

CITY OF LYNN

**Regular City Council Meeting, October 19, 2010
Council President Timothy Phelan Presiding**

**Ten Councillors Present (Councillor Duffy absent).
Moment of Silence
Pledge of Allegiance**

Motion by Councillor Colucci and seconded by Councillor Lozzi to accept the meeting minutes of September 28, 2010.

Council President Phelan congratulated Eugene Schneeberg on his recent job appointment as Director of the Center for Faith-Based and Community Initiatives for the U.S. Justice Department in Washington, D.C.

COMMUNICATIONS:**Communication from Her Honor the Mayor:**

Dear Councilors:

Massachusetts General Laws, Chapter 138, Section 5, stipulates that the Licensing Commission terms are for six (6) years, whereby one Commissioner must expire every two years. In accordance with an opinion from the City Solicitor's Office, a mistake was made previously when Michael Phelps was appointed to complete George Coles' term on the License Commission.

Therefore, in order to comply with the Statute, the records should reflect that the appropriate expiration of Michael Phelps's term will occur June 5, 2012.

Sincerely, Judith Flanagan Kennedy, Mayor

Motion made by Councillor Colucci and seconded by Councillor Trahan to accept for the files.

Motion carried.

Motion made by Councillor Cahill and seconded by Councillor Capano to suspend the rules to allow Police Chief Coppinger to provide the Council with an update on the recent bomb scares in the City of Lynn.

Motion carried.

PUBLIC HEARINGS:

Petition of Val DePerrio, The Dry Cleaner, for permission to install washers and dryers to clean wash and fold (retail) at 170 Liberty Street.

The following appeared in Favor:

Val DePerrio, Owner

Bob Aldridge, Contractor

No one appeared in Opposition.

Public Hearing Closed

Motion made by Councillor Crighton and seconded by Councillor Ford to grant the prayer of the Petitioner.

Motion carried by the following yea and nay vote:

10 YES 0 NO (Councillor Duffy absent).

Petition of Alfred Scibelli, A.J. Auto Sales, for permission for digital signs and others at 232 Western Avenue.

No one appeared in Favor.

No one appeared in Opposition.

Public Hearing Closed.

Motion made by Councillor Trahant and seconded by Councillor Colucci to grant the prayer of the Petitioner with the stipulation that the lights on the sign are dimmed at 9:00 p.m.

Motion carried by the following yea and nay vote:

10 YES 0 NO (Councillor Duffy absent).

Petition of William P. Booras, Osborne Pharmacy for sign permit at 59 Essex Street.

No one appeared in Favor.

No one appeared in Opposition.

Public Hearing Closed.

Motion made by Councillor Cyr and seconded by Councillor Colucci to grant the prayer of the Petitioner.

Motion carried by the following yea and nay vote:

10 YES 0 NO (Councillor Duffy absent).

PUBLIC HEARINGS TO BE SET DOWN:

-Petition of Veterans of Foreign Wars, Post 507, George Rivers, Post Commander, for permission to transfer location of existing VFW post from original location at 90 High Rock Street to 19-21 Fayette Street, with All Alcohol Club License with hours from 12 Noon to 1:00 a.m., Sunday through Saturday.

-Petition of AT&T, Francis Keller, for permission to modify equipment and add three antennas four feet in height and 11.8" wide between the current antennas at 92 Curwin Circle.

-Petition of AT&T, Francis Keller, for permission to modify equipment and increase antennas from 6 to 9 at 71 Linden Street.

Motion made by Councillor Colucci and seconded by Councilor Crowley to set down for Public Hearings.

Motion carried.

UNFINISHED BUSINESS:

City Council Meeting of September 27, 1020:

Ordered that the burnt, dilapidated or dangerous building or other structure located at 394-396 Eastern Avenue be adjudged a nuisance to the neighborhood or dangerous and prescribe to its disposition, alteration, or regulation all as authorized by Massachusetts General Laws, Chapter 139, Section 1.

Motion made by Councillor Colucci and seconded by Councillor Lozzi to grant.

Motion carried by the following yea and nay vote:

10 YES 0 NO (Councillor Duffy absent).

Adopt Permanently:

IN THE YEAR TWO THOUSAND TEN AN ORDINANCE AMENDING THE CITY OF LYNN ZONE ORDINANCE REGARDING ADULT ENTERTAINMENT IN THE CITY OF LYNN

WHEREAS, adult entertainment and sexually orientated businesses require special supervision from public safety agencies of the City in order to protect the health, safety and welfare of the patrons of such businesses and the citizens of the City; and

WHEREAS, adult entertainment and sexually orientated businesses are known to often be the location of unlawful sexual activities; and

WHEREAS, the concern over sexually transmitted diseases is a legitimate health concern of the City which demands reasonable regulation of adult entertainment and sexually orientated businesses in order to protect the health and well being of the citizens; and

WHEREAS, adult entertainment and sexually orientated businesses, because of their very nature, have a deleterious effect on both the existing businesses around them and the surrounding community, causing increased crime and the downgrading of property values; and

WHEREAS, it is recognized that adult entertainment and sexually orientated businesses, due to their nature have serious objectionable operational characteristics, particularly when they are located in close proximity to each other, thereby contributing to urban blight and the downgrading of the quality of life in the community; and

WHEREAS, the City Council desires to minimize and control these adverse effects and thereby protect the health, safety, and welfare of the citizens of the City; protect such citizens from increased crime; preserve the quality of life of citizens and businesses in the City; preserve the property values and character of surrounding neighborhoods; and deter the spread of urban blight; and

WHEREAS, it is not the intent of this Ordinance to suppress any free speech activities protected by the First Amendment, but to enact a content-neutral ordinance which addresses the secondary effects of adult entertainment and sexually orientated businesses and which is necessary to protect the health, safety, and welfare of the citizens of the City of Lynn, and surrounding cities and towns.

WHEREAS, it is the specific desire not to allow Adult Entertainment, for the foregoing reasons and more, in the following zoning districts: Business, Business Class 3, Residential, Central Business, Light Industrial, Single Residential R-1, Commercial Residential R-2, Apt. House R-3, CI 1, Apt. House R-4, Class 2, Apt. House R-5 High Rise, Waterfront WF1, WF1A, WF2, WF3, Residential Re-use Overlay Dt, Washington Street Overlay Corridor, Sagamore Hill Overlay Dt and the Tidelands Overlay Dt.

NOW THEREFORE, pursuant to the authority granted by the Constitution of the Legislature of the Commonwealth of Massachusetts, be it enacted by the Lynn City Council:

SECTION 1. Purpose and Findings

1. Purpose: it is the purpose of this Ordinance to regulate adult entertainment and sexually orientated businesses in order to promote the health, safety and general welfare of the citizens of Lynn and surrounding communities. The provisions of this Ordinance have neither the purpose nor the effect of imposing a limitation or restriction on the content of any communicative materials, including sexually orientated materials. It is neither the intent nor the effect of this Ordinance to restrict or deny access by adults to sexually orientated materials protected by the First Amendment.

2. Findings: based on evidence concerning the adverse secondary effects of adult uses on the community presented in hearings and reports made available to the City Council, and on findings incorporated in the cases of City Council of Erie v. Pap's A.M., 529 U.S. 277 (2000); Barnes v. Glen Theatre, Inc., 501 U.S. 560 (1991); City of Renton v. Paytime Theatres, Inc., 475 U.S. 41 (1986); Young v. American Mini Theatres, U.S. 50 (1976); and other studies in other communities including, but not limited to Springfield, Phoenix, Arizona; Minneapolis, Minnesota; St. Paul, Minnesota; Houston, Texas; Garden Grove, California; Los Angeles, California; Whittier, California; Austin, Texas; Seattle, Washington; Oklahoma City, Oklahoma; Cleveland, Ohio; Beaumont, Texas; Dallas, Texas; Newport News, Virginia; Bellevue, Washington; New York, New York; and St. Croix County, Wisconsin the City Council finds:

a. Adult entertainment and sexually orientated businesses lend themselves to ancillary, unlawful and unhealthy activities that are presently uncontrolled by the operators of the establishments.

- b. Employees of adult entertainment and sexually orientated businesses engage in higher incidence of certain types of illicit sexual behavior than employees of other establishments.
- c. Sexual acts occur at adult entertainment and sexually oriented businesses.
- d. Adult entertainment and sexually orientated businesses encourage illicit sexual acts which create unhealthy conditions.
- e. At least 50 communicable diseases may be spread by activities occurring in adult entertainment and sexually orientated businesses, including, but not limited to, syphilis, gonorrhea, human immunodeficiency virus (HIV-AIDS), genital herpes, hepatitis B, salmonella infections and shingella infections.
- f. Since 1981 and to the present, there has been an increasing cumulative number of reported cases of AIDS (Acquired Immunodeficiency Syndrome) caused by the human immunodeficiency virus (HIV) in the United States.
- g. The findings noted in subsections a through f raise substantial governmental concerns.
- h. Adult entertainment and sexually orientated businesses have operational characteristics which should be reasonably regulated in order to protect those substantial governmental concerns and, where necessary, should be banned or eliminated where they are or have been causing effects which are harmful to the health, safety and welfare of the citizens of Lynn and the surrounding communities.
- i. The general welfare, health and safety of the citizens of the City will be promoted by the enactment of this Ordinance.

Section 2. Definitions.

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., Chapter 272, Section 31. For the purpose of this ordinance, the term "substantial or significant portion" means that more than 10 percent of the total floor area or stock is devoted to the items listed above.

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., Chapter 272, Section 31.

Adult Video Store means an establishment having as a substantial or significant portion of its stock in trade, videos, movies, or other film material which are distinguished or characterized by

their emphasis depicting, describing, or relating to sexual conduct or sexual excitement as defined in M.G.L., Chapter 272, Section 31.

Adult Motion Picture Theater means an enclosed building 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., Chapter 272, Section 31. This definition includes, but is not limited to, adult arcade, adult mini-motion picture theater, adult booth(s), adult drive-in theaters.

Adult Booth means An enclosed or partitioned area inside an adult oriented establishment which is: (I) designed or used for the viewing or listening of adult material by one (1) or more persons and (II) is accessible to any person, regardless of whether a fee is charged for access. The term "Adult Booth" includes, but is not limited to, a "peep show" booth or other booth used to view or listen to adult material (including, but not limited to, videotapes, audiotapes, films, CD-ROMs, DVDs or internet access).

Adult Dancing means Any dancing which exposes to view by patrons or spectators on the premises at any time the specified anatomical areas and/or specified sexual activities, as defined in this Ordinance.

Adult Dancing/Entertainment Establishments means An establishment, including but not limited to, a restaurant (eating and drinking establishments), lounge, dance hall, nightclub or other such place whose business includes the offering to customers of live entertainment wherein employees, agents, servants, independent contractors or other customers perform dance routines and/or display or expose specified anatomical areas, offered as adult oriented entertainment for viewing by patrons or spectators on the premises and characterized by the emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

Adult Cabaret: See "Adult Dancing/Entertainment Establishments".

Adult Motel means a motel or similar establishment with the word "adult" or otherwise that advertises the presentation of adult material, offering public accommodations for any form or consideration which provides patrons with closed circuit television transmission, internet access, films, motion pictures, video cassettes, slides, CD-ROMs, DVDs or other photographic reproductions for the primary purpose of sexual gratification or as related to specified sexual activities.

Sexual Encounter Center means an establishment whose primary or accessory business is the provision on premises where customers either congregate, associate or consort with employees, agents, servants, independent contractors or other customers who engage in specified sexual activities in the presence of such customers or who display specified anatomical areas in the presence of such customers with the intent of providing sexual stimulation or sexual gratification appealing to adult sexual interests.

Massage Parlor means an establishment providing massages by persons other than a licensed health care professional, including activities that rub, stroke, knead or tap the body with the hand

or an instrument or both for the purpose of or engaging in sexual gratification or as related to specified sexual activities. This definition also includes those activities listed within "Sexual Encounter Center". However, massages as used in this ordinance shall not apply to the activity of any person who is registered or licensed by the United States Government or any agency thereof or by the Commonwealth of Massachusetts or any agency thereof, while such person so registered or licensed is performing the services for which the registration or license was issued and during the period of time said registration or license is in effect.

Specified Anatomical Areas means an area including, but not limited to, less than completely and opaquely covered: (I) human genitals or pubic region; (II) the cleavage of the human buttock; (III) any portion of the human female breasts below a horizontal line across the top of the areola at its highest point, the entire lower half of the human female breast, not including cleavage of the human female breast exhibited by a dress, blouse, shirt, leotard, bathing suit or other wearing apparel provided that the areola is not exposed in whole or in part; and (IV) human male genitals in a discernable turgid state, even if completely and opaquely covered.

Specified Sexual Activities means activities including, but not limited to, human genitals in a state of sexual stimulation or arousal; acts of human masturbation, sexual intercourse or sodomy; fondling or other erotic touching of human genitals, pubic region or pubic hair, buttocks or human breast(s); flagellation or torture on the context of a sexual relationship; masochism, erotic or sexually oriented torture, beating or the infliction of pain; erotic touching, fondling or other such contact with an animal by a human being; excretory functions as part of or in connection with any of the activities listed herein.

Section 3. Permitted Districts

Adult oriented uses are permitted with a special permit from the City Council in Heavy Industrial and no other districts, subject to the following regulations:

1. No lot occupied, or to be occupied, by an adult oriented use shall be located within a five hundred (500) foot radius from a residential zoning district or a building containing residences.
2. No lot occupied, or to be occupied, by an adult oriented use shall be within a five hundred (500) foot radius from the grounds of a public or private school, place of worship, licensed daycare facility, public library, public park or A structure or parcel used for a senior center, nursing home or assisted living facility
3. No lot occupied, or to be occupied, by an adult oriented use shall be located within a five hundred (500) foot radius of any other adult oriented use as defined.
4. Adult oriented uses will not be situated within a five hundred (500) foot radius of any establishment that serves or sells alcoholic beverages that are consumed on the premises or taken out.

5. Method of measurement of distances: The distances required by this section shall be measured from the closest property line occupied, or to be occupied, by an adult oriented use to the closest property line occupied by a protected use, zoning district or another adult oriented use. For the purpose of this ordinance, the term "protected use" includes, but is not limited to, residential zoning districts, buildings containing residences, grounds of a school, place of worship, public library or public park.
6. Prohibition of physical contact: While on the premises of an adult oriented use, no employee, agent, servant, independent contractor or other customer shall be permitted to have physical contact with any other adult entertainment employee, other employee, patron or spectator while the employee, agent, servant, independent contractor or other customer is entertaining, dancing or otherwise involved in the display of or exhibition of specified anatomical areas or specified sexual activities.
7. Exterior Display: No adult oriented use shall be conducted in any manner that permits the observation of any material depicting or relating to specified anatomical areas or specified sexual activities from any public or private way, parking area or adjacent properties. This provision shall apply to any display, signage, show window or opening.
8. Sign Requirements: Sign content shall identify the name of the establishment only and shall contain no advertisement in addition to the identification of the use. Only one (1) identification sign, to be mounted on the building wall face, shall be allowed for an adult orientated use. All other signs whether on the exterior of the building or visible from the exterior of the building are prohibited. No adult oriented use shall have any flashing lights visible from the exterior of the use. Furthermore, no sign shall rotate or contain reflective or florescent elements.
9. Non-conforming Use: Any adult oriented use in existence as of the effective date of this ordinance, which is in violation hereof, shall be deemed a non-conforming use. Such non-conforming uses shall not in any manner be enlarged, altered or rebuilt.
10. In addition, any now existing retailer who is engaged in the sale and/or rental of books, periodicals, magazines, films, video tapes, CD-ROMs, DVDs, audiotapes or other printed or pictorial materials shall cover the front page of said books, periodicals, magazines, films, video tapes, CD-ROMs, DVDs, audiotapes or other printed or pictorial materials or shall maintain a separate viewing and sales area for the rental and/or sale of said books, periodicals, magazines, films, video tapes, CD-ROMs, DVDs, audiotapes or other printed or pictorial materials as defined by this ordinance so as to prevent minors from viewing or entering said adult entertainment area.
11. Whoever disseminates to a minor any matter harmful to minors, knowing it to be harmful to minors, or has in his possession any such matter with the intent to disseminate the same to minors, shall be in violation of this ordinance. For the purposes of this ordinance, "a minor" is a person under eighteen years of age. Matter is harmful to minors if it is obscene or if taken as a whole, it (1) describes or represents nudity, sexual conduct or sexual excitement, so as to appeal predominantly to the prurient interest of minors; (2) is patently contrary to prevailing standards

of adults in the county where the offense was committed as to suitable material for such minors; and (3) lacks serious literary, artistic, political or scientific values for minors. It shall be a defense under this section that the defendant was in a parental or guardianship relationship with the minor. It shall also be a defense that the defendant was a bonafide school, museum or library, or was acting in the course of his employment as an employee of such organization or of a retail outlet affiliated with and serving the educational purpose of such organization.

12. No Adult Entertainment Use Special Permit shall be issued to any person convicted of violating the provisions of M.G.L. c. 119, Sec. 63 or M.G.L. c.272, Sec. 28 registered with or required to be registered under the Sex Offender Registration Law, G.L. chapter 6, sections 178C et. seq., or its successor.

13. All building openings, entries, and windows shall be screened in such a manner as to prevent visual access to the interior of the establishment by the public.

14. No material described in the definitions of adult entertainment uses in this ordinance that depicts, describes or relates to nudity or sexual conduct as defined in G.L. chapter 272, section 31 shall be so located in or on the building housing such adult use which is visible to the public from the outside of the premises in which an adult use is permitted. No advertising, or other material, whether displayed in the window or affixed to the building shall be permitted which depicts, describes or relates to nudity or sexual conduct as defined in G.L. chapter 272, section 31.

15. No adult entertainment use shall be allowed to disseminate or offer to disseminate adult matter or paraphernalia to minors or suffer minors to view displays or linger on the premises.

16. Adult entertainment uses shall not be open to the public between the hours of 11:30 P.M. and 9:00 A.M.

17. At no adult entertainment use or facility of any kind shall alcoholic beverages be allowed, sold, served or suffered to be used or consumed at any time.

18. If the adult entertainment 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 such booth openings shall be clearly seen from the center of the establishment.

19. The City Council may, on a case by case basis, issue a special permit for Artistic and Theatrical State Performances or shows, or other similar events of like kind, for a temporary and a limited time production, which are not in conflict or inconsistent with the overall nature, intent or purpose of this ordinance.

SECTION 4 CRITERIA FOR SPECIAL PERMITS

1. No special permit shall be granted for any adult entertainment establishment unless the Lynn City Council shall have made detailed findings, based upon the required submissions that:

a. The specific site is an appropriate location for such use in accordance with the standards set forth in the foregoing.

b. The use as developed and carried on will not adversely affect the neighboring properties or people.

c. The use as developed and carried on will not create a nuisance or serious hazard to vehicles or pedestrians traveling into, out of and about the premises.

d. The use as developed shall provide adequate and appropriate facilities for its proper operation, taking into account the public health and welfare of its patrons and the surrounding environs of the property.

SECTION 5 APPLICATION

1. In addition to the submittal requirements and review standards pertaining to administration, application and submission requirements, fees, powers, hearings and time limits, provided in this ordinance, each applicant for a special permit under this section shall submit:

a. A security plan detailing how the property will be policed so as to avoid unruly and/or illegal activities from taking place upon the applicant's property and to deter and prevent incidents of vandalism, loitering and other associated activities upon its property.

b. A plan to protect adjacent or neighboring properties against noise, glare, unsightliness or other objectionable features.

c. Evidence that adequate storm-water and drainage facilities are available or will be provided to service the use; this information shall be contained on the site plan. The site plan shall also demonstrate the adequacy of water supply and sewerage disposal facilities to service the site and the proposed use.

d. Evidence that the adult entertainment establishment will not generate excessive noise so as to create a disturbance and nuisance to adjacent or neighboring properties.

2. Each application for a special permit under this section shall include a site plan showing:

a. The location, arrangement, appearance and sufficiency of off-street parking and loading. In computing the required off-street parking, the proposed adult entertainment establishment shall calculate its required parking pursuant to the category entitled, "Food Service Establishment".

b. The adequacy and arrangement of pedestrian traffic access and circulation, walkway structures, control of intersections with vehicular traffic and overall pedestrian convenience.

c. The location and adequacy of fire lanes and other emergency zones, and the location of fire hydrants, where applicable.

d. The locations, arrangement, size, design and general site compatibility of lighting and signs to be erected thereon. Any outdoor lighting used to advertise the business operated on the premises, and/or to illuminate the off-street parking areas, shall not cause a nuisance to adjacent properties.

e. A plan detailing the adequacy, type, and arrangement of trees, shrubs and other landscaping which shall constitute a visual and/or noise buffer between the applicant's land and the adjoining lands. Wherever possible, the maximum retention of existing vegetation shall be required.

f. A non-refundable Special Permit application fee in the amount of one hundred seventy-five (\$175.00) dollars.

3. The site plan shall be drawn to a scale of not less than forty feet to the inch, on one or more sheets, prepared by a professional engineer, and a professional land surveyor, when applicable, illustrating the information to identify location, applicant, owner and party responsible for preparing the plan.

SECTION 6 LICENSE TERM

Any special permit granted under this section shall lapse and become null and void:

1. If a substantial use thereof has not commenced within six months from the date of the grant thereof, including such time required to pursue or await the determination of an appeal, 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; or,

2. Thirty days after the date of a conviction under the provisions of **G.L. c. 119, §63, or G.L. c. 272, §28** by any person having an interest in said adult entertainment establishment, unless said person divests him or herself of such interest by such date; or,

3. Immediately whenever any person having been convicted of violating **M.G.L. c. 119, §63, or G.L. c. 272, §28** shall acquire an interest in said adult entertainment establishment or registered with or required to be registered under the Sex Offender Registration Law, G.L. chapter 6, sections 178C et. seq., or its successor.

4. A special permit to conduct an adult entertainment use shall expire after a period of two calendar years from its date of issuance and shall be eligible for renewal for successive two-year periods thereafter, provided that a written request for such renewal is made to the special permit granting authority prior to said expiration and that no objection to said renewal is made and sustained by the special permit granting authority based upon notification of adverse changes regarding the public safety factors applied at the time that the original special permit was granted.

SECTION 7 SEVERABILITY

If any of the provisions of this ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions of said ordinance nor the application of such other provisions, which can be given effect without the invalid provisions of application thereof, and for this purpose the provisions of this ordinance are severable.

SECTION 8. REPEAL OF INCONSISTENT ORDINANCES

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

SECTION 9 EFFECTIVE DATE

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

Motion made by Councillor Crowley and seconded by Councillor Lozzi to grant.

Motion carried by the following yea and nay vote:

10 YES 0 NO (Councillor Duffy absent).

IN THE YEAR TWO THOUSAND AND TEN AN ORDINANCE AMENDING THE CITY OF LYNN ZONE ORDINANCE AND CITY OF LYNN ZONE MAP

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

Section 1. TITLE.

An Ordinance Amending the City of Lynn Zone Ordinance is hereby established, and said Ordinance shall provide as follows:

Section 2. ESTABLISHMENT OF DISTRICTS.

Section 3 is hereby amended by adding the following Districts:

3.1.11	Waterfront Zone 1	(WF1)
3.1.12	Waterfront Zone 1A	(WF1A)
3.1.13	Waterfront Zone 2	(WF2)
3.1.14	Waterfront Zone 3	(WF3)
3.1.15	Washington Street	(WS)
3.1.16	Sagamore Hill Corridor Overlay	(SHCO)
3.1.17	Designated Port Area	(DPA)
3.1.18	Tidelands Overlay	(TO)

Section 3. ZONING MAP

Section 3.2 entitled Zoning Map is hereby amended as follows:

- 3.2.1 The WF1, WF1A, WF2, WF3, WS, SHCO, DPA, TO and (Central Business District (CBD) Districts consists of lands as depicted on the Zone Map of the City of Lynn dated August 17, 2010 and which is available for public inspection at the Inspectional Services Department. Generally, these areas include all areas on the easterly and westerly side of the roadway known as “The Lynnway.” The Districts generally begin at the northern property line of the Lynn/Nahant Rotary and shall run in a southerly direction to the General Edwards Bridge. Generally speaking, these Zoning Districts run from the Atlantic Ocean on the easterly side and on the westerly side to the existing Commuter Rail Tracks, including but not limited to Alley Street, Harbor Street, Shepard Street, Blossom Street, and portions of Market Street, Pleasant Street, Broad Street and Washington Street. These areas were previously designated as Heavy Industrial, Light Industrial, R2, R3, and R4 as well as the Waterfront Overlay District. The Ordinance creating a Waterlay District is hereby repealed.
- 3.2.2 The Designated Port Area (DPA) District consists of all lands located within the 49.01 acres depicted as Proposed Designated Port Area Change on Plan of land entitled Lynn, MA Proposed Designated Port Area Change by Reid Land Surveyors 365 Chatham Street, Lynn, MA (scale 1” = 200’) dated September 20, 1990 and which hereinafter will be incorporated into the City of Lynn Zone Map
- 3.2.3 The Tidelands Overlay (TO) District consists of all lands located seaward of the Chapter 91 Jurisdiction Line as referenced in the Determination of Applicability issued by the Commonwealth of Massachusetts Executive Office of Environmental Affairs Department of Environmental Protection under WRP File No JD05-1414 and dated 18 May, 2006, unless the

Department subsequently determines a different jurisdictional line based on new information or changes in circumstances.

Section 4. TABLE OF USE REGULATIONS

Section 4.4 entitled Table of Use Regulations is hereby amended as follows:

Waterfront Zones

Reference Use	WF1 & WF1A	WF2	WF3	WS	SHSCO	DPA	TO
<u>RESIDENTIAL</u>							
4.1.1 One Family Detached House	-	-	-	-	P	-	(12)
4.1.2 Two Family House	-	-	-	-	P	-	(12)
4.1.3 Boarding House or Or Lodging House	-	-	-	-	-	-	-
4.1.4 Group Residence (5)	-	-	-	-	-	-	-
4.1.5 Row Houses	-	-	-	P	P	-	(12)
4.1.6 Apartment House	-	-	-	P	P	-	(12)
4.1.7 Multi-Family Residential High Rise (7) (8)	P	P	P	P	P	-	(12)
4.1.8 Yard or Garage Sales (3)	-	-	-	-	P	-	(12)
4.1.9 Artist/Live/Work Space (6)	-	-	-	-	P		
4.1.10 Assisted Living Facility	-	-	-	-	-	-	-
<u>AGRICULTURE</u>							

4.2.1 Farm	-	-	-	-	-	-	-
4.2.2 Nurseries and Truck gardens	-	-	-	-	-	-	-
4.2.3 Greenhouses	-	-	-	-	-	-	-
4.2.4 Commercial Greenhouses	-	-	-	-	-	-	-
4.2.5 Open Air Stand	-	-	-	-	-	-	-
4.2.6 Poultry or Fowl Preparation	-	-	-	-	-	-	-
4.2.7 Public Parks/Open Space	P	P	P	P	P	-	(12)
INSTITUTIONAL							
4.3.1 Churches and/or Parish Houses	P	P	P	P	P	-	(12)
4.3.2 Schools	P	P	P	P	P	-	(12)
4.3.3 Public Libraries or Museums	P	P	P	P	P	-	(12)
4.3.4 Hospitals and Nursing Homes	-	-	-	-	-	-	-
4.3.5 Philanthropic Institutions	-	-	-	-	-	-	-
4.3.6 Cemetery	-	-	-	-	-	-	-
4.3.7 Funeral Homes	-	-	-	-	-	-	-
4.3.8 Private Clubs Not for Profit	-	-	-	-	P	-	(12)
4.3.9 Public Buildings	P	P	P	P	P	-	(12)
4.3.10 Telephone Exchange	SP	SP	SP	SP	SP	-	(12)

4.3.11 Billboards/Outdoor Advertising	-	-	-	-	-	-	-
4.3.12 Non-Habitable Structures, Antennas	SP	SP	SP	SP	SP	SP	SP
BUSINESS							
4.4.1 Retail (9) (13)	P	P	P	P	P	-	(12)
4.4.2 Retail Trade (9) (13)	P	P	P	P	P	-	(12)
4.4.3 Professional Offices	P	P	P	P	P	-	(12)
4.4.4 Clinic	SP	SP	SP	SP	SP	-	(12)
4.4.5 General Offices	P	P	P	P	P	-	(12)
4.4.6 Banks (10)	-	-	-	P	-	-	(12)
4.4.7 Banks with Drive-in Facilities	-	-	-	-	-	-	-
4.4.8 Food Service Establishments (9)	P	P	P	P	-	P (9)	(12)
4.4.9 Places of Assembly	P	P	P	P	P	-	(12)
4.4.10 Gasoline and Oil Filling Stations	-	-	-	-	-	-	-
4.4.11 Sales Room for Motor Vehicles	-	-	-	-	-	-	-
4.4.12 Hotels	P	P	-	P	-	-	(12)
4.4.13 Research and Development	SP	-	SP	-	-	-	(12)
4.4.14 Conference Center	P	P	P	-	-	-	(12)

4.4.15 Yacht Club	P	P	-	-	-	-	(12)
4.4.16 Marina	P	P	P	-	-	-	(12)
4.4.17 Transit Facility	SP	-	SP	-	-	-	(12)
4.4.18 Electric Transmission Lines/Poles Apparatus	P	P	P	-	-	P	(12)
4.4.19 Adult Book Store/Adult Picture Theater	-	-	-	-	-	-	-
4.4.20 Commercial Fishing/Fish Processing	-	-	-	-	-	P	(12)
4.4.21 Boat Yard/Boat Storage/Dry Dock	-	-	-	-	-	P	(12)
4.4.22 Boat Construction, Maintenance and Repair	-	-	-	-	-	P	(12)
4.4.23 Convenience Retail	-	-	-	-	-	P (11)	(12)
4.4.24 Commercial Passenger Vessel Operations	-	-	-	-	-	P	(12)
4.4.25 Marine Tourism	-	-	-	-	-	P (11)	(12)
4.4.26 Fish Market	-	-	-	-	-	P (11)	(12)
4.4.27 Public Boat Ramp	-	-	-	-	-	P (11)	(12)
4.4.28 Marine Terminal						P	

4.4.29 Water-dependent Marine Industrial Use						P	
INDUSTRIAL							
4.5.1 Fuel Storage	-	-	-	-	-	-	-
4.5.2 Contractor's Yard Storage Yard	-	-	-	-	-	-	-
4.5.3 Shoe Factories	-	-	-	-	-	-	-
4.5.4 Auto Repair/Body Shop	-	-	-	-	-	-	-
4.5.5 Ice Establishments	-	-	-	-	-	-	-
4.5.6 Light Manufacturing	-	-	SP	-	-	-	(12)
4.5.7 Heavy Manufacturing	-	-	-	-	-	-	-
4.5.8 Marine Industry	-	-	SP	-	-	-	(12)

FOOTNOTES

- (7) Multifamily residential high rise is permitted so long as 75% of the first floor of all buildings on primary streets including Route 1A/Lynnway are dedicated to retail uses.
- (8) Multi-family residential and high rise uses are only permitted above the first floor in the Waterfront 2 District.
- (9) No drive-thrus, drive-ins and/or twenty-four (24) hour business uses, in whole or in part, are permitted in the WF1, WF1A, WF2, WF3, WS, and SHCO Districts. Food Service Establishments with limited on-premises seating is permitted in the DPA District and shall not occupy more than 25% of the lot area.
- (10) The term shall not include check cashing stores, businesses pawn shops or, money wire/transfer businesses.
- (11) Such uses shall not exceed more than 25% of the project site.
- (12) Uses indicated as being permitted in the underlying zoning district(s) in Section 4.4 are permitted in the Tideland Overlay (TO) District; however, non-water dependent uses of private tenancy are not permitted on the ground floor of buildings within 100 feet of the high water mark.

- (13) No single retail or retail trade use shall consist of more than 5,000 square feet.

Section 5. CLASSIFICATION OF USES

Section 5 entitled Classification of Uses is hereby amended as follows:

- 5.1.7 Multi-Family Residential High Rise: A residential apartment building that has a height in excess of five stories or sixty feet except for the WF1, WF1A, WF2, WF3 Districts where the minimum height shall be 3 stories or 36 feet.
- 5.1.10 Assisted Living Facilities: A managed residential community, operating under the provisions of M.G.L. Chapter 19D. Further, said facilities may provide assistance with activities of daily living, together with meal services, housekeeping services, social and recreational activities and personal care services, in a group setting for persons who require help or assistance with activities of daily living but do not require full-time nursing care.
- 5.2.7 Park/Open Space area dedicated to recreational uses for the public. The term shall include, but not be limited to, land to protect existing and future well fields, aquifers and recharge areas, watershed land, agricultural land, grasslands, fields, fresh and salt water marshes and other wetlands, ocean, river, stream, beaches, dunes and other coastal lands, lands to protect scenic vistas, land for wildlife or nature preserve and land for recreational use.
- 5.3.11 Billboards/Outdoor Advertising: Signs governed by Massachusetts General Laws Chapter 16.
- 5.3.12 Non-Habitable Structures, Antennas: A building, pole, monopole, wire, structure, cargo container, antenna or the like which is not to be used for human occupancy or human habitation which is greater than forty (40) feet in height.
- 5.4.13 Research and Development: Any one or more uses for the investigation, development, scientific and laboratory and similar uses and any related activities. The term shall also include limited manufacturing provided that the (1) the manufacturing activity is related to research uses; (2) no manufacturing activity customarily occurs within 50 feet of the property line; and (3) substantially all manufacturing activity occurs inside of the buildings.
- 5.4.14 Conference Center: A center where conferences are held.
- 5.4.15 Yacht Club: An organization of yachtsmen and yachtswomen for the purpose of encouraging and directing the sport of yachting.

- 5.4.16 Marina: A boat basin offering dockage and other service for small craft.
- 5.4.17 Transit Facility: A facility or establishment dedicated to the movement of persons and goods from one place to another, including bus stations, train stations, and water shuttle stations.
- 5.4.18 Electric Transmission Lines/Poles/Apparatus: Electric lines, poles and apparatus maintained by Public Service Corporations who transmit electricity and are regulated by M.G.L. c. 164 and 166.
- 5.4.19 Commercial Fishing/Fish Processing: The business of catching and preparing seafood for human consumption on a commercial as opposed to a retail basis.
- 5.4.20 Boat Yard/Boat Storage/Dry Dock: An area located upon land where boats are stored, loaded, unloaded and repaired.
- 5.4.21 Boat Construction, Maintenance and Repair: A facility or business which constructs, maintains and/or repairs boats.
- 5.4.22 Convenience Retail: Neighborhood grocery, dry goods, news store, and variety store not exceeding 4,000 square feet in floor area.
- 5.4.23 Commercial Passenger Vessel Operations: A facility or business which transports passengers via boating vessels, ships or boats on a commercial basis.
- 5.4.24 Marine Tourism: A business or facility providing maritime and/or nautical travel on a commercial basis for leisure, recreation and/or business purposes.
- 5.4.25 Fish Market: A retail facility which sells seafood on a retail or commercial basis.
- 5.4.26 Public Boat Ramp: A structure available for use by the general public which provides access to the ocean for the launching of boats.
- 5.4.27 Marine Terminal: A facility or establishment dedicated to the movement of persons and goods from one place or another via waterborne transportation. Such a use may include, among other, facilities for transfer of persons and goods between ship and shore

and the storage of bulk materials and other goods transported in waterborne commerce.

5.4.28 Water-dependent Marine Industrial Use: Manufacturing facilities relying primarily on the bulk receipt or shipment of goods by waterborne transportation

5.5.8 Marine Industry: Industries related to the control of maritime traffic, harbor management/improvements and fisheries.

Section 6. DIMENSIONAL REGULATIONS (13)

Section 8 entitled Dimensional Regulations is hereby amended as follows:

Zone District	Min. Lot Area (SF)	Min. Frtg (feet)	Min Front (2)	Yards Both Sides	(ft) Rear	Max. Stories	Max Building Area (5)	Min Height Feet and stories (11)	Min. Open Space (%) landscaping Requirements	Floor Area Ratio (max)
WF1 (17)	40,000	50	10	50 total 15 minimum on each side yard	15	240 feet or 20 stories (6)	70%	36 feet or 3 stories	30%	2.8 (12)
WF1A	40,000	50	10	50 total, 15 minimum on each side	15	100 feet or 8 stories	70%	36 feet or 3 stories	30%	2.8 (12)
WF2	40,000	50	10	50 total, 15 minimum on each side	15	60 feet or 5 stories (6)	70%	48 feet or 4 stories	30%	2.8 (12)
WF3	40,000	50	10	50 total, 15 minimum on each side	15	240 feet or 20 stories (6)	70%	36 feet or 3 stories	30%	2.8 (12)
WS	15,000	50	0	0 (14) or	15	48	70%	24	30%	2.8

				15 (5)		Feet or 4 stories (6)		feet or 2 stories		(12)
SHCO	15,000	50	10	50 total, 15 minimum on each side	15	36 feet or 3 stories (6)	70%	24 feet or 2 stories	30%	2.8 (12)
DPA	40,000	50	10	50 total, 15 minimum on each side	15	48 Feet of 4 stories	80%	12 feet or 1 story	10%	2.8
O	40,000	50	10	50 total, 15 minimum on each side	15	Per underlying district (15)	50% or per underlying district (16)	36 feet or 3 stories	50% or per underlying district (16)	2.8

FOOTNOTES

12. All Parking areas and structures shall not be included in the calculation of Floor Area Ratio.
13. Public Service Corporations who transmit electricity and are regulated by M.G.L. c. 164 and 166 shall be exempt from the dimensional requirements for the WF1, WF1A, WF2 and WF3 Districts.
14. Zero foot side yard setbacks shall be allowable for single contiguous buildings which span more than one lot. All other buildings shall require a 15 foot side yard setback.
15. Buildings containing nonwater-dependent use(s) in the TO District shall not exceed 55 feet in height within 100 feet landward of the high water mark and shall not exceed a height of 55 feet plus one-half foot (0.5 feet) for each additional foot of separation from the high water mark, unless said building containing nonwater-dependent use(s) is located in the underlying WF1 District and is set back, in its entirety, at least 200 feet from the high watermark – in which case, the building height shall not exceed 55 feet plus one and one-half feet (1.5 feet) for each additional foot of separation greater than 200 feet from the high water mark up to the maximum height permitted in the underlying district.
16. Within the TO District, noncontiguous lots may be combined for the purposes of meeting the Maximum Building Area and Minimum Open Space requirements, provided all lands combined to meet the

requirements are located within the TO District and provided further that all noncontiguous lands to be combined with a “base lot” so as to comply with the Minimum Open Space requirement are located within areas delineated as “parks and promenades” in Figure 9 of the Lynn Municipal Harbor Plan, provided a ratio of 1.3:1.0 (square feet of open space:square feet of building area) and in contiguous areas of at least 0.25 acre in size , and maintained by the owner, as green park-like space (i.e., grassed and/or landscaped space which is mowed, kept and maintained free of trash, paved surfaces and debris and which is not used for the storage of equipment or materials for any purpose other than open space) until such time as the land is incorporated into a complete public park or promenade as depicted in Figure 9 of the Lynn Municipal Harbor Plan. For purposes of this provision, “base lot” shall mean a single lot or group of contiguous lots upon which the Building Area is to be located.. Only those buildings occupied solely by water-dependent use(s) may exceed the Maximum Building Area of 50%.

17. All buildings located within the WF1 District are to be set back at least 200 feet from the high water mark of the harbor. This setback does not apply to the banks of the Saugus River.

Section 7. SITE PLAN REVIEW

Section 16.2 is hereby amended as follows:

Except for developments consistent with Footnote Six (6) of Section 4.4 which shall be subject to Section 16A and developments within the WF1, WF1A, WF2, WF3, WS, SHCO, and DPA Districts which shall be subject to this Section, any applicant for a special permit from the City Council, as provided for in Section 12 of the City of Lynn Zone Ordinance or for a special permit from the Board of Appeals as provided for in Sections 7.4., 13.5.1, the granting of which shall allow for a building to be erected or externally enlarged or an area for parking, loading, or vehicular service to be established or substantially changed shall require site plan review (see Section 4.4 Table of Use Regulations). For the purpose of this section the terms "externally enlarged" and "an area for parking, loading or vehicular service to be established or substantially changed" shall mean any external enlargement, established area, or change in excess of five hundred (500) gross square feet". An applicant for the site plan review may not apply for a building permit unless, and until, a site plan has been received and reviewed by the Planning Department and forwarded to the City Council or Board of Appeals, the designated Special Permit Granting Authorities (SPGA), and until the appropriate SPGA has granted approval. Further, all building permits shall be subject to the conditions of the approved site plan.

“An Ordinance amending a Portion of the Zone Map of the City of Lynn and the Zone Ordinance of the City of Lynn” creating a Waterfront Incentive Overlay District” is hereby repealed.

Section 17 of the City of Lynn Zone Ordinance is hereby amended as follows:

Section 17.1.11 is hereby repealed. The new Section 17.1.11 hereby states:

17.1.11 **PURPOSE:** The purpose of this section is to ensure that the design and layout of all commercial, residential, industrial development in the Zoning Districts WF1, WF1A, WF2, WF3, WS, SHCO and DPA are consistent with the City of Lynn Zone Ordinance as amended and the Lynn Waterfront Mater Plan.

17.1.12 **APPLICABILITY:** A Site Plan Review by the Waterfront Zone Site Plan Review Committee is required for all projects to be developed in the WF1, WF1A, WF2, WF3, WS, SHCO and DPA Districts. This Section shall not apply to projects permitted as of right under Section 4.4.18 of this Ordinance.

For the Purpose of this Section of the City of Lynn Zone Ordinance the term "Project" shall mean: (a) for the construction of a new building or replacement building, any building greater than 1,000 square feet in gross floor area; and/or (b) for the renovation, repair, or reconstruction of an existing building, any external alteration to the building, the cost of which shall equal or exceed 25 percent of the assessed value of the building within the five years immediately preceding the submission of the application

17.1.13 **SITE PLAN REVIEW:** There shall be created a Waterfront Zone Site Plan Review Committee, consisting of Seven (7) members, which is responsible to ensure that all such projects are consistent with the Lynn Waterfront Master Plan which has been adopted and approved by the City of Lynn. Said Waterfront Zone Site Plan Review Committee shall consist of four individuals, appointed by the City Council President, one of whom shall be a member of the local business community and at least two City Council Members. The Committee shall further consist of the Director of the Department of Community Development or the Director of the Economic Industrial Development Corporation of Lynn, the Commissioner of the Department of Public Works and the Director of Housing Authority of the City of Lynn. The Waterfront Zone Site Plan Review Committee shall be responsible for reviewing all Site Plans required under this Section for their consistency with the Waterfront Master Plan Report, dated September 2007 prepared by Sasaki in collaboration with ZHA GEI as adopted by the City of Lynn and which is available for inspection at the Department of Inspectional Services and/or the Washington Street Gateway Master Plan dated April 2008 prepared by Sasaki as adopted by the City of Lynn and which is available for inspection at the Department of Inspectional Services and/or the available for inspection at the Department of Inspectional

Services and/or the Municipal Harbor Plan as approved by the Secretary of the Executive Office of Energy and Environmental Affairs in June, 2010 and which is available for Inspection at the Department of Inspectional Services.

- 17.1.14 Site Plan Review: Any person, individual, corporation desiring to develop a project requiring a Site Plan Review under this Section must submit a complete a Site Plan, consisting of material specified in Section 17.1.16, to the Waterfront Zone Site Plan Review Committee through the Building Commissioner. No City of Lynn permit issued under this Zone Ordinance, special permit, variance or otherwise, may be issued until the applicant and the Lynn City Council receives a written recommendation for approval, denial or otherwise from the Waterfront Site Plan Review Committee, a recommendation which shall be in conformance with Section 17.1.15

Prior to the preparation of the Site Plan, the applicant may, at his sole option, request a pre-application conference with the Waterfront Zone Site Plan Review Committee to present a preliminary plan of the project and solicit preliminary comments from the Committee.

The Waterfront Zone Site Plan Review Committee may retain the services of a professional consulting firm and/or architect to assist the Committee in its review of the Site Plan submission. The cost of such a consultant service and/or architect shall be borne by the applicant.

- 17.1.15 Relationship to a Building Permit: The building department shall not issue a building permit unless and until a Site Plan Review has been completed, and a letter, with or without site plan conditions has been forwarded to the Building Commissioner by the Waterfront Zone Site Plan Review Committee. In the instance where the Waterfront Zone Site Plan Review Committee fails to forward a letter within the specified time periods specified in Section 17.1.18, the Building Commissioner shall consider the Site Plan recommended by the Waterfront Zone Site Plan Review Committee.

The Building Commissioner may reject all or some of the Waterfront Zone Site Plan Review Committee site plan conditions and issue a building permit, in accordance with any and all, ordinances, laws and regulations. However, in the event the Building Commissioner rejects one or more of the recommendations or conditions of the Waterfront Zone Site Review Committee, the Building Commissioner shall, in writing and within 14 days, inform the Lynn City Council and the Waterfront Zone Site Plan Review Committee as to the reasons for the rejection(s) and the reasons for his/her determination that the Site Plan proposal is consistent and/or inconsistent with the City of Lynn Waterfront Master

Plan. Upon the issuance of a building permit which fails to include a recommendation of the Waterfront Site Plan Review Committee, the City Council and Waterfront Zone Site Plan Review Committee may appeal any decision to reject a recommendation and/or suggestion to the Zoning Board of Appeals pursuant to M.G.L. c. 40A. If the Building Commissioner accepts all or some of the recommendations of the Waterfront Zone Site Plan Review Committee, those accepted recommendations shall become conditions of the building permit and shall be met prior to the issuance of an occupancy permit.

17.1.16 Site Plan Submission Criteria: The applicant shall submit 10 copies of a site plan proposal drawn to scale not to exceed one inch equals 40 feet (1" = 40'). The site plan review materials must be submitted to the Inspectional Services Department, said office shall forward the materials to the Waterfront Zone Site Plan Review Committee. At a minimum, the submitted materials shall include the following as applicable:

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

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

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

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

17.1.18 Review Schedule: The Waterfront Zone Site Plan Review Committee shall hold a meeting with the applicant no later than sixty (60) days after a completed site plan is received by the Building Commissioner. The Waterfront Zone Site Plan Review Committee shall hold as many meetings as necessary to review the Site Plan. With the approval of both the applicant and the Waterfront Zone Site Plan Review Committee, the review period may be extended for an additional thirty (30) days. However, within ninety-five (95) days of the receipt of the completed Site Plan by the Building Commissioner - or one hundred sixty (160) days in the event the review period is mutually extended - the Waterfront Zone Site Plan Review Committee shall provide its letter of recommendations and/or conditions to the Building Commissioner, the applicant and the Lynn City Council. If the Waterfront Zone Site Plan Review Committee fails to hold a meeting on the Site Plan within sixty (60) days after a completed Site Plan is received by the Building Commissioner or, in the event a meeting is held, but the Waterfront Zone Site Plan Review Committee fails to forward its letter of recommendation within ninety-five (95) days after the completed Site Plan is received by the Building Commissioner – or one hundred sixty (160) days in the event the review period is mutually extended – the Site Plan shall be deemed recommended as submitted.

Section 7. SEVERABILITY

If any section, subsection, sentence, clause, phrase or portion of this ordinance is held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

Section 8. REPEAL OF LAWS IN CONFLICT.

This ordinance supersedes all ordinances or parts of ordinances adopted prior hereto which are in conflict herewith, to the extent of such conflict.

Section 9 INCONSISTENT PROVISIONS

If any conflict exists between this ordinance and the Waterfront Master Plan as approved by the Lynn City Council then this ordinance shall be deemed accurate.

Public Property Committee of September 27, 2010:

Ordered that the owner, Arthur Costonis, Trustee, Tails Realty Trust, of the property at 9 Chancery Lane be allowed to redeem the property with the stipulation that all taxes, fines, and fees be paid immediately.

Motion made by Councillor Colucci and seconded by Councillor Crowley to grant.

Motion carried by the following yea and nay vote:

10 YES 0 NO (Councillor Duffy absent).

Motion made by Councillor Crighton and seconded by Councillor Cyr to remove from the table the Petition of Zachary Andrews for permission for a Lesser Use – Apartment House in Light Industrial District at 70 Granite Street and to grant with the following stipulations: All rental units be priced at the market rate; the fence abutting the Stadium Complex property be replaced by a new fence structure which meets the standards of the abutters; the dumpster and trash facilities meet the standards of the city’s building inspector; and the parking lot meets the space requirements as determined by the city’s Building Inspector.

Motion carried by the following yea and nay vote:

10 YES 0 NO (Councillor Duffy absent).

COMMITTEE REPORTS:

Report of the October 19, 2010 Committee on Interview recommending the following to be accepted:

Position: Mayor’s Appointment – Chairman of the License Commission – **Lays over to October 26, 2010.**

REPORT ACCEPTED.

Report of the October 19, 2010 Committee on Minor Licenses recommending the following to be accepted.

TAXI OPERATORS (NEW)

Garcia, Leovigildo, 144 Williams Ave.-90 Day Review - **Tabled**

Hedrick, Keith, 80 Silsbee St. #206 - **Granted**

Khung, Mao, 14 Wardwell Place-60 Day Review - **Tabled**

Tavarez, Jose, 15 Belvidere Pl.-30 Day Review- **Granted**

Lavrentios, James H. 20 Neptune Blvd. – 30 Day Review- **Granted**

LIVERY OPERATORS (NEW)

Dunlop, Ashley, 29 Cowdrey Ave. - **Granted**

Hedrick, Keith, 80 Silsbee St. #206- **Granted**

Lavrentios, James H. 20 Neptune Blvd-30 Day Review- **Granted**

SIGN LICENSE – RENEW

99 Essex St., Essex Market Enterprises (Request by Councillor Cyr for owner to attend meeting) - **Granted**

41 Sutton Street, High Grade Shade & Screen- **Granted**

SIGN LICENSE (NEW)

129 Oxford Street, Casa Antigua Restaurant- **Granted**

SECOND HAND ARTICLE-RENEWAL

101 Commercial Street, My Son's Store- **Granted**

800-810 Lynnway, Lynnway Mart- **Granted**

SECOND HAND ARTICLE- NEW

25 Exchange Street, Subterranean Books- **Granted**

AUTO BODY-AUTO REPAIR- FLAMMABLE RENEWAL

443 Lynnway - Lynnway Auto Service- **Granted**

77 Alley St. – European Legends (approved 9/7/10 ,tax issues, put back on agenda-

Councillor Cyr stated that this license was approved based on the payment plan and that the owner did make one payment however the payment bounced. Motion made by Councillor Cyr and seconded by Councillor Trahan to pull license. Motion carried.

FLAMMABLE RENEWAL

134 Broadway – Catholic Cemetery Association- **Granted**

COIN OPERATED DEVICES – RENEWAL

738-742 Western Ave. – Celley's Pub & Grille - 2 Class II, 1 Class III- **Granted**

COIN OPERATED VENDOR RENEWAL

Roadway Amusements – 77 Alexander Rd. Billerica, MA 01821- **Granted**

CANNING:

Lynn English Girl's Soccer (Adults Only) – November 8, 21, 28, 2010- **Granted**

Skills USA/Lynn Tech (Adults Only) – October 21, 2010- **Granted**

REPORT ACCEPTED.

Report of the Committee on Public Property recommending the following to be accepted:

Ordered that the City Solicitor's Office draft a License Agreement permitting Seacrest Foods International to park vehicles at the Ford School Annex on Bennett Street. Said License Agreement shall be revocable at the will of the Lynn City Council. It is further ordered that Her Honor the Mayor be authorized to execute said License on behalf of the City of Lynn.

Councillor Colucci attached the following Emergency Preamble:

WHEREAS, A Special Emergency exists involving the peace, health and safety of the people or their property in the City of Lynn.

WHEREAS, An Emergency relative to an Order that the Councillor Colucci attached the following Emergency Preamble:

WHEREAS, A Special Emergency exists involving the peace, health and safety of the people or their property in the City of Lynn.

WHEREAS, An Emergency relative to an Order that the City Solicitor's Office draft a License Agreement permitting Seacrest Foods International to park vehicles at the Ford School Annex on Bennett Street. Said License Agreement shall be revocable at the will of the Lynn City Council. It is further ordered that Her Honor the Mayor be authorized to execute said License on behalf of the City of Lynn.

THEREFORE BE IT VOTED BY THE LYNN CITY COUNCIL THAT THE FOREGOING CONSTITUTES AN EMERGENCY.

Emergency Preamble was adopted by the following yea and nay vote:

10 YES 0 NO (Councillor Duffy absent)

Emergency Order was then adopted by the following yea and nay vote:

9 YES 0 NO (Councillor Duffy absent, Councillor Cyr abstained.)

Request to allow the Department of Public Works to dispose of various obsolete equipment and vehicles. **(Granted - Lays over to October 26, 2010)**

JUNKED VEHICLES				
VIN #	DEPT	YEAR	MAKE	MODEL
2FAFP71W34X173922	POLICE	2004	FORD	CROWN VIC
2FALP71WXSX206666	SCHOOL	1995	FORD	CROWN VIC
2FALP71W3SX206640	SCHOOL	1995	FORD	CROWN VIC
2FAFP71W03X112438	ISD	2003	FORD	CROWN VIC
2FALP71WXVX189565	POLICE	1997	FORD	CROWN VIC
2FALP71W2XS175817	POLICE	1999	FORD	CROWN VIC
1MELM50U6TA630989	POLICE	1996	FORD	TAURUS
1HGCG6674WA125782	POLICE	1998	HONDA	ACCORD
1HGCD5683VA166415	POLICE	1997	HONDA	ACCORD
1FAFP54N8XA151378	POLICE	1999	FORD	TAURUS

1FAFPP6244PH136632	POLICE	1993	FORD	THUNDERBIRD
4T1SK12E4RU447174		1994	TOYOTA	CAMRY
1GCHG35K7SF139858	SCHOOL	1995	CHEVY	VAN
2FAFP71W8YX172801	POLICE	2000	FORD	CROWN VIC
2FALP71W9SX201345	FIRE	1995	FORD	CROWN VIC
4N2DN11W9TD840381	POLICE	1996	NISSAN	VAN
2GCFK24K7J1193023	DPW 528	1988	CHEVY	CHEVY
2FAFP71W2YX200009	POLICE	2000	FORD	CROWN VIC
2FALP71W2SX201350	POLICE	1995	FORD	CROWN VIC
1J9VM3H48VC172032	DPW 253	1997	JOHNSON	SWEEPER
	DPW 254	1997	JOHNSON	SWEEPER
1HTGBDR6KH684149	DPW 225	1989	INTERNATIONAL	DUMP TRUCK
1HTBDBROKH684146	DPW 223	1989	INTERNATIONAL	DUMP TRUCK
2FAFP71W9XX111214	POLICE	1999	FORD	CROWN VIC
1FALP63U8TA302131	POLICE	1996	FORD	TAURUS
1FMZU73E4YZC48640	POLICE	2004	FORD	EXPLORER
1FTJE34HXHHB61086	ISD	1987	FORD	VAN
				PADDY WAGON BOX
				4 JAKE MOWERS
				1 COMPRESSOR

Report of the October 19, 2010 Committee on Finance recommending the following to be accepted:

Ordered that the City Comptroller is hereby authorized to make the following appropriation transfers:

From the Street Lighting Improvement Revenue Account:

To the Account of Street Lighting Expense: \$58,081.00
(Lays over to October 26, 2010).

From the Account of Insurance Losses Greater than \$25,000:00

To the ISD Expense Account: \$25,000.00
(Lays over to October 26, 2010).

From the Account of Police Expense:

To the Account of Unpaid Bills of Prior Years: \$36,285.66
(Lays over to October 26, 2010).

From the Account of DPW Expense:
 To the Account of Unpaid Bills of Prior Years: \$5,111.18
(Lays over to October 26, 2010).

Ordered that the Department of Public Works be allowed to make expenditures for snow and ice control in excess of the appropriation for those costs, pursuant to M.G.L., C. 44, Section 31D. **(Lays over to October 26, 2010).**

Ordered that the City Comptroller is hereby authorized to take the following action: Certify as an "Available Fund" from the F2011 State 911 Department Support and Incentive Grant in the amount of One Hundred Sixty Six Thousand Six Hundred Ninety Two Dollars and Zero Cents (\$166,692.00) to enhance 911 services. **(Lays over to October 26, 2010).**
REPORT ACCEPTED.

NEW BUSINESS:

RESOLUTION/CROWLEY:

Resolution that the Lynn City Council go on record opposing the Citizen Referendum Ballot Question #1 appearing on the Commonwealth of Massachusetts State November 2, 2010 ballot relative to a Sales Tax on Alcoholic Beverages.

Motion made by Councillor Crowley and seconded by Councillor Colucci to grant.

Motion carried by the following yea and nay vote:

8 YES 0 NO (Councillor Duffy absent; Councillor Cahill and Council President Phelan absent at vote).

RESOLUTION / CROWLEY

Resolution that the Lynn City Council go on record opposing the Citizen Referendum Ballot Question #2 appearing on the Commonwealth of Massachusetts State November 2, 2010 ballot relative to Comprehensive Permits for Low or Moderate Income Housing.

Motion made by Councillor Crowley and seconded by Councillor Colucci to grant.

Motion carried by the following yea and nay vote:

9 YES 0 NO (Councillor Duffy absent; Council President Phelan absent at vote).

RESOLUTION / CROWLEY

Resolution that the Lynn City Council go on record opposing the Citizen Referendum Ballot Question #3 appearing on the Commonwealth of Massachusetts State November 2, 2010 ballot relative to Sales and Use Tax Rates.

Motion made by Councillor Crowley and seconded by Councillor Colucci to grant.

Motion carried by the following yea and nay vote:

9 YES 0 NO (Councillor Duffy absent; Council President Phelan absent at vote).

Motion made by Councillor Crowley and seconded by Councillor Crighton to adjourn.

Notice of this meeting was posted in the City Clerk's Office at least forty-eight (48) hours in advance.

A True Copy Attest:

CITY CLERK