended so long as the underlying thresholds are met.

SPECIAL PERMIT GRANTING AUTHORITY: Unless specifically designated otherwise herein, the Zoning Board of Appeals of the City of Fall River.

STATE BUILDING CODE (SBC): The latest edition of the Massachusetts State Building Code.

STORY: That part of a building or structure between any floor and the floor or roof above. A cellar, basement or parking area will count as a story only if a) more than half of the clear height is above the average elevation of the finished lot grade, or, b) more than five feet of the front elevation is above the grade at the front of the structure. Steeples and projections used or intended to be used exclusively for utility service or access to the roof shall not be deemed a story. Attic areas used for storage or structural support where no portion of the attic can be converted to a living area under the Massachusetts Building Code shall not be considered a story.

STORY, HALF: A partial story under a roof which has the line of intersection of the roof and the wall face not more than three feet above the floor level, and in which space the floor area with headroom of five feet or more occupies no more than eighty percent (80%) of the area of the story directly beneath. Where such floor area occupies more than eighty percent (80%) it shall be considered a story. Dormers are included in determining the story status. Attic areas used for storage or structural support where no portion of the attic can be converted to a living area under the Massachusetts Building Code shall not be considered a story.

STREET: An accepted city way, or a way established by or maintained under county, state, or federal authority, or a way built to the specifications of a subdivision plan approved in accordance with the subdivision control law, or a way determined by the planning board to have sufficient width, suitable grades, and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land, and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon.

STREET LINE: The right-of-way line of a street.

STRUCTURE: Anything constructed or erected with a fixed location on the ground or attached to something having a fixed location on the ground. Among other things, structures include buildings, walls, fences, billboards, signs and poster panels.

SUBSTANTIAL EVIDENCE: Such evidence as reasonable mind might accept as adequate to support a conclusion.

TATTOOING: Any method of placing ink or other pigment into or under the skin or mucosa by the aid of needles or any other instrument used to puncture the skin, resulting in permanent coloration of the skin or mucosa. This includes all forms of cosmetic tattooing.

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

TOWN HOUSE: A dwelling unit in a row of at least three (3) such units, in which each unit has its own front and rear exposure to the outside, no unit is located over another unit, and each unit is separated from any other unit by one or more common vertical fire-resistant walls.

TRAILER: A highway vehicle designed, constructed and equipped for use as a dwelling and which is capable of being hauled or towed, or is self-propelled, including any such vehicle so converted as would make it immobile.

TEMPORARY TRAILER: A vehicular, portable structure built on a chassis and designed to be used for temporary occupancy but not as a residence; with the manufacturer's permanent identification "Temporary Trailer" thereon; and when factory equipped for the road, being of any length provided its gross weight does not exceed 4,500 pounds (~2042 kg), or being of any weight provided its overall length does not exceed 28 feet (~8.534 m).

TRANSIENT: A person or stay that is brief or temporary as a guest.

UNBUILDABLE LOT: A parcel of land that does not conform to the definition of a lot; land which is insufficient to meet the minimum requirements of the zoning district in which it is located. (See "LOT", also)

USE: The purpose for which land or a building is arranged, designed or intended, or for which either land or a building is or may be occupied or maintained.

UTILITY-SCALE WIND FACILITY: A commercial wind facility, where the primary use of the facility is electrical generation to be sold to the wholesale electricity markets.

VARIANCE: A relaxation of the terms of this chapter where such relaxation will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of this chapter would result in unnecessary and undue hardship.

VETERINARY CLINIC: An establishment to provide medical care to animals of all types housed in a facility separate and apart from all other uses on that site. There shall be no outdoor facilities to house or exercise animals.

WETLAND: That area of land which may not be excavated or filled as of right and is subject to state regulations governing lakes, ponds, rivers, streams, fresh water swamps and other wetland features as identified by the Massachusetts Wetland Protection Act, as determined by the Conservation Commission or the Massachusetts Department of Environmental Protection.

WHOLESALE: The sale of goods in large quantity for the purpose of resale and completely enclosed in a building. Such uses shall not include the sale or transfer of flammable liquids, gas, explosives or other potentially hazardous materials.

WIDTH: The dimension of a lot measured parallel to the street on which the lot faces and at the required setback line of the Structure.

WIND ENERGY FACILITY: All equipment, machinery and structures utilized in connection with the conversion of wind to electricity. This includes, but is not limited to, transmission, storage, collection and supply equipment, substations, transformers, service and access roads, and one or more wind turbines.

WIND MONITORING or METEOROLOGICAL TOWER: A temporary tower equipped with devices to measure wind speeds and direction, used to determine how much wind power a site can be expected to generate.

WIND TURBINE: A device that converts kinetic wind energy into rotational energy that drives an electrical generator. A wind turbine typically consists of a tower, nacelle body, and a rotor with two or more blades.

YARD: A required open space unoccupied and unobstructed by any structure or portion of a structure, covered or uncovered, with the exception of any entrance stairs, ramps or stoops, fences, walls, poles, posts and other customary yard accessories, ornaments and furniture. The required yard shall also exclude building eaves, jets, bay windows or similar projections up to two (2) feet in width.

YARD SETBACK, FRONT: A yard extending along any lot line, which is also the right-of-way line of a public or private way. Depth of a required front yard shall be the minimum distance required by the district regulations for the full distance of the front lot line. For corner lots, the front yard shall be the side of the lot with the required frontage. The other right-of-way line of a public or private way shall be considered the side yard.

YARD SETBACK, SIDE: A yard of at least the minimum width required by the district regulation with its inner edge parallel with the side lot line.

YARD SETBACK, REAR means a yard of at least the minimum width required by the district regulation with its inner edge parallel with the rear lot line.

(Ord. No. 1997-2, § 21-7, 1-28-1997; Ord. No. 2001-29, § 1, 10-4-2001) **Cross references:** Definitions generally, § 1-2.

ARTICLE III. DISTRICTS AND DISTRICT USE REGULATIONS

Division 1. Generally.

Sec. 86-31. Fee for application for change in District Boundaries.

Each application for a proposed change to the existing zoning district boundaries shall require a fee as provided in the fee schedule in this ordinance to be paid to both the Planning Board and the City Clerk to cover the cost of advertising the petition.
(Ord. No. 1994-20, § 19(21-74), 9-27-1994)

Sec. 86-32. Districts established; adoption of District Map.

(a) For the purpose of this chapter, the city is hereby divided into the following districts:

1. Single Family Residence District [S].
2. Single Family Residence District [R-8].
3. Single Family Residence District [R-30].
4. Single Family Residence District [R-80].
5. Two Family Residence District [R-4].
6. General Residence District [G].
7. Multiple Family Residence District [M].
8. Apartment District [A-2].
9. Central Business District [CBD].
10. Mixed Use Business District [MBD].
11. Neighborhood Shopping District [B-N].
12. Local Business District [B-L].
13. Waterfront and Transit Oriented Development District [WTOD].
14. Medical District [MD].
15. Commercial Mill District [CMD].
16. Industrial Park District [IP].
17. Open Space/Recreational District [OS].
18. Water Resource District [WR]
19. Housing Development Overlay District [HD]
20. Arts Overlay District [AOD].
21. Research and Development Overlay District [RDOD].
22. Watershed and Water Supply Protection District [WWD].

(b) The boundaries of each of these districts are hereby established as shown on the map entitled "Zoning Map of the City of Fall River," filed in the office of the city clerk, which map, together with all the boundary lines and designations thereon, is hereby made a part of this Chapter. (Ord. No. 1997-2, § 21-71, 1-28-1997)

Sec. 86-33. Determination of district boundaries.

(a) The location of the boundary lines shown upon the zoning map, which is a part of this chapter, shall be determined as follows:

1. Where the boundary lines are shown upon the map within the street lines of public or private streets or ways, the centerlines of such streets or ways shall be the boundary lines.
2. Boundary lines located outside of street lines and shown approximately parallel thereto shall be regarded as parallel to such street lines, and figures placed upon the map between such boundary lines and the street lines shall be the distances in feet of such boundary lines from the street lines, such distances being measured at right angles to the street lines unless otherwise indicated.

3. Where the boundary lines are shown approximately on the location of property or lot lines, and the exact location of such boundary lines is not indicated by means of figures, distances or otherwise, then the property lines or lot lines shall be the boundary lines.

4. Where districts border upon any body of water, any boundary line between two adjoining districts which is indicated on the map as ending at the shoreline shall be regarded as extending out into the body of water in the same direction as indicated on the land to such distance as to include in the district on each side of the extension of the boundary line the area in which any building or structure has been or may be constructed or premises may be occupied.

5. In any cases which are not covered by the provisions of this section, the location of boundary lines shall be determined by the distances in feet, if given, from other lines upon the map, or, if distances are not given, then by the scale of the map.

6. Wherever any uncertainty exists as to the exact location of a boundary line, the location of such line shall be determined by the building inspector.

7. Where a district boundary line divides a lot which was in single ownership on the effective date of the ordinance from which this subsection is derived, the entire lot shall be deemed to be in that district in which the greater part of the lot lies; except that in a case where a lot is so divided contains land at least equal to the minimum required for a permitted use in each district, the building inspector may permit the lot to be divided to provide for such separate uses.

(b) Any highway, public way, private way or public land hereafter laid out and accepted, approved or acquired in accordance with law shall be added to the zoning map, and any highway, public way, private way or public land discontinued in accordance with law shall be removed from the zoning map without any further action of the city council. (Ord. No. 1997-2, § 21-72, 1-28-1997)

Editor's note: The ordinance from which subsection (a)(7) of this section was derived was approved on September 14, 1967, to become effective as provided by law.

Sec. 86-34. Applicability of district regulations.

The regulations set by this chapter within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, unless specifically exempted under the terms of this chapter. In particular:

1. No building, structure or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered, except in conformity with all of the applicable regulations in this chapter.

2. No part of a yard or other open space or off-street parking or loading space required about or in connection with any building for the purpose of complying with this chapter shall be included as part of a yard, open space or off-street parking or loading space similarly required for any other building.

3. No yard or lot existing on the effective date of the ordinance from which this chapter is derived shall be reduced in dimension or area below the minimum requirements set forth in this chapter. Yards or lots created after such effective date shall meet at least the minimum requirements established by this chapter.

4. No land within the city may be used for the collection, treatment, storage, burial, incineration or disposal of radioactive waste, including but not limited to waste classified as low-level radioactive waste.

5. Illumination of buildings, yards and signs shall not constitute a hazard to motor vehicle operators and the light sources of such illumination shall be shielded from adjacent residential districts and streets. Flashing, moving or intermittent illumination shall not be permitted. (Ord. No. 1997-2, § 21-73, 1-28-1997)

Sec. 86-35. Table of Dimensional Regulations.

The table on the following page is incorporated in and made part of this chapter. In the event of discrepancies between the narrative text in the sections of this chapter and the table, the text of the sections shall control.

Zone		Minimum Lot Area (square feet)	Minimum Frontage and Width (feet)	Min. Front Yard (feet)	Min. Side Yard (feet)	Min. Rear Yard (feet)	Max. Building Height (feet)	Max Lot Coverage
SINGLE FAMILY	S	12,000	100	25	15	25	35	25%
SINGLE FAMILY	R-8	8,000	80	20	15	20	35	25%
SINGLE FAMILY	R-30	30,000	150	50	25	25	35	
SINGLE FAMILY	R-80	80,000	300	75	50	75	35	
TWO FAMILY	R-4	6,000/unit 2,000/second unit	75	15	10	20	35	30%
GENERAL RESIDENCE Maximum 3 units	G	5,000/unit 1,500/add'l unit	50	12	10	15	45	25%
APARTMENT 6 or less units/ 20 or greater units	A-2	10,000/unit 2,000/add'l unit	100	30	20	30	45 or 70	30%
MULTIPLE FAMILY RESIDENCE Maximum 6 units	M	5,000/unit 1,500/add'l unit	50	12	10	15	45	25%
LOCAL BUSINESS Maximum 3 units	B-L	5,000/unit 1,500/add'l unit	50	12	10	15	45	
CENTRAL BUSINESS	CBD	5,000	50	12	10	10	45 or 70	
MIXED USE BUSINESS	MBD	8000	50	12	10	10	70	
NEIGHBORHOOD SHOPPING	B-N	10,000	100	35	35	25	45	
WATERFRONT & TRANSIT ORIENTED DEVELOPMENT	WTOD	2,500	50	10	10	10	80 (or 6 stories, whichever greater)	80%
MEDICAL	MD	2,500	50	10	10	10	80 (or 6 stories, whichever greater)	
COMMERCIAL MILL	CMD	10,000	100	10	10	10	80 (or 6 stories, whichever greater)	
INDUSTRIAL PARK	IP	10,000	100	50	40	40	80 (or 6 stories, whichever greater)	70%
OPEN SPACE/ RECREATION	OS		300	75	50	75	35	
WATER RESOURCE	WR		300	75	50	75	35 (or 2.5 stories, whichever greater)	

Sec. 86-36. Table of Uses.

The following table is incorporated in and made part of this chapter. In the event of discrepancies between the narrative text in the sections of this chapter and the table, the text of the sections shall control.

[TABLE OF USES ON FOLLOWING 4 PAGES]

Key: 'Y' = Permitted Use; 'SP' = Special Permit from ZBA Required; **Blank Box** = Not a Permitted Use, Variance from ZBA Required

In the event of discrepancies between the narrative text for each district and the table, the text of the sections shall control.

TABLE OF USES: Section 86-36

DISTRICT TYPE:	Single Family				Multi Family				Business						Ind.		Overlay (1) (2)				Other	
DISTRICTS:	S	R-8	R-30	R-80	G	M	R-4	A-2	CBD	MBD	B-N	B-L	WTOD (5)	MD	CMD	IP	AOD (3)	RDOD	WWD	HD (4)	OS	WR
RESIDENTIAL USES																						
a. Single family dwelling (1)	Y	Y	Y	Y	Y	Y	Y	Y				Y										
b. Two family dwelling (1)					Y	Y	Y	Y				Y			SP							
c. Three family dwelling (1)					Y	Y		Y				Y			SP							
d. Multi family dwelling (4 to 6 units) (1)						Y		Y		Y			Y		SP		Y					
e. Multi family dwelling (7 to 20 units)								Y		Y			Y		SP		Y					
f. Multi family dwelling (20 or more units)								Y	Y	Y			Y		SP		Y					
g. Boardinghouse, dormitory or lodginghouse								Y														
h. Bed & breakfast inn								Y					Y				Y					
i. Senior congregate housing, including, but not limited to, assisted living facilities.								Y						SP								
RESIDENTIAL ACCESSORY USES																						
a. Garage for the storage of automobiles owned by the residents of the premises only. Not more than three vehicles.	Y	Y	Y	Y	Y	Y	Y	Y														
b. Sheds	Y	Y	Y	Y	Y	Y	Y	Y				Y										
c. Home occupation.	Y	Y	Y	Y	Y	Y	Y	Y														
INSTITUTIONAL, RECREATIONAL & EDUCATIONAL USES																						
a. Church or Religious purpose and/or any exempt use (M.G.L. Ch. 40A Sec. 3.)	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
b. Public, private, religious, or other non-profit schools or educational uses or buildings, including college/higher education institutions	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y				
c. Club or lodge, except one whose chief activity is customarily carried on as a business.					Y				Y	Y	Y	Y										
d. Bicycle and pedestrian paths, landscaped pedestrian parks and plazas	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y

DISTRICT TYPE:	Single Family				Multi Family				Business						Ind.		Overlay (1) (2)				Other	
DISTRICTS:	S	R-8	R-30	R-80	G	M	R-4	A-2	CBD	MBD	B-N	B-L	WTOD (5)	MD	CMD	IP	AOD (3)	RDOD	WWD	HD (4)	OS	WR
e. Library or museum open to the public or connected with a permitted educational use and not conducted as a gainful business.									Y	Y	Y	Y	Y	Y			Y					
f. Legalized gaming facilities													Y									
g. Commercial recreational facility, outdoor (including stadiums, athletic facilities and convention complexes).													Y			SP		SP				
h. Commercial recreational facility, indoor (including stadiums, athletic facilities and convention complexes).													Y			SP		SP				
i. Outdoor passive recreation, forestry and nonresidential buildings or structures used in conjunction with harvesting or storage of forest products.																					Y	Y
j. Hospital, nursing home, convalescent or rest home. medical or dental center or clinic, including laboratories incidental thereto.					Y									Y								
k. Municipal Uses and Municipal Facilities.	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
RETAIL, RESTAURANT AND CONSUMER SERVICE USES																						
a. Retail operation with 5,000 square feet or less of gross floor area per establishment.					SP	SP		SP	Y	Y	Y	Y	Y	Y	Y	Y		Y				
b. Retail operation with greater than 5,000 square feet of gross floor area per establishment.									Y	Y	Y	Y	Y		Y							
c. Service Business									Y	Y	Y	Y	Y	Y	Y							
d. Restaurant									Y	Y	Y	Y	Y	Y	Y	SP						
e. Bar, saloon, or other establishment where alcoholic beverages are sold and consumed, but which is not licensed to prepare or serve food.									SP	SP	SP	SP	SP		SP		Y					
f. Veterinary establishment, pet shops or similar establishments.									Y	Y	Y	Y	SP									
g. Kennel (containing more than three canines 3 months of age or older).												Y										
h. Funeral or Undertaking Establishment.	SP	SP	SP	SP	SP	SP	SP	SP	Y	Y	Y	Y										
i. Hotel or Motel								Y	Y	Y	Y	Y	Y		Y	Y		Y				

DISTRICT TYPE:	Single Family				Multi Family				Business						Ind.		Overlay (1) (2)				Other	
DISTRICTS:	S	R-8	R-30	R-80	G	M	R-4	A-2	CBD	MBD	B-N	B-L	WTOD (5)	MD	CMD	IP	AOD (3)	RDOD	WWD	HD (4)	OS	WR
j. Body Art Establishments (as defined by Board of Health Regulations)															SP							
k. Bank or other monetary institution and ATMs									Y	Y	Y	Y	Y	Y	Y	SP		SP				
l. Theater, auditorium, museum or other establishment offering recreation to the general public									Y	Y	Y	Y	Y		Y		Y					
AUTOMOTIVE AND RELATED USES																						
a. Automotive Sales, indoor and outdoor									Y	Y	Y	Y										
b. Automotive repair station/garage											Y											
c. Gasoline filling station											Y	SP										
d. Autobody or paint shops											SP											
e.Car Wash									Y	Y	Y	Y										
f. Parking lots, private and public garages, and parking structures other than those provided as an accessory use to the principal use being conducted on the lot									Y	Y	Y	Y	Y	Y	Y	SP		SP				
g. Lot for stowing towed vehicles																						
UTILITIES, TELECOMMUNICATIONS, AND PUBLIC SERVICE USES																						
a. Radio or television studio.									Y	Y	Y	Y	Y	Y	Y	Y						
b. Radio or television transmission stations (including towers related to said use).	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP				
c. Intermodal transportation facilities, including but not limited to bus and/or railroad (multi-modal) passenger terminals													Y									
OFFICE USES																						
a. Business or professional office									Y	Y	Y	Y	Y	Y	Y	Y		Y				
b. Telephone answering service/call center.									Y	Y	Y	Y	Y		Y	Y		Y				
INDUSTRIAL USES																						
a. Distribution center, parcel delivery center, delivery warehouse															Y	Y		Y				
b. Self-storage facility.											Y				Y							
c. Research and development, excluding research or use of radioactive, biohazardous or explosive materials.														Y	Y	Y		Y				
d. Industrial research and development.															Y	Y		Y				

DISTRICT TYPE:	Single Family				Multi Family				Business						Ind.		Overlay (1) (2)				Other	
DISTRICTS:	S	R-8	R-30	R-80	G	M	R-4	A-2	CBD	MBD	B-N	B-L	WTOD (5)	MD	CMD	IP	AOD (3)	RDOD	WWD	HD (4)	OS	WR
e. Processing, fabrication, manufacturing, assembly, packaging															Y	Y		Y				
f. Warehousing, wholesaling															Y	Y		Y				
g. Biotechnology															Y	Y		Y				
h. Trucking, including terminal facilities.															Y							
i. Indoor recycling facility																						
j. Gravel pit, concrete or asphalt plant															SP							
k. Information and information processing, data collection and data storage record keeping.									Y	Y	Y	Y	Y	Y	Y	Y		Y				
l. Water dependent uses: fish and seafood receiving, handling, storage and shipping; boat building and repair; marinas; shipping; passenger and cargo terminals, receiving and berthing													Y									
ART USES																						
a. Artist Loft or Art Use, Culinary Arts, Retail sales of art, including gift and specialty shops, Art Schools and studios of dance and photography, Performing Arts ticket offices or booking agencies, Community educational Arts and related activities. (3)											Y		Y				Y					
b. Cabinet and carpentry shops, studios for artists and crafts people													Y				Y					
c. Visual and Performing Art Space, including, but not limited to, exhibition and concert halls, galleries and stage and screen theaters. (3)									Y	Y	Y		Y		Y		Y					

NOTES

(1) Not more than one principal building per lot.

(2) These districts shall be considered as overlaying and shall overlay all other zoning districts within their boundaries. Any uses permitted in the district or portion thereof so overlaid shall be permitted subject to applicable provisions.

(3) Adult Use as defined as in Article IV., Division 7., Adult Entertainment, Section 86-390 of this ordinance is prohibited in the Arts Overlay District (AOD).

(4) Refer to Article IV., Division 11., Housing Development Overlay District, Section 86-413 of this ordinance.

(5) In the Waterfront and Transit Oriented Development District (WTOD), industrial uses in existence prior to September 6, 2011 may continue and mill buildings in existence prior to September 6, 2011 may be altered, enlarged and/or continue to be used for industrial purposes provided they meet the requirements of the Commercial Mill District (CMD).

Secs. 86-37--86-140. [Reserved.]

Division 2. Residential Districts.

a. Uses [See Sec. 86-36 table of uses]
b. Dimensional regulations [See Sec. 86-35 table of dimensional regulations]

Sec. 86-141. Single Family Residence District [S]

Sec. 86-142. Single Family Residence District [R-8]

Sec. 86-143. Two Family Residence District [R-4]

Sec. 86-144. Single Family Residence District [R-80]

Sec. 86-145. Single Family Residence District [R-30]

Sec. 86-146. General Residence District [G]

Sec. 86-147. Multiple Family Residence District [M]

Sec. 86-148. Apartment District [A-2]

1. Every dwelling unit for this district shall contain at least three (3) rooms, exclusive of halls, and a bathroom. Such three-room dwelling unit shall contain at least six hundred (600) square feet of floor space and an additional one hundred twenty (120) square feet of floor space for each additional room.

2. Dimensions: [See Sec. 86-35]

3. In multiple-family residences of twenty (20) or more dwelling units, the lot shall contain at least two thousand (2,000) square feet of land for each family to be housed on it.

4. Parking. [See Sec. 86-441 and Article VI generally] (Ord. No. 1997-2, §§ 21-102, 21-103, 1-28-1997)

Secs. 86-149--86-170. [Reserved.]

Division 3. Business Districts.

a. Uses [See Sec. 86-36 table of uses]
b. Dimensional regulations [See Sec. 86-35 table of dimensional regulations]

***Cross references:** Businesses, ch. 14.

(Ord. No. 1997-2, § 21-122, 1-28-1997)

Sec. 86-171. Central Business District [CBD]

Sec. 86-172. Mixed Use Business District [MBD]

Sec. 86-173. Neighborhood Shopping District [B-N]

Sec. 86-174. Local Business District [B-L]

Sec. 86-175. Waterfront and Transit Oriented Development District [WTOD]

(a) Uses: [See Sec. 86-36 table of uses]

(b) Dimensional Regulations: [See Sec. 86-35 table of dimensional regulations]

Maximum building height: shall not exceed six (6) stories or eighty (80) feet, whichever is greater. This restriction shall not apply to chimneys, ventilators, tanks, bulkheads and other accessory features required above roofs or to towers, spires, domes and ornamental features of churches and other nonresidential buildings. The maximum building height may be increased to twelve (12) stories or one hundred fifty (150) feet upon granting of a special permit by the Zoning Board of Appeals.

Minimum parking requirements:

- Dwelling units – one and one-half (1.5) spaces per unit if less than fifty (50) units. One and one-quarter (1.25) spaces per unit if 50 or more units.
- Restaurant and Retail Establishments – no dedicated parking spaces required.
- Hotel or lodging room - one (1) space for each hotel room or lodging room.
- Office use - one (1) space per each 200 s.f. of gross floor area. After 10,000 s.f. of gross floor area, one space for every 1,000 s.f. of gross floor area.
- Industrial uses – one (1) space per each 500 s.f. of gross floor area.
- Water dependent uses – 0.6 spaces per each boat slip or mooring.
- Mixed use developments that share parking spaces, containing more than 200 spaces may reduce the required number of spaces by 30%.

(c) Signs: Signs [See Sec. 86-461]

(d) Interaction with state statutes and regulations:

Nothing in Section 86-175 shall be deemed to be inconsistent with or supersede any federal or state statute, rule or regulation regarding waterfront property, including but not limited to the Deepwater Port Act of 1974, Massachusetts General Laws Chapter 91 regulating waterways or the State Wetlands Protection Statute.

Sec. 86-176. Medical District [MD]

(a) District Established:

There is hereby established a Medical District within the City. Said district is bound and described as follows:

Beginning at a point at the centerline intersection of Seventh Street and Pleasant Street, thence running northerly by the centerline of Seventh Street to the centerline intersection of Seventh Street and Bedford Street thence running easterly by the centerline of Bedford Street to the centerline intersection of Bedford Street and Twelfth Street, thence running southerly by the centerline of Twelfth Street to the centerline intersection of Twelfth Street and Pleasant Street, thence running easterly by the centerline of Pleasant Street to the centerline intersection of Pleasant Street and Front Street, thence running southerly by the centerline of Front Street to a point on the eastern property line of Map M-11 Lot 10; thence southerly along the eastern property line of Map M-11 Lot 10 approximately 189 +/- feet; thence easterly along the southerly property line of Map M-11 Lot 10 approximately 68 +/- feet; thence crossing I-195 to a point on the easterly property line of Map I-19 Lot 9; thence southerly along easterly property line of Map I-19 Lot 9 approximately 398 +/- feet; thence southerly along the westerly line of Map I-19 Lot 7 approximately 100 +/- feet; thence westerly along the southerly property line of Map I-19 Lot 9 approximately 301 +/- feet; thence southerly along the westerly property line of Map I-19 Lot 16 to the centerline of Rodman Street; thence westerly along the centerline of Rodman Street to the centerline intersection of Rodman Street and Plymouth Avenue; thence southerly along the centerline of Plymouth Avenue to the centerline intersection of Plymouth Avenue and Morgan Street; thence westerly along the centerline of Morgan Street to the centerline intersection of Morgan Street and Hartwell Street; thence northerly along the centerline of Hartwell Street to the centerline intersection of Hartwell Street and the eastbound ramp 6 of I-195; thence along the eastbound exit ramp 6, crossing I-195 to the centerline of westbound ramp 6 of I-195; thence along the centerline of westbound exit ramp 6 to the centerline of Pleasant Street; thence along the centerline of Pleasant Street to the point of beginning.

(b) Uses: [See Sec. 86-36 table of uses]

(c) Dimensional Regulations: [See Sec. 86-35 table of dimensional regulations]

(d) Signs: Signs [See Sec. 86-461]

Secs. 86-177--86-200. [Reserved.]

Division 4. Industrial Districts.

a. Uses [See Sec. 86-36 table of uses]
b. Dimensional regulations [See Sec. 86-35 table of dimensional regulations]

***Cross references:** Businesses, ch. 14.

Sec. 86-201. Commercial Mill District [CMD]

Mill buildings in existence prior to 1950 may be altered, reconstructed and used for:

a. Office of any kind including medical office;
b. Retail store or outlet;
c. Bank or other financial institution;
d. Restaurant or other eating place;
e. Uses customarily accessory to such uses; and
f. Art use, visual and performing art space, culinary art, retail sales of art, including gift and specialty shops. Adult use as defined in Section 86-390 is prohibited.

Formerly known as Industrial District [IND]. (Ord. No. 1997-2, § 21-156, 1-28-1997; Ord. No. 2000-9, § 1, 5-9-2000; Ord. No. 2001-29, § 4, 10-4-2001; Ord. No. 2002-19, 6-12-2002; Ord. No. 2008-8, §6, 3-11-2008)

Sec. 86-202. Industrial Park District [IP]

1. All operations shall be conducted and all materials used in such operations or held in storage shall be contained within enclosed buildings or enclosed by a solid wall, fence or planting of such nature and height as to conceal such operation or materials from view from any public way or area or neighboring premises.

2. Waste materials produced by such operations shall be disposed of, stored in buildings or enclosed as specified in subsection (1) of this section.

3. Dust, smoke, fumes, gas, glare, noxious odors, noise and vibrations shall be limited so as not to be injurious to the public health or to the use of neighboring property as provided by the laws of the Commonwealth.

4. Not less than twenty (20) and not more than seventy percent (70%) of the lot shall be covered by improvements, meaning buildings, parking areas, driveways and access roads, and outside storage or assembly areas.

5. Buildings housing manufacturing operations shall be set back at least fifty (50) feet from any street line and at least forty (40) feet from any side or rear lot line. Offices, parking areas and outdoor storage or work areas shall be at least twenty five (25) feet from any street line and twenty (20) feet from any side or rear lot line. The setback areas shall be left in a natural unimpaired state or landscaped.

6. Parking [see Sec. 86-441 to 86-445]

7. Signs [See Sec. 86-461]

8. In a specific case, the Zoning Board of Appeals shall, after a public hearing, grant a permit for the following uses, unless, in the opinion of the board, such use would be detrimental to the Industrial Park District and not in the best interest of the city:
   a. To locate an office building or vehicle parking closer than twenty-five (25) feet to any street line.
   b. To locate a display sign in a location or of a type different from those allowed under subsection (5) of this section.
   c. To use the land for public accommodations such as a hotel, motel or inn, or for a restaurant.
   d. To allow a distribution facility, including trucking terminals, wholesale distribution facilities, wholesale food processing and warehousing.
   e. To reduce the required number of parking spaces.

9. Sanitary landfill operations existing on the effective date of the ordinance from which this subsection is derived may be enlarged, increased and extended to occupy a greater area of land than that occupied on such date, to the limit of the property owned or held on such date for the landfill operations. Once such property limits have been reached, or if such sanitary landfill operation shall cease for any reason for a period of more than two (2) years, any subsequent use of such land shall conform to the regulations specified by this chapter for this district. (Ord. No. 1997-2, § 21-158, 1-28-1997)

Secs. 86-203--86-220. [Reserved.]

Division 5. Open Space Districts.

a. Uses [See Sec. 86-36 table of uses]
b. Dimensional Regulations [See Sec. 86-35 table of dimensional regulations]

Sec. 86-221. Open Space/Recreational District [OS]

Sec. 86-222. Water Resource District [WR]

(a) Uses: In a Water Resource District, no structure or land shall be used an no structure shall be constructed, altered, enlarged or reconstructed except for one or more of the following uses:

1. Water control devices, dams or temporary structures to control water flow.

2. Structures and facilities used to maintain the existing and potential water supply.

3. Outdoor passive recreation, nature study, footbridges, plank walks, footpaths and bicycle paths.

4. Forestry and nonresidential buildings or structures used only in conjunction with harvesting or storage of forest products.

5. Such accessory uses as are customary in connection with any of the uses enumerated in this subsection and which are incidental thereto.

(b) Dimensional Regulations: [See Sec. 86-35 table of dimensional regulations]

(Ord. No. 1997-2, § 21-172, 1-28-1997)

Secs. 86-223--86-250. [Reserved.]

ARTICLE IV. SUPPLEMENTAL DISTRICT REGULATIONS

Division 1. Generally.

Sec. 86-251. [Intentionally Omitted.]

Sec. 86-252. [Intentionally Omitted.]

Sec. 86-253. Group residences.

(a) Generally. No land or structure within the city, in any district whatsoever, shall be used for a group residence, so-called, in which five (5) or more persons unrelated by blood, marriage or adoption are housed and live together as a family, except those who are members of a religious organization, order, diocese or religious community.

(b) Special Permit. In a specific case, the Zoning Board of Appeals acting as the special board of appeals may, after a public hearing, grant a special permit for the use of a structure and land for a group residence provided there is no other group residence within three hundred fifty (350) feet of the proposed site, and that such use will not be detrimental to the public good and will not adversely affect the value or amenity of neighboring property. (Ord. No. 1997-2, § 21-203, 1-28-1997)

Sec. 86-254. [Intentionally Omitted.]

Sec. 86-255. [Intentionally Omitted.]

Sec. 86-256--86-320. [Reserved.]

Division 2. Area Regulations.

Sec. 86-321. Reduction of lot area.

No lot shall be reduced in area or in its dimensions so that:

1. The new distances between buildings and street lines, lot lines or other buildings on the same lot shall be less than the distances required under the provisions of this chapter;
2. The lot area per family shall be less than the area required;
3. The percentage of lot area occupied at the level of any story shall be greater than the percentage permitted to be occupied; or
4. The dimensions or area of any court, yard or other open space shall be less than the dimensions or area required. (Ord. No. 1997-2, § 21-252, 1-28-1997)

5. Items (1) through (5) shall not apply to previously existing dimensions.

Division 3. Agricultural, Horticultural and Floricultural Uses *

***Cross references:** Animals, ch. 6; businesses, ch. 14.
State law references: Subjects not to be regulated by zoning, M.G.L.A. c. 40A, § 3.

Sec. 86-322. Districts where permitted; site area.

In any zoning district, land of five (5) acres or more may be used and existing structures thereon may be expanded or reconstructed for the primary purpose of agriculture, horticulture or floriculture. For such purposes, land divided by a public way or private way or waterway shall be construed as one parcel.
(Ord. No. 1997-2, § 21-52, 1-28-1997)

Secs. 86-323--86-340. [Reserved.]

Division 4. Watershed and Water Supply Protection District Regulations*

***Cross references:** Water systems, § 74-251 et seq.; waterways, ch. 82.

Sec. 86-341. District established; boundaries.

There is hereby established a watershed and water supply protection district within the city. The watershed and water supply protection district shall be considered as overlaying and shall overlay all other zoning districts within its boundaries. The district to be shown on the "Zoning Map of the City of Fall River" is bounded and described as follows: beginning at the intersection of Route 195 and the Fall River/Westport Line; thence running westerly by Route 195 to the easterly side of Route 24; thence northerly by the easterly side of Route 24 to the centerline of Meridian Street; thence easterly and northerly by the centerline of Meridian Street to a point 200 feet south of the centerline of Watkins Street; thence easterly 600 feet to a point; thence northerly in a line parallel to Meridian Street 6,300 plus or minus feet; thence easterly 1,100 plus or minus feet; thence northerly 1,100 plus or minus feet in a line parallel to Meridian Street, to the centerline of Wilson Road; thence westerly 100 feet by the centerline of Wilson Road to the centerline of Riggenbach Road; thence northerly by the centerline of Riggenbach Road 5,500 +/- feet to the southerly line of the Research and Development Overlay District; thence easterly by the southerly line of said district 1,900 +/- to the easterly line of said district thence northerly by the easterly line of said district 4,200 +/- to the Fall River/Freetown Boundary Line; thence; thence easterly, southerly, southwesterly, westerly and southerly by the corporate boundary to the intersection of the corporate boundary, Route 195 and the point of beginning. (Ord. No. 2008-50, 9-23-2008)

Sec. 86-342. Purpose of district.

The purposes of establishment of the watershed and water supply protection district are to:

1. Promote the health, safety and general welfare of the community.
2. Protect, preserve and maintain the existing and potential water supply within the city with special regard to the watershed areas feeding into or affecting the Watuppa and Copicut reservoirs.
3. Protect and preserve present and potential sources of water supply for the public health and safety.
4. Protect and conserve the natural resources of the city.
5. Prevent blight and pollution of the environment and particularly those areas within the watershed and water supply protection district. (Ord. No. 1997-2, § 21-255(1), 1-28-1997)

Sec. 86-343. Review of plans and analyses.

(a) All plans, analyses and other documentary evidence required under this division must be submitted with any application for a building permit. In the event of appeal to the planning board or Zoning Board of Appeals, all plans and analyses must be filed with the appeal with the planning department.

(b) Copies of all such plans, analyses and documentary evidence shall be sent to the planning department, Board of Health and Conservation Commission. The Board of Health and the Conservation Commission shall have the opportunity to submit comments on the plans within thirty (30) days to the Building Inspector. Failure to make such comment shall be treated as a decision that no comment is necessary. (Ord. No. 1997-2, § 21-255(8), 1-28-1997)

Sec. 86-344. Enforcement.

No building permit shall be issued for development in the watershed and water supply protection district unless and until all of the standards and requirements in this division have been satisfied. The building inspector, the health department, the conservation commission and the Watuppa Water Board shall all have standing to enforce this division and to bring action for relief in appropriate courts if necessary. (Ord. No. 1997-2, § 21-255(10), 1-28-1997)

Sec. 86-345. Special Permits.

(a) The special permit-granting authority referred to in this section shall be the Zoning Board of Appeals.

(b) No special permit shall be granted unless, in addition to all other conditions precedent to the granting of a special permit, the special permit-granting authority specifically finds, based on adequate evidence submitted to it at a public hearing, that the proposed use:

1. Is in harmony with and consistent with the intent and purpose of this division and will promote and effectuate the purposes of the watershed and water supply protection district.
2. Is appropriate to the natural topography, soil, and geological and other characteristics of the site to be developed, including its relation to contiguous sites.

3. Will not, during construction or thereafter, have an adverse environmental impact on any aquifer or recharge area within the city.
4. Will not adversely affect any existing, developed or planned water supply.
5. Is consistent with existing and probable future development of contiguous and surrounding areas. (Ord. No. 1997-2, § 21-255(11), 1-28-1997)

Sec. 86-346. Permitted uses.

(a) The watershed and water supply protection district shall be considered as overlaying and shall overlay all other zoning districts within its boundaries. Any uses permitted in the district or portion thereof so overlaid shall be permitted subject to all provisions applicable to the district as set forth in this division.
(b) Development within two hundred (200) feet of the edge of a water body or its tributaries of the city's water supply shall be prohibited.

(c) In addition, no such use shall be permitted and no building permit shall be issued unless the standards in this division are met. (Ord. No. 1997-2, § 21-255(2), 1-28-1997)

Sec. 86-347. Surface water runoff.

(a) There shall be no net increase in the rate of surface water runoff from any development in the watershed and water supply protection district, including road, parking area, highway and utility development, and the U.S. Department of Agriculture Soil Conservation Service's most current revised Technical Release 55 (TR-55) is the preferred method for calculating runoff volume based on a 25-year storm.

(b) For all new residential subdivisions and developments, the owner will be required to submit plans and associated computations to the planning department detailing a wet detention pond with the appropriate vegetation to ensure nutrient removal. The wet pond must be designed to capture the first flush of a storm event. The storm event elevation of the incoming piping shall be set above the first flush volume. The detention pond must be sized adequately to contain a 25-year storm. Storm events in excess of the 25-year storm shall be diverted away from the pond into the appropriate receiving water. Maintenance of the wet pond to ensure its proper function shall be the duty and responsibility of the owner of the wet pond or his successors or assigns. (Ord. No. 1997-2, § 21-255(3), 1-28-1997)

Sec. 86-348. Sewage disposal.

(a) Except for those situations involving repairs, no person shall install a new individual on-site sewage disposal system in the watershed and water supply protection district which will produce more than three hundred thirty (330) gallons per day per acre of wastewater discharge. **For the purpose of this section only, the definition of an acre shall be 40,000 square feet.**

(b) Acreage determinations for compliance with the hydraulic loadings shall be exclusive of wetlands as designated pursuant to the standards of the Commonwealth, DEP 310 CMR 10.00.

(c) Any proposed subdivision within three thousand (3,000) feet of a municipal sewer line shall connect all building lots within the subdivision to the city's sewers. (Ord. No. 1997-2, § 21-255(4), 1-28-1997)

Cross references: Sewer use regulations, § 74-161 et seq.

Sec. 86-349. Control of nutrient loading.

(a) Purpose. It is the intent of the city, through the implementation and enforcement of the regulations in this division, to protect its water supply from contamination from nutrients, the failure of which would endanger public health. These nutrients include, and are not limited to, nitrate-nitrogen, phosphate-phosphorus, chlorides, metals and hydrocarbons found as constituents in stormwater runoff and/or as components of leachate associated with septic systems and/or package treatment plants proposed to be located within the watershed and water supply protection district.

(b) Single-Family Dwellings. Each undeveloped lot, whether part of a subdivision or an existing lot of record, which is located within the watershed and water supply protection district shall provide a natural undisturbed 50-foot buffer between any proposed construction and the city's water supply and its tributaries. A maximum clearing for driveway usage within the buffer shall not exceed twelve (12) feet in width. Lawn areas shall not exceed eight thousand (8,000) square feet for an 80,000-square-foot lot or ten percent of any other size lot. The total land disturbance shall not exceed 0.5 acre for an R-80 lot or twenty five percent (25%) of any existing or proposed lot within the watershed and water supply protection district. The applicant shall submit a plan showing the requirements of this subsection, septic, well, driveway and house locations to the building inspector with copies to the conservation commission and the board of health.

Sec. 86-350. Soil erosion and sediment control.

(a) A soil erosion and sediment control plan shall be submitted with each development application for the watershed and water supply protection district where the disturbed area of the proposed development is cumulatively greater than one-half acre.

(b) The soil erosion and sediment control plan shall contain proper provisions to adequately control accelerated erosion and sedimentation and reduce the danger from stormwater runoff on the proposed development site.

(c) The soil erosion and sediment control plan shall provide a schedule of activities, including the sequence of grading and construction, the sequence for installation and/or application of soil erosion and sediment controls, and the sequence of final stabilization of the project site.

(d) The soil erosion and sediment control plan shall include a site plan map with two-foot contour intervals, at an appropriate scale, clearly showing the following:

1. Existing and proposed topography, soil types, water bodies and watercourses, and wetlands;
2. Existing structures on the site (if any);

3. Proposed areas of alterations, roads, utilities, areas of cuts and fill, and property lines;
4. The location and design details of all proposed soil erosion and sediment controls and stormwater management facilities; and
5. The sequence of construction, installation/application of controls, and final stabilization of the site.
6. Construction of a single-family dwelling that is not part of subdivision of land shall be exempt from the requirements of the soil erosion and sediment control plan. (Ord. No. 1997-2, § 21-255(7), 1-28-1997)

Sec. 86-351. Prohibited uses.

In the watershed and water supply protection district, the following uses shall be prohibited:

1. Cluster development.
2. Disposal of solid wastes.
3. Storage and/or transmission of petroleum or other refined petroleum products except within buildings which it will heat. No underground tanks will be permitted in any location.
4. The disposal of liquid or leachable wastes, except for single-family residential subsurface waste disposal systems.
5. The use of septic system cleaners which contain toxic organic chemicals.
6. Industrial uses which discharge process wastewater on-site, including any commercial and service uses discharging wastewater containing contaminants other than normal organic waste.
7. Storage of road salt or deicing chemicals.
8. Use of chemicals for deicing unless deemed necessary for public safety.
9. Dumping of snow brought in from outside the watershed and water supply protection district.
10. The mining of land except as incidental to a permitted use.
11. The transport, storage or disposal of hazardous wastes, as defined by the hazardous waste regulations promulgated by the division of hazardous waste under the provisions of M.G.L.A. c. 21C.
12. The transport, storage or extended use of hazardous materials, as defined by the hazardous waste regulations promulgated by the division of hazardous waste under the provisions of M.G.L.A. c. 21C, except as incidental to a permitted use.
13. Automotive service stations, junkyards and salvage yards.

Secs. 86-352 – 86-372. [Reserved.]

Division 5. Arts Overlay District [AOD]

Sec. 86-373. Arts Overlay District.

(a) Purpose: The purposes of establishment of the arts overlay district (AOD) are:

1. To promote the expansion of art and culture within the community.
2. To enhance the environment and improve site opportunities for fine arts uses within the AOD.
3. To enhance vitality in the central business district – downtown – waterfront areas by fostering a mix of uses through establishing and increasing downtown housing opportunities and fostering arts-related development and activities. This district is intended to create a core of arts, cultural, and residential activities; encourage greater pedestrian activity as part of entertainment and residential uses, mixed with traditional retail and business activities; encourage economic revitalization; nurture artistic contributions to the city and region, and reduce crime in streets by remaining active for longer hours with shops and restaurants serving increased numbers of area residents and patrons.

(b) Underlying Districts: The AOD shall be considered as overlaying and shall overlay all other zoning districts within its boundaries. Any uses permitted in the district or portion thereof so overlaid shall be permitted subject to all provisions applicable to the district as set forth in this division.

(c) Uses: [See Sec. 86-36 table of uses]

Adult use, as defined as in Article IV, Division 7., Adult Entertainment, Secs. 86-390 through 86-399, is prohibited in the Arts Overlay District.

(d) Development and Redevelopment Standards:

1. All standards and regulations in the underlying zoning district are valid in the AOD, except as modified in this article.
2. Residential use is prohibited on first floor frontage on that portion of North Main Street south of Pine Street and on that portion of South Main Street north of Morgan Street.
3. In a specific case the Zoning Board of Appeals, shall after a public hearing grant a special permit to waive minimum lot areas and height, lot coverage percent and yard requirements for multi-family development as cited in this code, unless in the opinion of the Zoning Board of Appeals, such waiver would be detrimental to the area and not in the best interest of the city.
4. Town house development in those areas of the AOD have no minimum lot size.
5. Off-street parking may be provided through one or a combination of the following means:
    a. On-site, but not located between the street and the front of the building;
    b. Off-site, by contract in public or private off-street parking facilities;
    c. Parking may be covered or uncovered.

***Editor's note:** Ord. No. 2003-17, § 7, adopted June 10, 2003, repealed div. 7, §§ 86-371--86-373, in their entirety. Formerly, said section pertained to adult entertainment overlay district as enacted by Ord. No. 1997-17, adopted June 24, 1997; as amended.

Secs. 86-374 – 86-384. [Reserved.]

Division 6. Research and Development Overlay District Regulations.

Sec. 86-385. District established and boundaries.

There are hereby established Research and Development Overlay Districts within the City. Said districts are bounded and described as follows:

Beginning at a point at the intersection of the centerline of Interstate 195 and the Fall River/Westport boundary line; thence southerly along said boundary line to the northerly line of the South Watuppa Pond; thence westerly by the centerline of Brayton Avenue Extension, northerly line of the South Watuppa Pond to the centerline of Brayton Avenue Extension; thence westerly to the centerline of Route 24; thence northerly by the centerline of Route 24 to the centerline of Interstate 195, thence easterly by the centerline of Interstate 195 to the Fall River/Westport boundary line and the point of beginning.

Beginning at a point at the intersection of the easterly line of Route 24 and the Fall River/Freetown Boundary line; thence easterly by said boundary line for a distance of 3125 +/- feet; thence southeasterly along the southeasterly property line of assessor map W-19 lot 185 approximately 1051.77 feet; thence southerly along the easterly property line of assessor map W-19 lot 185 approximately 2893 feet to a point on the northerly property line of assessor map W-19 lot 4; thence easterly along the northerly property line of assessor map W-19 lot 4 approximately 100 feet; thence turning 90 degrees +/- southerly to a point on the southerly property line of assessor map W-19 lot 4 approximately 635 feet: thence westerly along the southerly property line of assessor map W-19 lot 4 approximately 1925 +/- feet to a point on the center line of Riggenbach Road; thence southerly along the centerline of Riggenbach Road to a point at the centerline intersection of Riggenbach Road and Wilson road approximately 5500 +/- feet; thence westerly by the centerline of Wilson road approximately 520 +/- feet to the westerly boundary line of assessor map Z-3 lot 11; thence northerly along the westerly boundary line of assessor map Z-3 lots 11 & 62 approximately 705 +/- feet; thence westerly along the northerly property line of assessor map Z-4 lots 20,21 & 22 approximately 776 +/- feet; thence southerly along the westerly boundary line of assessor map Z-4 lot 20 approximately 56 +/- feet; thence westerly along the northerly property line of assessor map Z-4 lots 19 & 58 approximately 1786 +/- feet; thence southwesterly along the westerly boundary line of assessor map Z-4 lot 58 approximately 403 +/- feet; thence westerly by a northerly boundary line of assessor map Z-4 lot 58 to easterly line of Route 24; thence northerly by the easterly line of Route 24 to the southerly property line of assessor map Z-5 lot 17; thence easterly along the southern property line of assessor map Z-5 lot 17 approximately 413 +/- feet; thence northerly by the easterly property line of assessor map Z-5 lot 15 approximately 413 +/- feet; thence northerly by the easterly line of Route 24 approximately 135 +/- feet; thence easterly by the property line of assessor map Z-5 lot 16 approximately 452 +/- feet; thence northerly by the easterly line of assessor map Z-5 lot 16 approximately 313 +/- feet: thence westerly by the northerly property line of assessor map Z-5 lot 16 approximately 110 +/-

feet; thence northerly by the easterly line of Route 24 to the Fall River/Freetown line and the point of beginning. This description circumscribes assessor map Z-3 lot 35 (Landfill), hereby excluding said assessor lot from the Research and Development Overlay District "RDOD".

Sec. 86-386. Purpose.

The purposes of the establishment of Research and Development Overlay Districts are to:

1. Allow for greater flexibility and creativity in the development of industrial and commercial sites; and
2. Encourage compatible development within the entire overlay district. (Ord. No. 2000-7, 4-25-2000)

Sec. 86-387. Permitted uses. [See Sec. 86-36 table of uses]

Research and Development Overlay Districts shall be considered as overlaying and shall overlay all other zoning districts within their boundaries. Any uses permitted in these districts, or portions thereof so overlaid, shall be permitted subject to all provisions applicable to the district as hereinafter set forth.

Sec. 86-388. District regulations.

In addition to the requirements of the overlay district, the following regulations shall apply:

1. There will be a minimum open space requirement of 20 percent, not including parking lots and drives located in order to maintain adequate light and air circulation, and to preserve open space.
2. Retail uses shall be permitted but shall be limited to an area of five thousand (5,000) square feet, unless otherwise permitted by the Zoning Board of Appeals.
3. In the overlay district the following regulations shall apply:
   a. Minimum lot frontage: 100 feet; and
   b. Minimum lot area: 10,000 square feet.
4. Adequate provision is made for the off street parking provision of all vehicles including those of employers, employees, and visitors.

Sec. 86-389. Special Permits.

In a specific case the Board of Appeals shall, after a public hearing, grant a permit for the following uses unless in the opinion of the board, such use would be detrimental to the research and development overlay district and would not be in the best interest of the city.

1. To locate a display sign in a location or of a type different from those allowed in the underlying district.
2. To waive the dimensional requirements of the overlay district or the underlying district. (Ord. No. 2000-7, 4-25-2000)

Division 7. Adult Entertainment*

***Cross reference:** Amusements, § 14-71 et seq.

Sec. 86-390. Definitions.

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

1. Adult use means an establishment, a building or portion thereof, or a use of land having a substantial or significant portion of its business activity, stock in trade, or other matter or materials for sale, rental, distribution or exhibition which are distinguished or characterized by their emphasis on depicting, describing or relating to sexual conduct or sexual excitement as defined in M.G.L.A. c. 272, § 31, including but not limited to the following:
2. Adult bookstore means an establishment having as a substantial or significant portion of its stock in trade books, magazines and other matter which are distinguished or characterized by their emphasis depicting, describing or relating to sexual conduct or sexual excitement as defined in M.G.L.A. c. 272, § 31.
3. Adult club means an establishment having as a substantial or significant portion of its activities or entertainment persons performing in a manner distinguished by an emphasis on matter depicting, describing or relating to sexual conduct or sexual excitement as defined in M.G.L.A. c. 272 § 31.
4. Adult entertainment establishment means an establishment offering activities or goods or providing services where employees, entertainers or patrons engage in sexual conduct or sexual excitement as defined in M.G.L.A. c. 272 § 31.
5. Adult motion picture theater means an establishment used for presenting material distinguished by an emphasis on matter depicting, describing or relating to sexual conduct or sexual excitement as defined in M.G.L.A. c. 272, § 31.
6. Adult paraphernalia store means an establishment having as a substantial or significant portion of its stock devices, objects, tools or toys which are distinguished or characterized by their association with sexual activity, including sexual conduct or sexual excitement as defined in M.G.L.A. c. 272, § 31.
7. Adult video store means an establishment having as a substantial or significant portion of its stock in trade videos, movies or other film materials which are distinguished or characterized by their emphasis depicting, describing or relating to sexual conduct or sexual excitement as defined in M.G.L.A. c. 272, § 31.
8. Medical facility: A medical establishment providing medical or surgical care, counseling or treatment for persons in need.
9. Structure: For purposes of this subdivision, shall mean only a building and shall not include access roads, parking lots, signs, fences, detached walls, or any other portion of a lot on which the structure is located.
10. Substantial or significant portion means any of the following:
    a. Twenty percent or more of the business inventory or stock of merchandise for sale, rental, distribution or exhibition during any period of time;

b. Twenty percent or more of the annual number of gross sales, rentals or other business transactions;
c. Twenty percent or more of the annual gross business revenue; or
d. Twenty percent or more of the hours during which the establishment is open.

11. Youth facility: any facility or outdoor area where a substantial portion of its use or programs are devoted to or offered for activities or recreation for minors, regardless of whether the facility is public or private. Such facilities include, but are not limited to, playgrounds, swimming pools, libraries or day care facilities. (Ord. No. 1997-17, § 21-54(4), (5), 6-24-1997; Ord. No. 2000-35, § 2, 11-14-2000; Ord. No. 2003-17, § 2, 6-10-2003)

Cross references: Definitions generally, Article II.

Sec. 86-391. Purpose and intent of subdivision.

It is the purpose and intent of this subdivision to address and mitigate the secondary effects of the adult uses and sexually oriented businesses referenced in this subdivision, since such secondary effects have been found as a result of numerous studies, and after other public input, to include increased crime, adverse impacts on public health, adverse impacts on the business climate of the city, adverse impacts on the property values of residential and commercial properties, and adverse impacts on the quality of life in the city, all of which secondary impacts are adverse to the health, safety and general welfare of the city and its inhabitants. The provisions of this subdivision have neither the purpose nor the intent of imposing a limitation or restriction on the content of any communicative matter or materials, including sexually oriented matter or materials. Similarly, it is not the purpose or intent of this subdivision to restrict or deny access by adults to adult uses and to sexually oriented matter or materials protected by the constitution of the United States of America and of the commonwealth, or to restrict or deny rights that distributors or exhibitors of such matter or materials may have to sell, rent, distribute or exhibit such matter or materials. Neither is it the purpose or intent of this subdivision to legalize the sale, rental, distribution or exhibition of obscene or other illegal matter or materials or rights that distributors or exhibitors of such matter or materials may have to sell, rent, distribute or exhibit such matter or materials. (Ord. No. 1997-17, § 21-54(1), 6-24-1997)

Sec. 86-392. Severability.

If any provision of this subdivision shall be determined invalid by a court of competent jurisdiction or otherwise, the remaining provisions of this subdivision not manifestly inseparable from the invalid provision shall remain in full force and effect.
(Ord. No. 1997-17, § 21-54(8), 6-24-1997)

Sec. 86-393. Nonconforming uses.

Any change, expansion, alteration or extension of an adult use or structure lawfully in existence prior to the adoption of this subdivision shall not be allowed without meeting all requirements of this subdivision.
(Ord. No. 1997-17, § 21-54(7), 6-24-1997)

Sec. 86-394. Special permit required.

In those districts which permit adult use, a special permit shall be required for any such adult use to be granted by the Zoning Board of Appeals pursuant to G.L. c. 40A, § 9A.

(Ord. No. 1997-17, § 21-54, 6-24-1997)

Sec. 86-395. Issuance of special permit; conditions.

(a) Application. The application for a special permit for an adult use must include the following:

1. The name and address of the legal owner of the proposed adult use establishment;
2. The name and address of all persons having a lawful, equity or security interest in the adult use establishment;
3. A sworn statement stating that neither the applicant nor any person having a lawful, equity or security interest in the adult use establishment has been convicted of violating the provisions of M.G.L.A. c. 119, § 63, or M.G.L.A. c. 272, § 28;
4. The name and address of the manager of the adult use establishment;
5. Proposed provisions for security within and without the adult use establishment;
6. The number of employees; and
7. The present and proposed physical layout of the interior of the adult use establishment.

(b) Ineligibility for permit. No special permit for an adult use shall be issued to any person convicted of violating M.G.L.A. c. 119, § 63, or M.G.L.A. c. 272, § 28.

(c) Public hearing. The Zoning Board of Appeals shall hold a public hearing within 65 days after the filing of an application with the board of appeals. The Zoning Board of Appeals shall act on an application within ninety days following the public hearing. Failure by the board to take final action upon an application for a special permit within said ninety days shall be deemed to be a grant of the permit applied for. Issuance of a special permit shall require a vote of at least four of the five members of the board.

(d) Expiration. Any adult use special permit issued under this subdivision shall lapse within one year if substantial use thereof has not sooner commenced, except for good cause, or, in the case of a permit for construction, if construction has not begun by such date except for good cause; excepting only any time required to pursue or await the determination of an appeal from the grant thereof.

(e) Notification of change in owner or manager. Any adult use special permit issued under this subdivision shall require that the owner of such adult use shall supply on a continuing basis to the building inspector any change in the name or address of the record owner or any change in the name of the current manager, and that failure to comply with this provision shall result in the immediate revocation of such special permit. If anyone so identified is or is found to be convicted of violating M.G.L.A. c. 119, § 63, or M.G.L.A. c. 272, § 28, such special permit shall immediately be null and void.

(f) Agreement to terms and conditions. No adult use special permit issued under this subdivision shall become valid or in full force and effect until and unless the owner of the property containing such adult use shall supply to the building inspector a notarized statement agreeing to all terms and conditions of the adult use special permit. (Ord. No. 1997-17, § 21-54(6)(b)--(g), 6-24-1997; Ord. No. 2003-17, § 3, 6-10-2003)

Sec. 86-396. [Intentionally omitted.]

Sec. 86-397. Site development standards.

(a) Each application for a special permit shall be accompanied by a site plan for the location of the proposed adult use, accurately depicting the structures and other improvements existing on the lot or to be constructed on the lot, demonstrating that the site shall comply with all setbacks, buffer zones and other dimensional requirements of this subdivision.

(b) Dimensional requirements. Any building or structure containing an adult use shall meet the setback requirements and other dimensional controls of the appropriate district as specified in this chapter. For any property proposed to contain an adult use, the applicant for a special permit for such use shall demonstrate that the entire property shall comply with the requirements and controls in this subdivision following the establishment of such use on such property.

(c) Parking and loading spaces shall be setback a minimum of 50 feet from any street or property line and 750 feet from any structure used in whole or in part for residential purposes. Drives providing vehicular access from a public or private way to parking and loading areas shall be setback a minimum of 50 feet from any property line. Adequate space for the parking of vehicles shall be permanently reserved at the following rates:

1. One per each three seats of total seating capacity for restaurants, clubs and places of assembly.
2. One per 200 square feet of gross floor area for retail establishments and office space.
3. A minimum of one off-street loading facility properly screened from neighboring properties and streets.
4. A minimum of eight parking spaces for any adult use.

(d) Landscaping. A perimeter strip no less than four feet in width adjacent to any public or private way shall be permanently maintained and cultivated in grass, shrubs, flowers, trees or other green ground cover, except for the openings provided for pedestrian sidewalks connecting to the public sidewalks and for the openings provided for vehicular entrance and exit.

(e) Signs. All signs for an adult use must meet the requirements of section 86-420. In addition, no advertisement, display or other promotional matter that contains sexually explicit graphics or sexually explicit text shall be visible to the public from any public way, including but not limited to sidewalks, pedestrian walkways, highways or railways. Further, illumination of buildings or signs shall be shielded to prevent glare. Flashing, moving or intermittent illumination shall not be permitted.
(Ord. No. 1997-17, § 21-54(3), 6-24-1997; Ord. No. 2003-17, § 5, 6-10-2003)

Sec. 86-398. View into booths where films or videos are shown.

If the adult use allows for the showing of films or videos within the premises, the booths in which the films or videos are viewed shall not be closed off by curtains, doors or screens. All booths must be able to be clearly seen from the center of the establishment.
(Ord. No. 1997-17, § 21-54(6)(a), 6-24-1997)

Sec. 86-399. Operation generally.

Adult businesses shall comply with all the following development and performance standards:

1. Advertisements. Advertisements, displays or other promotional materials for an adult business depicting or describing matter which is distinguished or characterized by its emphasis depicting or relating to sexual conduct or sexual excitement as defined in M.G.L.A. c. 272, § 31, shall not be shown or exhibited so as to be visible from other areas open to the general public.
2. View into interior. All building openings, entries and windows for an adult entertainment business shall be located, covered or screened in such a manner as to prevent a view into the interior of an adult business from any area open to the general public.
3. Posting of notice prohibiting minors. All entrances to an adult entertainment business shall be clearly and legibly posted with a notice indicating that minors are prohibited from entering the premises.
4. Sound equipment. No loudspeakers or sound equipment shall be used by an adult entertainment business for the amplification of sound to a level discernible by the public beyond the walls of the building in which the adult entertainment business is conducted.
5. Hours. An adult entertainment business shall not remain open for business, or permit any employee to engage in a performance, solicit a performance, make a sale, solicit a sale, provide a service or solicit a service, between the hours of 1:00 a.m. and 10:00 a.m. of any particular day. These hours of operation may be further restricted in the conditions approving a special use permit for an adult entertainment business. (Ord. No. 1997-17, § 21-54(6)(h), 6-24-1997)

Sec. 86-400. [Reserved.]

Sec. 86-401. [Reserved.]

Division 8. Mobile homes or trailers.

Sec. 86-402. Prohibited.

(a) No land within the city, in any district whatsoever, shall be used for a mobile home, automotive type or other, or a trailer (including a temporary trailer), whether mobile or immobile, designed or used for living purposes, except as provided in this division.

(b) The building inspector may permit upon written application the location of a construction trailer or trailers on a lot or parcel of land, which construction trailer may be used for a period not exceeding six (6) months as the offices and headquarters for the contractor or contractors engaged in construction on such lot or parcel of land. Such construction trailer shall be used for construction administration purposes only. A permit issued by the building inspector may be renewed for an additional six (6) month period or until the project is completed. (Ord. No. 1997-2, § 21-221(a), 1-28-1997)

Division 9. Body Art Establishments.

Sec. 86-403. Body Art Establishments.

The Zoning Board of Appeals may grant a Special Permit for a body art establishment with such conditions as it deems appropriate for the protection of public health, safety and welfare and consistent with the Board of Health's piercing and tattooing regulations.

Finding: The Zoning Board of Appeals must find that the location, setback, parking, hours of operation and design of such use will not be detrimental to the neighborhood by reason of traffic, congestion, noise or appearance.

Location: The Zoning Board of Appeals may grant a Special Permit for a body art establishment in the following district only: Commercial Mill District [CMD].
(Ord. No. 2001-29, §2, 10-4-2001)

Division 10. Wind Energy Facilities.

Sec. 86-404. Purpose.

The purpose of this division is to provide for the construction and operation of wind energy facilities and to provide standards for the placement, design, construction, monitoring, modification and removal of wind energy facilities that address public safety, minimize impacts on scenic, natural and historic resources of the City and provide adequate financial assurance for decommissioning said wind energy facilities. The provisions set forth in this division shall take precedence over all other divisions when considering applications related to the construction, operation, repair and/or decommissioning of wind energy facilities

(a) Applicability: This division applies to wind energy facilities proposed to be constructed after the effective date of this section. This division applies to all utility-scale, on-site wind facilities and small wind energy systems. This division also includes building integrated wind systems and physical modifications to existing wind facilities that materially alter the type, configuration or size of such facilities or other equipment. This division does not apply to off-shore wind systems.

Sec. 86-405. General Requirements.

The following requirements are common to all wind energy facilities and must be followed in addition to the technology-specific applicable requirements throughout this Division.

(a) Exemptions: Wind turbines constructed, reconstructed or renovated for the primary purpose of commercial agriculture shall be considered a structure pursuant to MGL c. 40A §3 and, therefore,

shall be exempt from this ordinance.

(b) A permit shall be granted unless the permit granting authority finds in writing that there is substantial evidence that:

-The specific site is not an appropriate location for such use;
-There is expected to be any serious hazard to pedestrians or vehicles from the use;
-A nuisance is expected to be created by the use; and
-Adequate and appropriate facilities will not be provided for the proper operation and maintenance of the use.

Technology	Permit Required
Small Wind (and/or Meteorological Towers)	Building Permit from Inspector of Buildings
Large Wind (including Utility-Scale and/or On-Site Wind Facilities)	Special Permit from ZBA (and Building Permit from Inspector of Buildings)
Building Integrated	Special Permit from ZBA (and Building Permit from Inspector of Buildings)

(c) Compliance with Laws, Ordinances and Regulations: The construction and operation of all such proposed wind energy facilities shall be consistent with all applicable local, state and federal requirements, including but not limited to, all applicable safety, construction, environmental, electrical, communications and aviation requirements.

(d) Proof of Liability Insurance: The applicant shall be required to provide evidence of liability insurance in an amount and for a duration sufficient to cover loss or damage to persons and property occasioned by the failure of the facility.

(e) Site Control: At the time of its application for a Special Permit or a Building Permit, the applicant shall submit documentation of actual or prospective control of the project site sufficient to allow for installation and use of the proposed facility. Documentation shall also include proof of control over setback areas and access roads, if required. Controls hall mean the legal authority to prevent the use or construction of any structure for human habitation within the setback areas.

(f) Utility Notification: No wind energy facility shall be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.

(g) Temporary Meteorological Towers (Met Towers): Met towers shall be permitted under the same standards as a small wind energy system, except that the requirements apply to a temporary structure. A permit for a temporary met tower shall be valid for a maximum of three years, after which an extension may be granted by the Inspector of Buildings. Small anemometers installed directly on buildings shall not require a Building Permit or a Special Permit.

Sec. 86-406. Site Development, Monitoring and Maintenance Standards.

Appearance, Color and Finish: Federal Aviation Administration (FAA) consideration on color and appearance will be considered first. In the event that the proposed location is not in an area regulated by the FAA, the wind generator and tower shall remain painted or finished the non-reflective color or finish that was originally applied by the manufacturer, unless otherwise

approved by the Zoning Board of Appeals.

Lighting: Wind turbines shall be lit only if required by the Federal Aviation Administration. Lighting of other parts of the small wind energy system, such as appurtenant structures, shall be limited to that required for safety and operational purposes, and shall be reasonably shielded from abutting properties.

Signage and Advertising: Signs and advertising shall be restricted to reasonable identification of the manufacturer or operator of the small wind energy facility, including a 24-hour emergency contact phone number and any applicable danger warnings. Such signs and advertising shall defer to the requirements of the City sign regulations and other requirements set forth by the Zoning Board of Appeals and/or the Inspector of Buildings.

Utility Connections: Reasonable efforts shall be made to locate utility connections from the wind energy facility underground, depending upon appropriate soil conditions, shape and topography of the site and any requirements of the utility provider. Electrical transformers for utility interconnections may be above-ground if required by the utility provider.

Appurtenant Structures: All appurtenant structures to such wind energy facilities shall be subject to reasonable regulations concerning the bulk and height of structures and determining yard sizes, lot area, setbacks, open space, parking and building coverage requirements. All such appurtenant structures, including but not limited to, equipment shelters, storage facilities, transformers and substations shall be contained within the turbine tower whenever technically and economically feasible. Whenever reasonable, structures should be shaded from view by vegetation and/or located in underground vault and joined or clustered to avoid adverse visual impacts.

Emergency Services: The applicant shall provide a copy of the project summary, electrical schematic and site plan to the local emergency services entities, as designated by the permit granting authority. Upon request, the applicant shall cooperate with local emergency entities in developing an emergency response plan. All means of disconnecting the wind energy facility shall be clearly marked. The applicant or facility owner shall maintain a phone number and identify a responsible person for the public to contact with inquiries and complaints throughout the life of the project.

Unauthorized Access: Wind turbines or other structures part of a wind energy facility shall be designed to prevent unauthorized access. For instance, the tower shall be designed and installed so as not to provide step bolts or other climbing means readily accessible to the public for a minimum height of eight feet above the ground. Electrical equipment shall be locked whenever possible.

Shadow/Flicker: Wind energy facilities shall be sited in a manner that minimizes shadowing or flicker impacts. The applicant has the burden of proving that this effect does not have significant adverse impact on neighboring or adjacent uses.

Sound: The wind energy facility and associated equipment shall conform with the provisions of the Department of Environmental Protection's Division of Air Quality Noise Regulations (310 CMR 7.10), unless the Department of Environmental Protection (DEP) and the permit granting authority agree that those provisions shall not be applicable. A source of sound will be considered to be in violation of these regulations if the source increases the broadband sound level by more than 10 dB(A) above ambient or produces a "pure tone" condition, which is when an

octave band center frequency sound pressure level exceeds the two adjacent center frequency sound pressure levels by 3 decibels or more.
These criteria are measured both at the property line and at the property line and at the nearest inhabited structure. Ambient is defined as the background A-weighted sound level that is exceeded 90% of the time measured during equipment hours. The ambient may also be established by other means with consent from DEP. An analysis prepared by a qualified engineer shall be presented to demonstrate compliance with these noise standards, if required by the permit granting authority. The permit granting authority, in consultation with DEP, shall determine whether such violations shall be measured at the property line or at the nearest inhabited residence.

Land Clearing, Soil Erosion and Habitat Impacts: Clearing of natural vegetation shall be limited to that which is necessary for the construction, operation and maintenance of the wind facility and such activities shall be subject to all applicable local, state and federal regulations.

Facility Conditions: The applicant shall maintain the wind energy facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs and integrity of security measures. Site access shall be maintained to a level acceptable to the local emergency entities. The project owner shall be responsible for the cost of maintaining the wind energy facility and any access road(s), unless accepted as a public way, and the cost of repairing any damage occurring as a result of operation and construction.

Modifications: All material modifications to a wind energy facility made after issuance of the permit(s) shall require approval by the permit granting authority as provided in this Division.

Sec. 86-407. Abandonment or Decommissioning.

Removal Requirements: Any wind energy facility which has reached the end of its useful life or has been abandoned shall be removed. When the wind energy facility is scheduled to be decommissioned, the applicant shall notify the City by Certified Mail of the proposed date of discontinued operations and plans for removal. The owner/operator shall physically remove the wind energy facility no more than 150 days after the date of discontinued operations. At the time of removal, the wind energy facility site shall be restored to the state it was in before the facility was constructed or any other legally authorized use. More specifically, decommissioning shall consist of:
-Physical removal of all wind turbines, structures, equipment, security barriers and transmission lines from the site.
-Disposal of all solid and hazardous waste in accordance with local and state waste disposal regulations.
-Stabilization or re-vegetation of the site as necessary to minimize erosion. The permit granting authority may allow the owner to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.

Abandonment: Absent notice of a proposed date of decommissioning, the facility shall be considered abandoned when the facility fails to operate for more than one year without the written consent of the permit granting authority. The permit granting authority shall determine in its decision what proportion of the facility is inoperable for the facility to be considered abandoned. If the applicant fails to remove the wind energy facility in accordance with the requirements of this section within 150 days of abandonment or the proposed date of decommissioning, the City shall have the authority to enter the property and physically remove the facility.

Expiration: A permit issued pursuant to this Division shall expire if:
-The wind energy facility is not installed and functioning within 24 months from the date of issuance of the permit; or
-The wind energy facility is abandoned or otherwise out of service for a period of 12 months.

Violations: It is unlawful for any person to construct, install, or operate a wind energy system that is not in compliance with this Division or with any condition contained in a permit issued pursuant to this ordinance. Wind energy systems installed prior to the adoption of this ordinance are exempt.

Sec. 86-408. Small Wind Energy Facilities.

(a) Building Inspector Issued Permit: No small wind energy system shall be erected, constructed, installed or modified as provided in this section without first obtaining a Building Permit from the Inspector of Buildings. All such wind energy systems shall be constructed and operated in a manner that, where economically feasible, minimizes adverse visual, safety and environmental impacts. The construction of a small wind facility shall be permitted in the following zoning districts: Industrial Park Districts (IP); Open Space/Recreational Districts (OS); and Water Resource Districts (WR), subject to the issuance of a permit and provided that the use complies with all requirements set forth in this Division.

(b) Height: Small wind turbines shall be no higher than 250 feet above the current grade of the land, as measured at the uppermost point of the rotor's sweep area. A small wind turbine may exceed 250 feet if: the applicant demonstrates by substantial evidence that such height reflects industry standards for a similarly sited wind facility; such excess height is necessary to prevent financial hardship to the applicant; and the facility satisfies all other criteria for the granting of a Building Permit under the provisions of this Division.

(c) Setbacks: Small wind turbines shall be set back a distance equal to the total height of the wind turbine from the nearest existing residential or commercial structure and 30 feet from the nearest property line and private or public way.

(d) Setback Waiver: The permit granting authority may reduce the minimum setback distance as appropriate, based on site-specific considerations, or written consent of the affected abutter(s), if the project satisfies all other criteria for the granting of a permit under the provisions of this Division.

(e) Application Process and Requirements: A Building Permit shall be required for the installation of a small wind energy system.

(f) Documents: The application for a Building Permit shall be accompanied by deliverables including the following:

(1) A plot plan showing:
(i) Property lines and physical dimensions of the subject property within 2 times the total height of the wind turbine from the proposed tower location.

(ii) Location, dimensions, and types of existing major structures on the property and abutting properties.
(iii) Location of the proposed wind system tower, foundations, guy anchors and associated equipment.
(iv) The right-of-way of any public road that is contiguous with the property.
(v) Any overhead utility lines.
(vi) Location and approximate height of tree cover.

(2) Wind system specifications, including manufacturer and model, rotor diameter, tower height, tower type (freestanding or guyed).

(3) One or three line electrical diagram detailing wind turbine, associated components, and electrical interconnection methods, with all NEC compliant disconnect and overcurrent devices.

(4) Foundations for all towers must have blueprints or drawings signed by a Professional Engineer registered in the Commonwealth of Massachusetts.

(5) Name, address, phone number and signature of the applicant and the property owners, as well as all co-applicants or additional property owners, if any.

(6) Certification by a Professional Engineer registered in the Commonwealth of Massachusetts certifying that the structure can withstand winds of up to 125 mph.

(7) The name, contact information and signature of any agents representing the applicant.

(8) A plan for maintenance of the small wind energy facility.

(9) Tower blueprints or drawings signed by a Professional Engineer registered in the Commonwealth of Massachusetts.

(g) Fees: The application for a Building Permit for a wind energy system must be accompanied by the fee required for a Building Permit.

Sec. 86-409. Large Wind Energy Facilities (Utility and On-Site Projects).

Special Permits shall be granted by the special permit granting authority for large wind energy facilities that meet the criteria outlined in this Division. The construction of a large wind energy facility shall be permitted in the following zoning districts: Industrial Park Districts (IP); Open Space/Recreational Districts (OS); and Water Resource Districts (WR), subject to the issuance of a permit and provided that the use complies with all requirements set forth in this Division.

(a) Special Permit Granting Authority: No wind energy facility over 100 kilowatts of rated nameplate capacity shall be erected, constructed, installed or modified as provided in this

section without first obtaining a Special Permit from the special permit granting authority. The construction of a wind energy facility shall be permitted subject to the issuance of a Special Permit and provided that the use complies with all requirements set forth in this Division. All such wind energy facilities shall, where economically feasible, be constructed and operated in a manner that minimizes adverse visual, safety and environmental impacts.

(b) Financial Surety: The special permit granting authority may require the applicant for utility-scale wind facilities to provide a form of surety, either through escrow account, bond or otherwise, to cover the cost of removal in the event the City must remove the facility, of an amount and form determined to be reasonable by the special permit granting authority, but in no event to exceed more than 125 percent of the cost of removal and compliance with the additional requirements set forth herein, as determined by the applicant. Such surety will not be required for municipally or state-owned facilities. 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 for Cost of Living Adjustment.

(c) Height: Large wind energy facilities shall be no higher than 450 feet above the current grade of the land, provided that wind facilities may exceed 450 feet if: the applicant demonstrates by substantial evidence that such height reflects industry standards or manufacturer recommendations for a similarly sited wind facility; if the applicant can demonstrate significant financial gain due to the additional height; and the facility satisfies all other criteria for the granting of a Building Permit under the provisions of this Division.

(d) Setbacks: Large wind turbines shall be set back a distance equal to 1.2 times the overall blade tip height of the wind turbine from the nearest existing residential or commercial structure and 50 feet from the nearest property line and private or public way.

(e) Setback Waiver: The special permit granting authority may reduce the minimum setback distance as appropriate, based on site-specific considerations, or written consent of the affected abutter(s), if the project satisfies all other criteria for the granting of a special permit under the provisions of this Division.

(f) Required Supporting Documentation: The applicant shall provide the special permit granting authority with a description of the proposed project which shall include:

(1) General:
All plans and maps shall be prepared, signed and stamped by a Professional Engineer registered in the Commonwealth of Massachusetts. Include in the application shall be: name, address, phone number and signature of the applicant and property owners, as well as all co-applicants and additional property owners, if any.

(2) Technical Documentation:
The applicant shall, at a minimum, submit the following technical documentation regarding the proposed wind energy facility to the special permit granting authority:
-Wind energy facility technical specifications, including manufacturer and model, rotor diameter, tower height/type, foundation type/dimensions.
-Tower foundation blueprints or drawings signed by a Professional Engineer registered in the Commonwealth of Massachusetts.

-Tower blueprints or drawings signed by a Professional Engineer registered in the Commonwealth of Massachusetts.
-Electrical schematic.

(3) Location Map - Utility-Scale Projects:
The applicant shall submit, to the special permit granting authority, a copy of a portion of the most recent USGS Quadrangle Map, at a scale of 1:25,000 showing the proposed facility site, including turbine sites, and the area within at least two miles of the facility. Zoning district designation for the subject parcel should be included; however, a copy of the current Zoning Map identifying the subject parcel is suitable.

(4) Site Plan:
A plan with a scale of 1 inch = 200 feet of the proposed wind facility site, with contour intervals of no more than 10 feet, showing the following:
-Property lines for the site parcel and adjacent parcels within 300 feet.
-Outline of all existing buildings, include purpose (i.e. residence, garage, etc.) on site parcel and all adjacent parcels within 500 feet. Plan shall include distances from the wind facility to each building shown.
-Location of all roads, public and private, on the site parcel and adjacent parcels within the setback distance of 1.2 times the blade tip height, and proposed roads or driveways, either temporary or permanent.
-Existing areas of tree cover, including average height of trees, on the site parcel and adjacent parcels within the setback distance of 1.2 times the blade tip height.
-Proposed location and design of wind facility, including all turbines, ground equipment, appurtenant structures, transmission infrastructure, access, fencing, and exterior lighting.
-Location of viewpoints, as referenced in this Division.

(5) Visualizations – Utility-Scale Projects:
The special permit granting authority may select up to four sight lines, including from the nearest building with a view of the wind facility, for pre- and post-construction view representation. Sites for the view representations shall be selected from populated areas or public ways within a 2-mile radius of the proposed wind energy facility. View representations shall have the following characteristics:
-View representations shall be in color and shall include actual pre-construction photographs and accurate post-construction simulations of the height and breadth of the wind facility (i.e. superimpositions of the wind facility onto photographs of existing views).
-All view representations will include existing or proposed buildings or tree coverage.
-Include description of the technical procedures followed in producing the visualization (distances, angles, lens, etc.).

(6) Visualizations – On-Site Projects:
The special permit granting authority may select up to three sight lines, including from the nearest building with a view of the wind facility, for pre- and post-construction view representation. Sites for the view representations shall be selected from populated areas or public ways within a 2-mile radius of the proposed wind energy facility. View representations shall have the following characteristics:

-View representations shall be in color and shall include actual pre-construction photographs and accurate post-construction simulations of the height and breadth of the wind facility (i.e. superimpositions of the wind facility onto photographs of existing views).
-All view representations will include existing or proposed buildings or tree coverage.
-Include description of the technical procedures followed in producing the visualization (distances, angles, lens, etc.).

(7) Operation and Maintenance Plan:
The applicant shall submit a plan for maintenance of access roads and stormwater management controls, as well as general procedures for operational maintenance of the wind facility.

(8) Compliance Documents:
The applicant will provide with the application:
-Description of financial surety that satisfies the provisions of this section.
-Proof of liability insurance that satisfies the provisions of this section.
-Certification of height approval from the FAA.
-Statement that satisfies the provisions of this Division, listing existing and maximum projected sound levels from the wind energy facility.

(9) Landscape Plan – Utility-Scale Projects Only:
A plan indicating all proposed changes to the landscape of the site, including temporary or permanent roads or driveways, grading, vegetation clearing and planting, exterior lighting other than FAA lights, screening vegetation or structures. Lighting shall be designed to minimize glare on abutting properties and except as required by the FAA be directed downward with full cut-off fixtures to reduce light pollution.

(10) Independent Consultants – Utility-Scale Projects Only:
Upon submission of an application for a Special Permit, the special permit granting authority will be authorized to hire outside consultants, pursuant to MGL c. 44, §53G. There shall be an administrative appeal from the selection of the outside consultant to the City Council. The grounds for such an appeal shall be limited to claims that the consultant selected has a conflict of interest or does not possess the minimum, required qualifications. The minimum qualifications shall consist either of an educational degree in or related to the field at issue or there or more years of practice in the field at issue or a related field. The required time limits for action upon an application by a municipal permit granting board shall be extended by the duration of the administrative appeal. In the event that no decision is made by the City Council within one month following the filing of the appeal, the selection made by the municipal permit granting authority shall stand. Such an administrative appeal shall not preclude further judicial review.
(State law reference M.G.L c. 44 § 53G)

Sec. 86-410. Building Integrated Wind Energy Facilities.

Special Permits shall be granted by the special permit granting authority for building integrated wind energy facilities that meet the criteria outlined in this Division. The construction of a building integrated wind energy facility shall be permitted in the following zoning districts: Industrial Park Districts (IP); Open Space/Recreational Districts (OS); and

Water Resource Districts (WR), subject to the issuance of a permit and provided that the use complies with all requirements set forth in this Division.

(a) Special Permit Granting Authority: No building integrated wind energy facility shall be erected, constructed, installed or modified as provided in this section without first obtaining a Special Permit from the special permit granting authority. The construction of a building integrated wind energy facility shall be permitted subject to the issuance of a Special Permit and provided that the use complies with all requirements set forth in this Division. All such wind energy facilities shall, where economically feasible, be constructed and operated in a manner that minimizes adverse visual, safety and environmental impacts.

(b) Required Supporting Documentation for Building Integrated Wind Energy Facilities:
The Special Permit application submitted to the special permit granting authority shall, at a minimum, include:
-Analysis and design documents, completed by a structural engineer registered in the Commonwealth of Massachusetts, demonstrating that the proposed building is structurally sufficient to support the permanent installation of the proposed building integrated wind energy facility. At a minimum, the analysis must address vibration, wind load and ice load.
-Elevation drawings of building with building integrated wind energy facility installed, viewed from north, south, east and west.
-Building schematic detailing point(s) of connection and associated supports for the building integrated wind energy facility.
-Schematic of attachment method for connecting the building integrated wind energy facility to the building.
-Specification sheets for wind turbine and all related components (inverters, controllers, disconnects, etc.).
-One or three line electrical diagram detailing wind turbine, associated components, and electrical interconnection methods, with all NEC compliant disconnect and overcurrent devices.

Division 11. Housing Development Overlay District [HD]

Sec. 86-411. District Established.

There are hereby established Housing Development Overlay Districts within the City.

Sec. 86-412. Purpose.

The purpose of the establishment of the Housing Development Overlay Districts is to develop market rate housing in accordance with M.G.L. Chapter 40V and the regulations set forth at 760 CMR 66.00.

Sec. 86-413. Permitted Uses.

Housing Development Overlay Districts shall be considered as overlaying and shall overly all

other zoning districts within its boundaries. Any uses permitted in the district, or portions thereof so overlaid, shall be permitted subject to all provisions applicable to the district. Buildings within the district may be altered, enlarged or reconstructed for the use of market rate residential units and uses customarily accessory of market rate residential units. For the purposes of this division and in accordance with M.G.L. Chapter 40V, a "market rate residential unit" is defined as a residential unit priced for households above 110 per cent of the area's household median income.

Secs. 86-414--86-420. [Reserved.]

ARTICLE V. NONCONFORMING USES, LOTS AND STRUCTURES

Sec. 86-421. Applicability.

This ordinance shall not apply to structures or uses lawfully in existence or lawfully begun, or to a building or special permit issued before the first publication of notice of the public hearing required by M.G.L.c. 40A, s. 5 at which this zoning ordinance, or any relevant part thereof, was adopted. Such prior, lawfully existing nonconforming uses and structures may continue, provided that no modification of the use or structure is accomplished, unless authorized hereunder.

Sec. 86-422. Determination.

The owner or occupant of any use that does not conform to the regulations of the district in which it is located may apply to the planning board for a determination that the use is a legal preexisting nonconforming use. Unless such determination is made by the Zoning Board of Appeals or the Building Inspector, no such use shall be changed to another nonconforming use.

Sec. 86-423. Nonconforming lots of record.

(a) Any increase in area, lot coverage, frontage, width, yard or depth requirements shall not apply to a lot for single-family and two-family residential use which at the time of the lot's recording, or endorsement, whichever occurred sooner, was not held in common ownership with any adjoining land, conformed to then-existing zoning requirements, and had at least five thousand (5,000) square feet of area and fifty (50) feet of frontage. For the purpose of this section, lots shall not be considered to be held in common ownership with adjoining land if each single lot of record adjoins another solely along the rear lot line of each lot, so long as each such lot has frontage on an improved public way constructed (or adequately bonded to be constructed) to the city's specifications, or on an improved private way constructed to the city's specifications. For the purpose of this section lots shall not be considered to be held in common ownership with adjoining land if each lot has at least five thousand (5,000) square feet of area and fifty (50) feet of frontage and was not held in common ownership as of January 1, 1980.

(b) The Zoning Board of Appeals may grant a Special Permit for the division of any single lot of record containing two or more residential dwelling buildings existing continuously since 1954,

provided they be divided into separate lots, each of which contains a separate residential dwelling building and the Zoning Board finds that the division is made in a way to maximize the use of the proposed lots, specifically access, parking and yard area.

Sec. 86-424. Nonconforming uses of land.

The Board of Appeals may grant a special permit to change or extend a nonconforming use in accordance with this section only if it determines that such change or extension shall not be substantially more detrimental than the existing nonconforming use to the neighborhood. The following types of changes to nonconforming uses may be considered by the Zoning Board of Appeals:

(a) Change or substantial extension of the use;

(b) Change from one nonconforming use to another, equally appropriate or more appropriate nonconforming use.

Sec. 86-425. Nonconforming structures, other than single and two-family structures.

The Zoning Board of Appeals may grant a special permit to reconstruct, extend, alter, or change a nonconforming structure in accordance with this section only if it determines that such reconstruction, extension, alteration, or change shall not be substantially more detrimental than the existing nonconforming structure to the neighborhood. The following types of changes to nonconforming structures may be considered by the Zoning Board of Appeals:

(a) Reconstruction, extension or structural changes;

(b) Alterations to provide for a substantially different purpose or for the same purpose in a substantially different manner or to a substantially greater extent.

The reconstruction, extension or structural change of a nonconforming structure (except nonconforming single and two family residential structures) in such a manner as to increase an existing nonconformity, or create a new nonconformity shall require a variance; provided, however, that the extension of an exterior wall at or along the same nonconforming distance within a required yard, shall require the issuance of a special permit from the Board of Appeals.

Sec. 86-426. Nonconforming single and two-family structures.

Nonconforming single and two family residential structures may be reconstructed, extended, altered, or structurally changed upon a determination by the building inspector that such proposed reconstruction, extension, alteration, or change does not increase the nonconforming nature of said structure, and the issuance of a building permit, where applicable. Any of the following circumstances shall not be deemed to increase the nonconforming nature of said structure:

a. alteration to a structure which complies with all current setback, yard, building and lot coverage, and building height requirements but is located on a lot with insufficient area, where the alteration will also comply with all of said current requirements.

b. alteration to a structure which complies with all current setback, yard, building and lot coverage, and building height requirements but is located on a lot with insufficient frontage, where the alteration will also comply with all of said current requirements.

c. alteration to a structure which encroaches upon one or more required yard or setback areas, where the alteration will comply with all current setback, yard, building and lot coverage and building height requirements. The provisions of this clause (c) shall apply regardless of whether the lot complies with current area and frontage requirements.
In the event that the building inspector determines that the nonconforming nature of such structure would be increased by the proposed reconstruction, extension, alteration, or change, the Board of Appeals may, by a finding, (which shall not require a super majority required by M.G.L.A. c. 40A s. 6), allow such reconstruction, extension, alteration, or change where it determines that the proposed modification will not be substantially more detrimental than the existing nonconforming structure to the neighborhood.

Sec. 86-427. Uses permitted by special permit.

Any use that is permitted by special permit under the terms of this chapter (other than a change through Zoning Board of Appeals action from a nonconforming use to another nonconforming use) shall not be deemed a nonconforming use but shall without further action be considered a conforming use. (Ord. No. 1997-2, § 21-277, 1-28-1997)

Sec. 86-428. Abandonment or non-use.

A nonconforming use or structure that has been abandoned, or not used for a period of two (2) years, shall lose its protected status and be subject to all of the provisions of this ordinance.

Notwithstanding the above, a nonconforming structure that has been abandoned, or not used for a period of two (2) years, may reestablish its protected status upon the grant of a special permit by the Board of Appeals.

Sec. 86-429. Reversion to nonconformity.

No nonconforming use shall, if changed to a conforming use, revert to a nonconforming use.

Sec. 86-430. Infectious invalidity.

A property owner may not create a valid building lot by dividing it from another parcel rendered nonconforming by such a division.

Sec. 86-431--86-440. [Reserved.]

ARTICLE VI. GENERAL REGULATIONS

Division 1. Parking and Loading.

Sec. 86-441. Table of parking and loading requirements.

Every building erected, enlarged, converted, or relocated and each use or change of use of land shall be provided with off-street parking spaces and off-street loading spaces in accordance with the table of parking and loading requirements. The following table is incorporated in and made part of this chapter. In the event of discrepancies between the narrative text in the sections of this chapter and the table, the text of the sections shall control:

TABLE OF PARKING AND LOADING REQUIREMENTS

USE	PARKING REQUIREMENTS	LOADING REQUIREMENTS
One-family dwelling Two-family dwelling Multi-family (3+ dwelling units per structure)	Two (2) spaces per dwelling unit	One (1) loading space for each multi-family dwelling containing more than ten (10) dwelling units
Hotel, motel, bed and breakfast, rooming or boarding or lodging house, tourist home, dormitories, or other non-family residence accommodations, excluding group homes	One (1) space per each employee per shift, who does not reside on the premises; one(1) space per guest room, dwelling parking requirements, if applicable	One (1) loading space for each building containing more than 20 guest rooms
Offices: General, professional, business, banks, medical clinics and laboratories, radio and television stations; offices of non-profit educational, cultural, or charitable organizations	One (1) space per each employee per shift; a minimum of six (6) spaces for customers	One (1) loading space for each building
Fast-food drive-in, carry-out restaurants	One (1) space per each employee per shift, minimum of ten (10) spaces for customers	One (1) loading space for each building
Businesses engaged in retail sale of goods and services, not elsewhere enumerated herein	One (1) space per each employee per shift; minimum of three (3) spaces for customers	

USE	PARKING REQUIREMENTS	LOADING REQUIREMENTS
Business engaged in retail sales, rental, repair, servicing, storage and distribution of motor vehicles, trailers, campers, boats, furniture or building materials	One (1) space per each employee per shift; minimum of three (3) spaces for customers	One (1) loading space for each building
Restaurants	One (1) space per each four seats of total seating capacity	One (1) loading space for each building
Hospital, convalescent homes, nursing homes, rest homes or homes for the aged	One (1) space per four (4) beds	One (1) loading space for each building
Places of assembly, including theatres, veterans, fraternal, social and recreational clubs and organizations not operated for a profit; taxi, bus & railroad passenger terminals; auditoriums, theaters, bowling alleys and dance halls; sports facilities; places of worship; funeral homes	One (1) space per five (5) seats for which the building is designed	
Business engaged in the manufacturing, processing, assembly, fabrication of products, including research and testing laboratories and facilities	One (1) space per each 500 sq. ft. of gross floor area; one (1) space for each vehicle used in conducting the business	Two (2) loading spaces for each building

USE	PARKING REQUIREMENTS	LOADING REQUIREMENTS
Business engaged in the warehousing and distribution of goods & materials including building & construction contractors, equipment & supplies on premises, motor freight terminal, facilities for storing & servicing of motor vehicles used in conducting a business or public transportation, industrial machinery & equipment, grain, petroleum products & junkyards	One (1) space per 1500 sq. ft. of gross floor area up to 15,000 sq. ft. Thereafter, one (1) additional space for each 5,000 sq. ft. of floor area beyond 15,000 sq. ft.; one (1) space for each vehicle used in conducting the business	
Schools, Adult Day Care Centers, Day Care Centers, excluding family day care homes	One (1) space per each employee per shift	One (1) loading space for each building.
Group Homes	One (1) space per each employee per shift	One (1) loading space for each building containing more than 20 guest rooms
Family (In-home) Day Care	One (1) space for each non-resident employee; also see residential parking requirements	

Sec. 86-442. Existing spaces.

Parking or loading spaces being maintained in any district in connection with any existing use on the effective date of this ordinance, or any spaces subsequently provided in accordance with this ordinance, shall not be decreased or in any way removed from service to the use originally intended to be served so long as said use remains, unless a number of parking or loading spaces is constructed elsewhere on the property, provided: this regulation shall not require the maintenance of more parking or loading spaces than is required according to the tables.

In the event of the enlargement of a structure existing on the effective date of the ordinance from which this section is derived, or the construction or relocation of additional structures on a lot, after such effective date, the regulations of this section shall apply only to the enlargement, construction or relocation thereof, except that any off-street parking and off-street loading facilities established to serve any building and any uses prior to such effective date shall not be reduced below the required number.

Sec. 86-443. Change of use.

The change in use of an existing structure, built prior to the effective date of this ordinance shall be permitted without meeting the required number of parking spaces; provided the building inspector makes a determination that the number of existing parking spaces if any are not being reduced, the use is permitted as a preexisting nonconforming use in the district, and additional parking cannot be provided in a reasonable manner.

Sec. 86-444. Location and Layout of Parking and Loading Spaces.

Off-street parking and loading for buildings other than single or two family residences, may be provided in structures or in the open air, and shall be subject to the following regulations pertaining to their layout and location:

1. Parking spaces shall be located on the same lot as the building or use where they are intended to serve, except that they may be provided on an adjoining lot in the same ownership.

2. Parking space for three (3) or fewer vehicles may be provided in the form of a driveway on a lot; the improved surface may be extended to one (1) foot of the side line.

3. Where a drive or aisle, other than a street, is required to maneuver a vehicle into or out of a parking space, such drive or aisle shall be at least twenty – two (22) feet wide for parking spaces situated at right-angles, or nearly right-angles to the aisle. For parking spaces situated at an angle of thirty (30) to sixty (60) degrees to the aisle, the required width of the aisle shall be at least sixteen (16) feet.

4. Parking and loading spaces other than those required for single two-family dwellings shall be so arranged as not to permit backing of vehicles onto any street.

5. No off-street loading areas or berths shall be laid out in such a manner as will result in loading or unloading being carried on within a street right-of-way or other public property. Each area or berth shall be of sufficient size as to accommodate the largest expected truck or tractor trailer common to the building use.

All parking and loading areas containing over five (5) spaces which are not inside a structure shall also be subject to the following unless such requirement is waived by the city building inspector based on a determination that the proposed conditions satisfy the intent of these standards:

1. The surfaced area shall be set back at least ten (10) feet from front lot lines and from all lot lines of abutting property used for residential purposes; however, for side and rear lot lines the setback need only be five (5) feet if the setback includes a solid wall or fence, five (5) to six (6) feet in height complemented by suitable plantings. In no case shall the paved area be set back from the front lot line a distance less than the minimum front yard setback for the district, nor from a side

or rear lot line a distance less than the minimum buffer width required by the table of parking and loading requirements.

2. Parking areas providing more than twenty-five (25) spaces shall include a landscaped area that is at least eight percent (8%) of the total paved portion of the parking area. Minimum required landscaped setbacks and buffers at the perimeter of the parking area shall not be counted toward the landscaping requirement of this paragraph. Individual strips of landscaping shall be at least four (4) feet in width.

Sec. 86-445. Special permit.

Any parking or loading requirement set forth herein may be reduced or modified upon the issuance of a Special Permit by the Zoning Board of Appeals, if the board finds that the reduction or modification is not inconsistent with public health and safety, or that the reduction or modification promotes a public benefit. Such cases might include:

1. Use of a common parking lot for separate uses having peak demands occurring at different times.

2. Age or other characteristics of occupants of the facility requiring parking which reduces auto usage.

3. Peculiarities of the use which make usual measures of demand invalid.

4. Availability of on-street parking or parking at nearby municipal facilities.

5. Use of off-site parking.

Sec. 86-446. Setbacks for garages and sheds.

Any private unattached garage or shed in any district shall be placed at least twenty (20) feet from the street line, six (6) feet from any building and four (4) feet from the side and rear line of the lot. Maximum height of an unattached garage or shed shall not exceed eighteen (18) feet. Maximum size of an unattached garage foundation shall not exceed seven hundred fifty (750) s.f. or twelve percent (12%) of the lot area, whichever is less. Maximum size of a shed shall not exceed two hundred (200) square feet. Any private attached garage in any district shall be placed at least twenty (20) feet from the street line and four (4) feet from the side and rear line of the lot or meet the minimum setbacks for the district in which it is located, whichever is greater. The Zoning Board of Appeals may grant a Special Permit for the construction of a garage or shed in excess of the maximum size provided the board finds that the scale of the proposed structure is consistent with neighboring structures and that the proposed structure will not impact the use and enjoyment of the abutting properties.

Sec. 86-447. Home occupations as of right.

Businesses or professions incidental to and customarily associated with the residential use of a premises may be permitted as an accessory use by the owner of that dwelling; provided, however, that all of the following conditions shall be satisfied:

1. The occupation or profession shall be carried on wholly within the building.

2. Not more than twenty percent (20%) of the floor area of the residence shall be used in the home occupation.

3. The home occupation shall not serve clients, customers, pupils, salespersons, or the like on premises.

4. There shall be no interior or exterior signs, exterior display, exterior storage of materials, and no other interior or exterior indication of the home occupation, or other variation from the residential character of the premises.

5. No use or storage of hazardous materials in quantities greater than associated with normal household use shall be permitted.

6. Traffic generated shall not exceed volumes normally expected in a residential neighborhood.

7. Only one (1) home occupation shall be conducted on the premises.

8. There shall be a maximum of two (2) employees and they must reside within the building.

Sec. 86-448. Pigeon Lofts.

Any pigeon loft shall be placed at least ten (10) feet from any property line or structure. Existing lofts may continue to be used in accordance with Sec 86-425 of this ordinance.

The Zoning Board of Appeals may grant a special permit for a new pigeon loft provided the following conditions are met:

1. The Board finds that the pigeon loft can be constructed and used without adversely affecting the neighborhood.

2. All pigeons shall be banded and registered with one of the national pigeon association or registries.

3. All pigeon lofts shall comply with the state sanitary code.

Sec 86-449--86-460. [Reserved.]

Division 2. Signs.

Sec. 86-461. Signs.

(a) Applicability. No signs or advertising devices of any kind or nature shall be erected on any premises or affixed to the outside of any structure except as specifically permitted in this section.

(b) Permitted sign types. The following types of signs are permitted:

1. Address sign: One (1) sign displaying the street number and name of the occupant or establishment of the premises and service provided; such sign may not exceed two (2) square feet in area if it is attached to the building. Such sign may be on a rod or pole not more than four (4) feet high, and at least (3) feet in from street line and may not exceed four (4) inches by six (6) inches in size. Any address signs must be stationary, non-illuminated and not contain any motorized moving parts.

2. Awning sign: A sign painted on or attached to a moveable metallic frame, of the hinged roll or folding type, which may have a non-combustible covering.

   a. Such sign must be painted, embroidered, or stitched on or attached flat against the surface of, but not extending beyond or attached to the underside.

   b. Letters shall not exceed ten (10) inches in height.

   c. A minimum clearance above sidewalk level of seven (7) feet must be allowed for pedestrian clearance.

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

   a. Such sign shall not exceed twenty (20) square feet in total area.

   b. One (1) such sign for each property is allowed, unless the street frontage of said institution exceeds one hundred (100) feet, then one (1) sign for each one hundred (100) feet is allowed but in no event more than three (3) such signs. Such sign shall be at least (3) feet in from street line.

4. Contractor sign: An off-premise sign identifying the contractor's name, address and other pertinent information.

   a. Such sign may not exceed twenty (20) square feet.

   b. Such sign may be maintained on the building or structure only for the interim of construction and not exceeding fifteen (15) days following completion of said construction.

c. Failure to remove said sign within time period stated shall be cause for its removal by the building inspector at the expense of the owner.

5. Electronic sign – An outside sign, display, or device that changes its message or copy at intervals by programmable electronic, digital, or mechanical processes or by remote control.

Electronic signs shall be allowed in Neighborhood Shopping Districts (B-N), Local Business Districts (B-L), Mixed Use Business Districts (MBD), Commercial Mill Districts (CMD), Central Business Districts (CBD) and Waterfront and Transit Oriented Development Districts (WTOD) provided such signage meets the following use and dimensional regulations:

Use Regulations

1. The sign shall be programmed so that the message or image on the sign changes no more often than every four (4) seconds.

2. The sign shall not display any illumination that changes in intensity during the static display period.

3. The electronic sign shall have installed ambient light monitors, and shall at all times allow such monitors to automatically adjust the brightness level of the sign based on ambient light conditions.

4. Maximum brightness levels for electronic or digital display boards shall not exceed 5,000 nits when measured from the billboard's face at its maximum brightness, during daylight hours and 500 nits when measured from the board face at its maximum brightness between sunrise and sunset.

5. No such sign shall:

   a. Emit or utilize in any manner any sound capable of being detected on a main traveled way by a person with normal hearing.

   b. Cause beams, lasers or rays of light from being directed at any portion of the traveled way, which beams or rays are of such intensity or brilliance as to cause glare or to impair the vision of the driver of any motor vehicle or which otherwise interferes with the operation of a motor vehicle.

   c. Obscure or interfere with the effectiveness of an official traffic sign, device or signal, or cause an undue distraction to the traveling public.

   d. Contain more than one face visible from the same direction on the traveled way.

e. Be located as to obscure or otherwise interfere with a motor vehicle operator's view of approaching, merging or intersecting traffic.

f. Depict any material or message, which is distinguished or characterized as adult use as defined in Secs. 86-390 through 86-399.

g. Contain flashing, or moving lights; moving video; or consist of a static image projected upon a stationary object.

Dimensional Regulations:

1. The maximum area per lot of electronic signage shall not constitute more than the following:

   40 s.f. in the Commercial Mill District (CMD), Neighborhood Shopping District (B-N) and Mixed Use Business District (MBD)

   24 s.f. in the Local Business District (B-L), Waterfront and Transit Oriented Development District (WTOD) and the Central Business District (CBD)

   In a specific case, the zoning board of appeals may, after a public hearing, grant a special permit for an electronic sign in an Industrial Park District (IP), Medical District (MD), Apartment District (A-2) or a Multiple Family Residence District (M), provided that the maximum surface area shall not constitute more than 24 s.f., the electronic sign is replacing an existing sign and the board finds that the location, setback and design of such use will not be detrimental to the area by reason of lighting, appearance or impact on neighboring uses.

6. "For sale" or "for rent" signs: An on-premise sign advertising the property being sold or rented.

   a. Such signs shall not exceed six (6) square feet.

   b. A maximum of two (2) such signs may be maintained on the property being sold or rented.

7. Free standing sign: A permanent on-premise sign.

   Free standing signs shall be allowed in Neighborhood Shopping Districts (B-N), Local Business Districts (B-L), Mixed Use Business Districts (MBD), Commercial Mill Districts (CMD), Central Business Districts (CBD), Waterfront and Transit Oriented Development Districts (WTOD), Medical Districts (MD) and Industrial Park Districts (IP) provided such signage meets the following regulations:

a. The outermost projection of a free-standing sign shall be set back from the street line a minimum of three (3) feet. No part of such sign may be located within five (5) feet of a side or rear lot line.

b. Each business establishment on a public way shall be entitled to maintain one (1) double faced panel on a free standing sign not to exceed one hundred (100) square feet per face. These panels may be part of a multi-faced sign or an individual sign. The height of said sign shall not exceed thirty (30) feet.

c. Where there are four (4) or more businesses on any one (1) lot, there may be one (1) free standing sign on said lot. On the one (1) free standing sign, each business occupying the premises shall be allowed a double-faced panel on said sign, provided that the overall size of the sign does not exceed 100 s.f. per face.

d. Where a lot has greater than three hundred (300) feet of linear frontage along the same public way, two (2) free standing signs shall be permitted. The height of each said sign shall not exceed thirty (30) feet. Said signs shall be at least two hundred (200) feet apart.

e. Where a business or group of businesses, on one (1) lot, have frontage on two (2) or more public ways, one (1) free standing sign is permitted on each public way.

8. Marquee signs: A sign painted on, attached to, or consisting of an interchangeable copy reader, on a permanent overhanging shelter which projects from the face of a building.

Marquee signs shall be allowed in Neighborhood Shopping Districts (B-N), Local Business Districts (B-L), Mixed Use Business Districts (MBD), Commercial Mill Districts (CMD), Central Business Districts (CBD) and Waterfront and Transit Oriented Development Districts (WTOD) provided such signage meets the following regulations:

a. Such sign may be painted on or attached flat against the surface of, but not extending beyond or attached to the underside.

b. Letters or symbols shall not exceed sixteen (16) inches in height.

c. A minimum clearance above sidewalk level of ten (10) feet must be allowed for pedestrian clearance.

9. Off-site sign: An off-site sign is defined as: an off-site sign controlled by the outdoor advertising board, which is used for the display of printed or painted advertising matter. No off-site sign shall be erected or maintained unless (i) the Board of Appeals grants a special permit therefore (ii) the height, setback and illumination requirements set forth herein are met and (iii) unless a special permit therefore has been granted by the outdoor advertising authority in accordance with

M.G.L. c. 93, ss. 29 through 33, as from time to time amended, and such permit is valid and outstanding.

a. The Board of Appeals may, after a public hearing, grant a special permit for an off-site sign, provided that the board finds that such sign will not be harmful to the public good and will not adversely affect the value or amenity of neighboring property, and also provided that the following requirements are met:

b. No off-site sign shall be erected in any residence district, Local Business District (B-L) or Industrial Park District (IP).

c. All off-site signs permitted by this section shall be subject to the requirements of M.G.L.A. c. 93, §§ 29--33, inclusive, and to the following specific requirements:

1. No more than one (1) off-site sign structure shall be permitted to be erected on a lot having fifty (50) feet or less of street frontage, and no more than one additional structure shall be permitted for an additional fifty (50) feet of lot frontage or major fraction thereof.

2. No such structure shall contain over signs per facing, nor shall any off-site sign be permitted to be erected within 50 feet of any adjoining residence district if it would directly face such district and be visible there from.

3. No off-site sign structure shall be permitted to be erected closer than ten feet to the line of any public way or closer to such line than the existing building setback line, whichever is the lesser setback.

4. No freestanding off-site sign shall be erected to exceed an overall height of 35 feet above the pavement level of the road from which it is designed to be seen, no wall sign shall extend more than three feet above the roof or parapet line, and no roof sign shall be erected to extend higher than 35 feet above the roof at point of mounting.

5. All off-site electronic signs permitted by this section shall be subject to the use and dimensional regulations of Sec. 86-461 (b)(5) with the exception of use regulation number 3. Commercial messages are permitted for off-site signs.

10. Painted signs: A permanent mural or message painted directly onto a building surface or the surface of a wall or retaining wall not part of any building.

11. Public service sign: A sign located for the purpose of providing directions towards or indication of a use not readily visible from a public street (e.g. restrooms, telephone, etc.).

a. Such signs that are necessary for public safety and convenience shall not exceed four (4) square feet.

b. Such signs may bear no advertising.

c. Such signs are not included in computing total sign area allowed.

12. Roof sign: A sign erected, constructed, or maintained above the roof of a building. Roof signs are prohibited except by Special Permit by the Zoning Board of Appeals.

13. Temporary sign: A sign intended to be used for a period of not more than thirty (30) days.

a. Permits must be obtained for the erection of temporary signs within the limitations set forth in this article.

b. A private entity that has obtained the necessary permits for a temporary banner sign that overhangs a public way must be covered by an insurance policy naming the City of Fall River as coinsured and for such amounts as shall be established by the City.

14. Wall sign: A sign that is attached parallel on the exterior surface of a building or structure.

Wall signs shall be allowed in Neighborhood Shopping Districts (B-N), Local Business Districts (B-L), Mixed Use Business Districts (MBD), Commercial Mill Districts (CMD), Central Business Districts (CBD), Waterfront and Transit Oriented Development Districts (WTOD), Medical Districts (MD) and Industrial Park Districts (IP) provided such signage meets the following regulations:

a. A wall sign shall not project more than fifteen (15) inches from the building surface.

b. Such signs shall not exceed above the lowest point of the roof, nor beyond the ends of the wall to which it is attached.

c. Sign size: Signs or advertising devices attached to the building shall not exceed two (2) square feet for each linear foot of the building face parallel or substantially parallel to a street lot line. Where a lot fronts on more than one street, the sign area facing each street frontage shall be calculated separately.

15. Window sign: A permanent non-illuminated sign painted on the inside glass of a window.

(c) Special requirements.

1. Corner buildings. If a building fronts two (2) or more streets, the sign area for each street frontage shall be computed separately.

2. Setback requirements. Unless otherwise specified in this ordinance, signs are exempt from setback requirements.

3. Sublevel storefront. If the first floor of a building is substantially above street grade and the basement is only partially below street grade, separate occupants of each level may each have one-half the square feet of signage allowed as if it were a single ground floor use.

4. Supports and brackets for a sign shall not extend needlessly above the cornice line of the building to which the sign is attached.

5. Trademarks that are registered for a specific commodity may occupy no more than ten percent (10%) of the sign area, except that said commodity is the major business conducted on the premises, then there shall be no such restriction.

(d) Prohibited signs. No person may erect the following signs:

1. A sign that rotates or has a motorized moving part that is visible from a public street.

2. Any sign which, by reason of its size, location, content, coloring or manner of illumination, constitutes a traffic hazard or a detriment to traffic safety in the opinion of the building inspector by obstructing the vision of drivers, or detracting from the visibility of any traffic sign or control device on public streets and roads.

3. Any sign which obstructs free ingress to or egress from a required door, window, fire escape or other required exitway or which obstructs a window, door or other opening for providing light or air or interferes with proper function of the building.

4. Any sign or sign structure which is structurally unsafe; or constitutes a hazard to safety or health by reason of inadequate maintenance, dilapidation or abandonment; or is not kept in good repair; or is capable of causing electrical shocks to persons likely to come in contact with it.

5. Signs that make use of words such as STOP, LOOK, DANGER, etc., or any phrases, symbols, or characters, in such a manner as to interfere with, mislead, or confuse traffic.

(e) Special Permit. The Zoning Board of Appeals may grant a Special Permit to construct a sign other than those permitted provided the Board finds that the sign would not be detrimental to abutting properties and is needed to adequately identify the business.

(f) Maintenance. Each sign shall be maintained in a secure and safe condition. If the building commissioner/inspector of buildings is of the opinion that a sign is not secure, safe or in good state of repair, the building commissioner/inspector of buildings shall give written notice of this

fact to the person responsible for the maintenance of the sign. If the defect in the sign is not corrected within the time permitted, the building commissioner/inspector of buildings may revoke the permit to maintain the sign and may remove the sign and keep possession of same until the owner pays the cost of removal.

(g) Energy Shortage. In the event of an energy shortage, the city is authorized in its discretion to order all Signs in city consuming electricity, gas, oil or other energy, to cease consumption in whole or in part during such hours as for such period designated.

(h) Nonconforming signs. Any sign or other advertising devices hereto legally erected may continue to be maintained; provided, however, that no such sign or other advertising device shall be permitted if it is enlarged and provided further, any such sign or other advertising device which has deteriorated to such an extent that the cost of restoration would exceed thirty-five percent (35%) of the replacement cost of the sign or other advertising device at the time of the restoration shall not be repaired or rebuilt or altered. Any exemption provided in this section shall terminate with respect to any sign or other advertising device that shall not have been repaired or properly maintained within thirty (30) days after notice to that effect has been given by the building inspector.

Division 3. Noxious use.

No trade, industry, operation, activity, heat source or other use that is noxious, offensive or hazardous by reason of vibration or noise or the emission of odors, dust, gas, fumes, smoke, cinders, flashing of excessively bright light or refuse matter shall be permitted.

Division 4. Special permits.

Sec. 86-462. Authority.

Pursuant to the mandate and under the authority of M.G.L. c. 40 A, Secs. 9, 9A and 14(2), the Board of Appeals shall have the power to hear and decide all applications for special permits unless otherwise provided herein.

Sec. 86-463. Application.

Each application for a special permit shall be filed by the petitioner in accordance with the rules and regulations of the Zoning Board of Appeals.

Secs. 86-464--86-470. [Reserved.]

ARTICLE VII. ADMINISTRATION AND PROCEDURES

Division 1. Administration.

Sec. 86-471. Permits.

This ordinance shall be administered by the building commissioner/inspector of buildings or his delegates, who may delegate the responsibilities set forth hereunder to members of the inspectional services department. Buildings, structures or signs may not be erected, substantially altered, moved, or changed in use and land may not be substantially altered or changed in principal use unless in compliance with then-applicable zoning, and after all necessary permits have been received under federal, state, or local law.

Sec. 86-472. Plans.

Pursuant to the state building code, the building commissioner/inspector of buildings may require such plans and specifications as may be necessary to determine compliance with all pertinent laws of the Commonwealth. For the purpose of constructing accessory buildings and structures to residential uses and the addition of unroofed decks to residential uses, mortgage survey plans are sufficient for determining compliance with zoning requirements provided that the mortgage survey plan shows the proposed construction and setbacks.

Sec. 86-473. Enforcement.

The building commissioner/inspector of buildings shall institute and take any and all such action as may be necessary to enforce full compliance with any and all of the provisions of this ordinance and of permits and variances issued thereunder. The building commissioner/inspector of buildings may, from time to time, delegate this duty to various members of the inspectional services department.

The building commissioner/inspector of buildings shall execute the provisions of this chapter, except when otherwise provided, and in so doing he shall have the same powers as are provided for the execution of the building ordinances of the city. He shall issue no permit for the construction, alteration, enlargement, reconstruction, raising up, moving or use of any building, structure or premises, or part thereof, which would be in violation of the provisions of this chapter or of M.G.L.A. c. 40A.

(Ord. No. 1997-2, § 21-6, 1-28-1997).

Sec. 86-474. [Intentionally omitted].

Sec. 86-475. Right of entry.

The building commissioner/inspector of buildings shall, where such permit so authorizes and after proper identification, have the right to enter any premises for the purpose of inspecting any building or structure, at a reasonable hour and at such times as may be reasonably necessary to enforce this ordinance.

Sec. 86-476. Noncriminal disposition.

Notwithstanding the foregoing, any alleged violation of any of the provisions of this Chapter may, in the sole discretion of the building commissioner/inspector of buildings, be made the subject matter of proceedings initiated by the building commissioner pursuant to the provisions of G.L. c. 40, s. 21D, that is, noncriminal disposition. If the building commissioner so elects to initiate such provision, all the terms and provisions thereof shall govern said action.

Sec. 86-477--86-480. [Reserved.]

Division 2. Board of Appeals.

Sec. 86-481. Establishment.

There is hereby established a Board of Appeals of five (5) members and two (2) associate members appointed by the Mayor in accordance with the City Charter.

Sec. 86-482. Powers.

The Zoning Board of Appeals shall have and exercise all the powers granted to it by Chapters 40A, 40B, and 41 of the General Laws and by this ordinance. The Board's powers are as follows:

1. To hear and decide applications for special permits. Unless otherwise specified herein, the Zoning Board of Appeals shall serve as the special permit granting authority, to act in all matters in accordance with this ordinance, or as otherwise specified.

2. To hear and decide appeals taken by any person aggrieved by reason of his inability to obtain a permit or enforcement action from any administrative officer under the provisions of G.L. c. 40A, ss. 8 and 15.

3. To hear and decide appeals or petitions for variances from the terms of this ordinance, with respect to particular land, uses, or structures, as set forth in G.L. c. 40A, s. 10.

Sec. 86-483. [Intentionally omitted].

Sec. 86-484. [Intentionally omitted].

Sec. 86-485. Regulations.

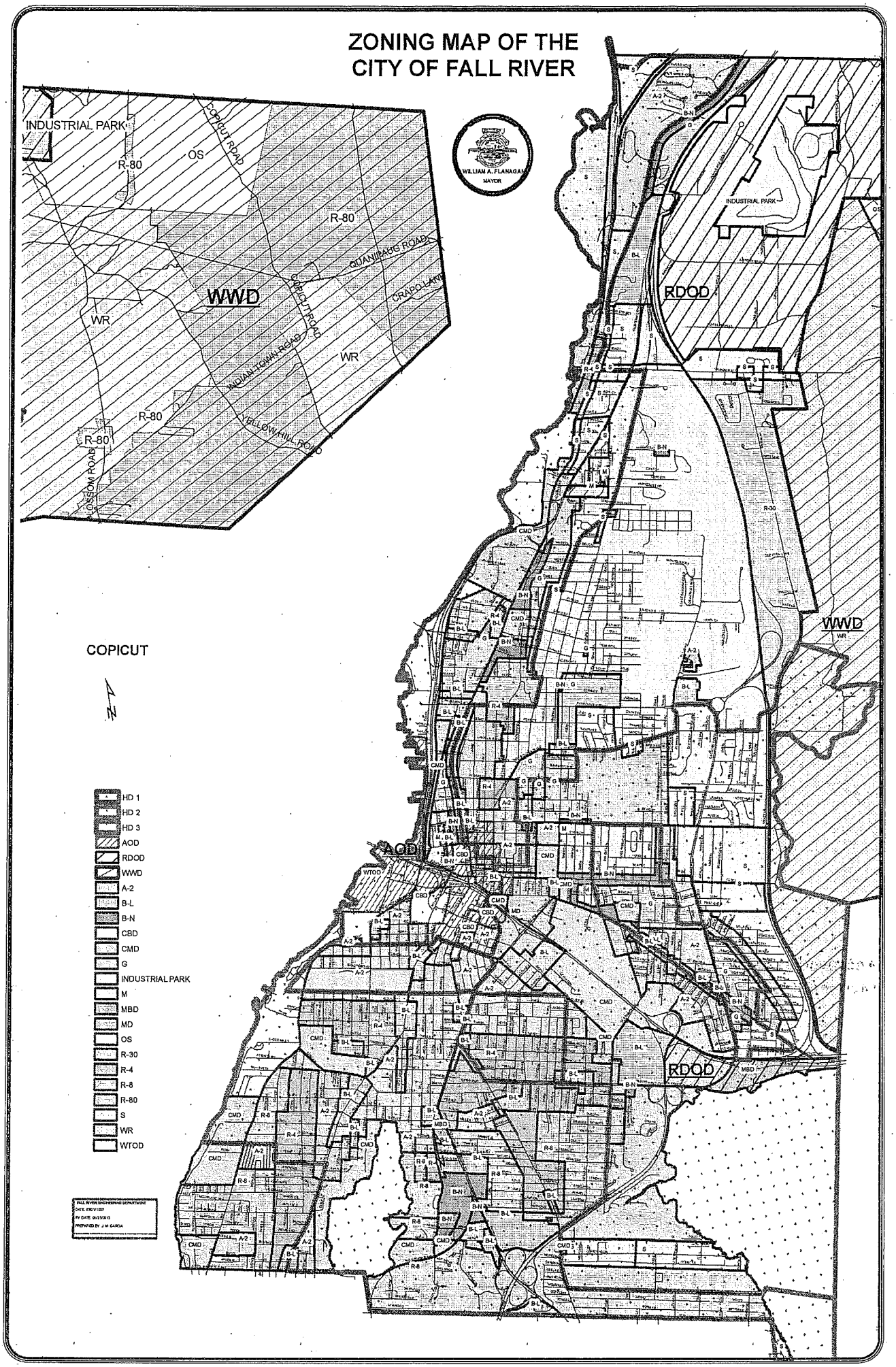
The Board of Appeals may adopt rules and regulations for the administration of its powers.

Sec. 86-486. Fees.

The Board of Appeals may adopt reasonable administrative fees and technical review fees for petitions for variances, administrative appeals, and applications for comprehensive permits.

Sec. 86-487. Planning board.

In accordance with G.L. c. 40A, section 16, no application or petition which has been unfavorably and finally acted upon by the special permit granting or permit granting authority (Zoning Board of Appeals) shall be acted favorably upon within two years after the date of final unfavorable action unless said special permit granting authority or permit granting authority finds by a vote of four members of a board of five members, specific and material changes in the conditions upon which the previous unfavorable action was based, and describes such changes in the record of its proceedings, and unless all but one of the members of the planning board consents thereto and after notice is given to parties in interest of the time and place of the proceedings when the question of such consent will be considered.

Sec. 86-488--86-490 [Reserved.]

ZONING MAP OF THE CITY OF FALL RIVER