

FINAL DRAFT
ZONING ORDINANCE

Auburn, Maine

February 1959

INDEX TO PROPOSED AUBURN ZONING ORDINANCE

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Auburn, Maine

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Proposed Auburn Zoning Ordinance

SECTION 1: PURPOSES

For the purposes set forth in State of Maine Revised Statutes of 1954 as amended in 1957 Chapter 90A and all acts in amendment thereof and in addition thereto and under the authority thereof and of any other enabling laws, the inspection, materials, construction, alteration and repair, height, area, location and use of buildings and structures and the use of land throughout the City of Auburn are hereby regulated as herein provided, and the City is hereby divided into districts as hereinafter designated, defined and described, and shown on an official copy of the zoning map, dated, _____, as amended, on file with the City Clerk, which map is hereby made a part of this Ordinance.

SECTION 2: DEFINITIONS

For the purposes of this Ordinance, the following words and terms as used herein shall have the meanings or limitations of meaning hereby defined, explained or assigned:

- 2.01 Family. Any number of individuals living together in one suite of rooms as a single housekeeping unit, and having one principal cooking and food storage outfit in common among them in such suite.
- 2.02 a) One-Family Dwelling. A dwelling built singly and apart from any other building and intended and designed to be occupied and used exclusively for residential purposes by one family.
- 2.02 b) Two-Family Dwelling. A free standing building intended and designed to be occupied and used exclusively for residential purposes by each of not more than two families.
- 2.03 Lot. An area of land in one ownership with definite boundaries ascertainable by deed or recorded plan and used or set aside and available for use as the site of one or more buildings or for any other definite purpose.
- 2.04 Street. A public way, or a private way open to travel by the general public, or a way shown on a plan of a subdivision duly approved by the Planning Board.
- 2.05 Building. The word "building" shall include the word "structure," unless the context unequivocally indicates otherwise.

- 2.06 Erected. The word "erected" shall include the words "built", "constructed", "reconstructed", "enlarged", and "moved".
- 2.07 a) Story. That portion of a building contained between any floor and the floor or roof next above it, but not including the lowest portion so contained if more than one-half of such portion vertically is below the mean finished grade of the ground adjoining such building.
- 2.07 b) Half Story. A story directly under a sloping roof in which the points of intersection of the bottom of the rafters with the interior faces of the walls are less than three feet above the floor level.
- 2.07 c) Habitable Space. That area within a dwelling which has headroom of not less than seven feet when measured vertically upward from the finished floor, provided that any such area next below the roof of a dwelling shall be counted only if it is connected with the story next below by a permanent inside stairway. The floor area of any porch, veranda, basement room, garage, or other form of accessory structure attached to such dwelling shall not be counted in any measure of habitable space.
- 2.08 Front Yard. An open space extending across the entire width of a lot along its street frontage line from lot sideline to lot sideline and extending between the line of a street and the adjacent exterior of the building on such lot nearest a street frontage line.
- 2.09 Rear Yard. An open space extending across the entire width of a lot from sideline to sideline between the rear line of such lot and the adjacent exterior of the building on such lot nearest said rear line.
- 2.10 Side Yard. An open space extending along the side of a lot between the front yard and the rear yard on such lot and extending between the sideline of such lot and the adjacent exterior of the building on such lot nearest said sideline.

SECTION 3: ZONING DISTRICTS

- 3.1 The City of Auburn is hereby divided into zoning districts designated as follows:

FOREST & FARMING DISTRICTS

FLOOD PLAIN DISTRICT

RURAL RESIDENCE DISTRICTS

SUBURBAN RESIDENCE DISTRICTS

URBAN ONE-FAMILY RESIDENCE DISTRICTS

URBAN GENERAL RESIDENCE DISTRICTS

NEIGHBORHOOD BUSINESS DISTRICTS

GENERAL BUSINESS DISTRICTS

INDUSTRIAL DISTRICTS

- 3.2 In the event of any discrepancy between the boundaries of the zoning districts as shown on the official map and as hereinafter described or defined, the descriptions hereinafter set forth shall govern, as amended.
- 3.3 Forest & Farming Districts. Every part of the City of Auburn not otherwise hereinafter designated Flood Plain, Rural Residence, Suburban Residence, Urban Residence, Neighborhood Business, General Business or Industrial District is hereby expressly declared to be in Forest & Farming Districts.

(See Appendix for paragraphs 3.4)
(through 3.9, which states in words)
(the boundary descriptions of all)
(the zoning districts in each of)
(the categories named in paragraph)
(3.1 above, other than Forest &
(Farming Districts.)

SECTION 4: BUILDING AND USES PERMITTED,
AND APPLICATION OF REGULATIONS

- 4.01 In the zoning districts above specified and described, the following designated buildings and alterations and extensions thereof and buildings accessory thereto and the following designated uses of land, of buildings and of parts of land or of buildings and uses accessory thereto are permitted. All other buildings and uses of land or of buildings are hereby expressly prohibited, except those already lawfully existing which by the operation of this provision would hereby become lawfully non-conforming.
- 4.02 When a lot in one ownership is situated in part in the City of Auburn and in part in an adjacent town or city, the provisions, regulations and restrictions of this Ordinance shall be applied to that portion of such lot as lies in the City of Auburn in the same manner as if the entire lot were situated in Auburn.
- 4.03 When a zoning district boundary divides a lot in one ownership, all the zoning regulations set forth in this zoning Ordinance applying to the greater part by area of such lot so divided may also be deemed to apply and govern at and beyond such zoning district boundary but only to an extent not more than thirty (30) linear feet in depth (measured at a right angle to such boundary) into the lesser part by area of such lot so divided.
- 4.04 Any lawfully non-conforming building or structure and any lawfully non-conforming use of building or land may be continued in the same kind and manner and to the same extent as at the time it became lawfully non-conforming, but such buildings or use shall not at any time be changed, extended or enlarged except for a purpose permitted in the zoning district in which such building or use is situated, or except as may be permitted otherwise as a variance of (not as an exception to) this provision by the Auburn Board of Appeals within the terms and conditions of Section 9 of this Ordinance.
- 4.05 a) If any non-conforming building or non-conforming use of a building or of land be changed to one conforming with Auburn Zoning ordinance provisions in the district in which located, it shall thereafter continue to conform.

- 4.05 b) If any non-conforming use of a building or of land be discontinued for a period of twelve consecutive months duration or more, such use shall not be resumed, and only a use conforming with Auburn Zoning Ordinance provisions in the district in which located shall thereafter be made of such building or land, except as may be permitted otherwise by the Auburn Board of Appeals under Section 9 of this Ordinance, as a variance, not as an exception.
- 4.05 c) Any non-conforming buildings or structures destroyed or damaged by fire, flood, lightning, wind or otherwise to the extent of 65% or more of the reproduction cost of the buildings or structures on the lot at the time of such damage shall not be rebuilt, repaired, reconstructed nor altered except for a purpose permitted in the zoning district in which such building is located, or except as may be permitted otherwise by the Auburn Board of Appeals under Section 9 of this ordinance, as a variance, not as an exception.
- 4.1 Uses Permitted in Flood Plain Districts
- 4.11 Any woodland, grassland, marshland, agricultural or horticultural use of land, but no building of any kind because of flood dangers. Nor any alteration of the natural contour of the land by grading or filling for any purpose, except for the purposes which can be considered approved soil conservation measures.
- 4.2 Uses Permitted In Forest and Farming Districts
- 4.21 Woodlands, orchards, gardens, pastures and fields with normal uses and buildings accessory to the same including but not limited to the following: barns, poultry raising buildings, sales, service and storage of farm equipment and machinery; processing, handling, storage and sale of agricultural produce.
- 4.22 Summer camps and bonafide farm residences required for farm labor or management but no other year-round dwellings by new construction nor by conversion of non-residential or seasonal residential structures.
- 4.25 Uses Permitted in Rural Residence Districts
- 4.251 All the uses permitted in section 4.21 above and in 4.3 below.
- 4.3 Uses Permitted In all Residence Districts
- 4.31 Woodlands, orchards, pastures and fields, gardens, farming as further specified below, dwellings as further specified below, schools, libraries, museums, churches, hospitals, convalescent homes, rest homes; municipal uses, and other uses and activities hereunder specified, also if permitted by the Board of Appeals as an exception within the terms and conditions of Section 9 of this Ordinance, radio, radar, television or radio-telephone transmitting or broadcasting towers but not studios nor offices for such transmitting or broadcasting.

- 4.32 a) Farming of field crops, row crops, orchards, truck gardens, plant and tree nurseries, also greenhouses and subject to the further provisions below, poultry farms, cattle farms, dairy farms, stud farms, piggeries, sheet ranches and other animal farms including farms for raising fur-bearing animals, seasonal markets for sale of farm products raised on the premises.
- 4.32 b) The poultry farming and animal farming above described shall be permitted only on farms each not less than three (3) acres land area (excluding any water bodies of one-quarter acre surface area or larger) and shall be permitted only in Rural Residence and Forest & Farming Districts, except that on any lot in any zoning district there may be kept over and above the household pets of the family living on such lot other birds or animals of any kind or assortment not exceeding three (3) total combined number of the assortment, and except as further provided in the two subparagraphs next below:
- 4.32 c) On any lot of not less than three (3) acres in any zoning district any licenses kennel or licensed veterinarians may keep more than three animals or birds or pets of persons other than those of the family resident on such lot.
- 4.32 d) In Suburban Residence Districts on lots of not less than three (3) acres land area (excluding water bodies of one-quarter acre surface area), there may be kept not more than one hundred (100) combined total number of any kind or assortment of poultry or game birds, together with not more than twenty-five (25) combined total number of any kind or assortment of animals, over and above the household pets of the family resident on such lot, This paragraph shall not apply to or limit the expansion of presently operating animal or poultry farms of 15 acres or more.
- 4.33 a) One family dwellings in all Residence Districts, provided each such dwelling shall contain not less than the following net floor areas of habitable space:
- (1) if one-story, not less than 700 sq. ft. area;
 - (2) if $1\frac{1}{2}$ story, not less than 600 sq. ft. on the first floor, and not less than 250 sq. ft. area above the first floor;
 - (3) if two-story, not less than 600 sq. ft. area on the first floor and not less than 600 sq. ft. area on the second floor.
- b) Any one-family dwelling erected prior to January 1, 1958, may as of right be converted to accommodate not more than two families provided the application for a building permit for such conversion shall show that there will be not more than two dwelling units, and that:
- (1) There will be not less than one accessible off-street parking space of 250 sq. ft. area, exclusive of drive-ways, per dwelling unit resulting from such conversion:

4.33 Continued

- (2) Stairways leading to any floor above the first floor will be enclosed within the exterior walls of the dwelling, and any fire escapes required will be on the rear or one side of the dwelling and not on any wall facing a street;
- (3) After such conversion, the building converted shall retain substantially the appearance and character of a one-family dwelling.

- 4.34 a) Each Urban General Residence District shall embrace not less than fifty (50) acres gross area counting the area of all streets and ways within or bounding such zoning district. Each Urban General Residence District proposed to be established shall be voted by the Auburn City Council only where both piped water and piped sanitary sewer of the Auburn Water District and of the Auburn Sewer District are then available to the area or are at the time of voting actually under binding contract with said Districts to be extended to the area proposed to be so zoned.
- b) In Urban General Residence Districts outside the limits of the Fire Zone as defined in the Auburn Building Code, as amended, there shall be permitted one-family, two-family and three-family dwellings, also multi-family row houses structures, all subject to the land space, lot size, lot width, yard space and building height provisions elsewhere set forth in this Ordinance.
- c) In Urban General Residence Districts inside the limits of the Fire Zone as defined in the Auburn Building Code as amended, there shall be permitted one-family, two-family, three-family and multi-family dwellings including horizontal row-houses and vertical apartments, all subject to the land space, lot size, lot width, yard space and building height provisions elsewhere set forth in this Ordinance.
- d) In Urban One-Family Residence Districts wherever situated, there shall be permitted only one-family dwellings and uses customarily incident and accessory thereto, including those specified in 4.33 above, also all the uses specified in 4.3 above, but no others.

- 4.35 Renting rooms for dwelling purposes or furnishing table board to not more than four persons not members of the family resident in a dwelling so used, provided there be no display or advertising on such dwelling or its lot, and further provided that no dwelling shall be erected or altered primarily for such use. This section shall not limit the housing and feeding of seasonal agricultural workers on or near the premises where employed for the duration of the season employed.

4.4 Uses Permitted In Neighborhood Business Districts

- 4.41a) Each Neighborhood Business Zoning District shall contain not less than one acre and not more than four (4) acres aggregate area including off-street parking as well as green spaces and building spaces, but excluding streets and ways.
- b) Stores for the retail sale of food, drugs, and other articles or commodities for use and consumption in neighboring households; also offices or premises for personal and professional services, and one automobile lubricating and gasoline filling station per Neighborhood Business District. Automobile repair garages and automobile sales places shall not be permitted in Neighborhood Business Districts.
- c) Off-street parking in each Neighborhood Business Zoning District shall be provided with each building therein erected or altered for non-dwelling uses after the effective date of this ordinance in the ratio of not less than four square feet of off-street parking space (including driveways) for each square foot of retail store street floor selling floor space, and in the ratio of not less than two square feet of off-street parking space (including driveways) for each square foot of banking, post-office, business space, whether on the street floor level or on any other floor level.
- 4.42 No loading platforms or receiving doors shall be located on the street side of any retail store or other commercial building in Neighborhood Business Districts unless such platforms or receiving doors be located not less than 50 feet from the side line of any street.

- 4.43 Dwellings, as specified in paragraphs 4.33 a) and b), 4.34 b) and Secs. 5, 6 & 7 of this Ordinance; also churches, schools, libraries, museums, local passenger stations and municipal or other public or civic buildings.
- 4.44 Signs in Neighborhood Business Districts shall be only those permitted under the regulation for signs in General Business Districts. (see paragraph 4.55 hereunder)
- 4.45 Uses of land or of buildings customarily incident to and accessory to the foregoing, provided such uses shall be not noxious, injurious, offensive, dangerous or detrimental to the neighborhood.
- 4.5 Uses Permitted In General Business Districts
- 4.51 a) Retail stores and wholesale stores, salesrooms, showrooms or places for any professional, artistic or mercantile activity not involving large-scale manufacturing on the premises, except that retail bakeries or retail confectioneries in which not more than five persons are engaged in the manufacture and sale on the premises of the bakery or confectionary goods there produced, including ice cream, shall be permitted.
- b) Banks, business offices, professional offices, personal service premises, governmental offices, and municipal, civic or public service buildings such as post office, telephone exchange, school, library, museum, church.
- c) Hall, club, theatre or other place of amusement or assembly.
- d) Restaurant, dining room or lunch room.
- e) Automobile service and filling stations, automobile repair garages including automobile body repairs and painting, and automobile sale agencies for new and used cars.
- f) Churches, schools, libraries, museums, local passenger stations and municipal or other public or civic buildings and activities.

- 4.52 a) In General Business Districts or portions thereof outside the limits of the Fire Zone as defined in the Auburn Building Code as amended, dwellings as specified in paragraphs 4.33 a) and b); 4.34 b); and Secs. 5, 6 & 7 of this Ordinance.
- b) In General Business Districts or portions thereof, inside the limits of the Fire Zone as defined in the Auburn Building Code as amended, dwellings as specified in paragraphs 4.33 a) and b), 4.34 c) and Secs. 5, 6 & 7 of this Ordinance.

4.53 Motels

Motels, subject to site plan review by the Planning Board after public hearing thereon with due notice given to assure fulfillment of and enforcement by the Building Inspector of reasonable conditions as to land space, lot width, lot area, yard spaces, driveway layout, off-street parking, landscaping, grading, building separation and fire safety, which said Board shall from time to time adopt or amend and adopt. Said regulations shall be not less demanding on the topics specified than the City of Auburn building ordinance, the City of Auburn Subdivision Ordinance, the City of Auburn Zoning Ordinance, and appropriate sections of the City of Auburn Health Ordinance.

4.54 Retail Store Design Cluster

Retail store in a designed cluster, subject to site plan review by the Planning Board after public hearing thereon with due notice given to assure fulfillment of and enforcement by the Building Inspector of reasonable conditions as to land space, lot width, lot area, yard spaces, driveway layout, off street parking, landscaping, grading, building separation and fire safety; which said Board shall from time to time adopt or amend and adopt. Said regulations shall be not less demanding on the topics specified than the City of Auburn building ordinance, the City of Auburn Subdivision Ordinance, the City of Auburn Zoning Ordinance, and appropriate sections of the City of Auburn Health Ordinance.

4.55 Signs In Business Districts

- a) Signs in Business Districts shall relate to the premises on which they are located and shall only identify the occupant of such premises or advertise the nature of the occupancy or of the products or services available within said premises, except that off-premises signs no larger than 24 square feet and no more than three such signs in Auburn for any one business venture shall be allowed.
- b) Sign on building: There shall be permitted not more than one sign on the exterior of a building for each occupancy therein. Each such permitted sign shall be attached to the building.
- c) Free-standing sign: there shall be permitted not more than one free-standing sign per business. The top edge of any such free-standing sign shall be not higher than twenty-five (25) feet vertical measure above the average level of the ground between the supports of such sign. For traffic safety, the whole of the signboard or display elements of any such free-standing sign shall be either below three feet height or above ten (10) feet height above said average ground level. Any such permitted free-standing sign may be located within the front yard space required but not nearer than twelve (12) feet to either of the lot side lines.
- d) No free-standing sign shall be of dimensions exceeding one hundred thirty (130) square feet gross area of signboard, or, if no signboard, one hundred thirty (130) square feet gross display area measuring from the top of the topmost display elements to the bottom of the lowest display elements, including in such measurements any blank space between display elements.

4.56 No loading platforms or receiving doors shall be located on the street side of any retail store or other commercial building in a General Business Districts, except gasoline filling stations, unless such platform or receiving doors be located not less than 50 feet from the side line of any street.

4.6 Uses Permitted In Industrial Districts

- 4.61 Any manufacturing, processing, wholesaling, warehousing or other commercial non-retail activity free from neighborhood disturbing factors; also uses of land and of buildings customarily accessory to such activity including the business office of such activity provided that the activity proposed will not be noxious, offensive or detrimental to the neighborhood or to the City by reason of special danger of fire or explosion, pollution of water ways, emission of corrosive, toxic or noisome fumes, gas, smoke, soot, obnoxious dust, disagreeable odors, offensive noises or other objectionable characteristics.
- 4.62 Farming and accessory activities as specified in subparagraph 4.31, also farm dwellings on premises actively farmed, but not other dwellings except motels as specified in Sections 4.53 of this Ordinance and except row houses as specified in Section 5.32 of this Ordinance.
- 4.63 Premises of a bank, post office, telephone exchange, or telephone business office, local bus passenger station, airport, and governmental buildings.
- 4.64 Signs in Industrial Districts shall be of the same nature and dimensions and location as in Business Districts and shall be covered by the provisions of subparagraph 4.55 of this Ordinance.
- 4.65 On petition, subject to site plan review and approval by the Planning Board after a public hearing thereon with due notice given, automobile service and filling stations, motels, diners, restaurants, retail food stores, but not other retail stores of any kind.
- 4.66 Expressly prohibited in industrial districts are automobile junk yards, automobile outdoor dead storage yards and automobile outdoor display yards.
- 4.67 No loading platforms or receiving doors shall be located on the street side of any retail store or other commercial building in Neighborhood Business Districts unless such platforms or receiving doors be located not less than 50 feet from the side line of any street.

SECTION 5: LOT AREAS AND LOT WIDTHS REQUIRED,
ALSO SPECIFIC EXCEPTIONS

- 5.1 In determining the fulfillment of the minimum area of lot required in any zoning district, there shall not be included any land within the lines of the street upon which such lot abuts, even if the fee to such street is in the owner of the lot, except that if a lot at a street corner is bounded in part by a curved exterior street line not more than seventy-five (75) feet in length connecting other exterior street lines bounding such lot which if extended would intersect, the area required in such lot shall be computed as if such potentially intersecting lines were so extended; but if such curved line is more than seventy-five (75) feet in length, the minimum area required in such lot shall be measured and computed entirely within the lines bounding such lot.
- 5.2 No lot, upon which is then located any building or with respect to which a permit has been issued and is then outstanding for the erection of any building, shall be sub-divided or reduced in area in any manner unless said lot shall thereafter fulfill the lot area, lot width and yard space requirements of this Ordinance. If land be sub-divided, conveyed, devised or otherwise transferred in violation hereof, no building permit or other permit shall be issued with reference to any of the land so transferred or to the lot(s) retained until all of such land or lots fulfill the zoning requirements. Any land taken by eminent domain, or conveyed for a public purpose for which the land could have been or was taken by eminent domain, shall not be deemed to be transferred in violation of this provision.

5.3 Lot Area and Lot Width in All Residence and Forest
& Farming Districts

5.31 Urban Residence Districts

a) In Urban One-family Residence Districts no building shall be erected except on a lot containing not less than fifteen thousand (15,000) sq. ft. and not less than one hundred (100) ft. width at the street frontage, except as further specified in paragraph 5.6 below, if permitted by the Board of Appeals as a variance under Section 9 of this Ordinance.

b) In Urban General Residence Districts outside the Fire-Zone as defined in the Auburn Building Code, as amended, for each dwelling structure erected after the effective date of this Ordinance, there shall be provided land spaces as follows;

Structures housing one-family: 15,000 sq. ft.
minimum lot area, not less than 100 ft. width
at the street frontage;

Structures housing two-families: 22,500 sq. ft.
minimum lot area, not less than 115 ft. width
at the street frontage;

Structures housing three families: 30,000 sq. ft.
minimum lot area, not less than 130 ft. width
at the street frontage;

Structures housing four families: 35,000 sq. ft.
minimum lot area, not less than 150 ft. width
at the street frontage.

c) In Urban General Residence Districts inside the Fire-Zone as defined in the Auburn Building Code, as amended, each multi-family, vertical, fire-resistant apartment structure shall be provided land space as follows: For the first apartment in such a structure not less than 15,000 sq. ft.; for the second apartment, not less than additional 7,500 sq. ft.; for the third apartment, not less than additional 5,000 sq. ft.; for the fourth apartment and each subsequent additional apartment in the structure, not less than 2,500 sq. ft. of land area per apartment. In Urban General Residence Districts, the lot for a structure housing one to four families shall be not less than 150 ft. width at the street frontage, and if housing five families or more, not less than 200 ft. width at the street frontage.

- 5.32 Horizontal row houses and garden apartments, in Urban General Residence Zones, whether inside or outside the Fire Zone above-cited, subject to site-plan review by the Planning Board after public hearing thereon with due notice given to assure fulfillment of and enforcement by the Building Inspector of reasonable conditions as to land space, lot width, lot area, yard spaces, driveway layout, off-street parking, landscaping, grading, building separation and fire safety, which said Board shall from time to time adopt or amend and adopt. Said regulations shall be not less demanding on the topics specified than the City of Auburn building ordinance, the City of Auburn Subdivision Ordinance, other parts of Section 5 of the City of Auburn Zoning Ordinance, and appropriate sections of the City of Auburn Health Ordinance.

- 5.33 In Suburban Residence Districts no dwelling shall hereafter be erected except on a lot containing not less than forty-five thousand (45,000) square feet area and not less than one hundred fifty (150) feet width at the street frontage.
- 5.34 In Rural Residence Districts no dwelling shall hereafter be erected except on a lot containing not less than two hundred twenty thousand (220,000) square feet area and not less than three hundred (300) feet width at the street frontage.
- 5.35 In Forest & Farming Districts permitted non-dwelling buildings shall be erected only on lots containing not less than ten acres (i.e. 440,000) square feet area and not less than five hundred (500) feet width at the street frontage. Summer camps, however, may be erected on lots containing not less than 20,000 square feet, and not less than 100 feet in the least dimension unless such lot is of record at the time of passage of this ordinance and can be shown to be of adequate size to property provided for required yard spaces and sewage disposal facilities.
- 5.4 In Business Districts
- 5.41 Each lot recorded after the effective date of this Ordinance shall contain not less than twenty-two thousand five hundred (22,500) square feet area and be not less than one hundred twenty-five (125) feet width at the street frontage, and not more than thirty (30) per cent of the total area of any such lot may be covered by building.
- 5.42 Any yard space or area required to be kept open and unbuilt upon such lot may nevertheless be used for off-street automobile parking, if otherwise lawful, except that a green strip not less than ten (10) feet wide on which to grow grass, bushes, flowers or trees shall be maintained open and green; unbuilt on, unpaved and not parked on, all along each side or rear property line of such a lot wherever it abuts land residentially zoned.

5.5 In Industrial Districts

5.51 Each new lot hereafter recorded shall contain not less than ninety-thousand (90,000) square feet area and be of not less than two hundred (200) feet width at the street frontage and not more than twenty-five (25) per cent of the total area of any such lot may be covered by buildings except that there may be built for materials storage purposes, unheated, open-sided roof covering not more than 20% of the total area of any such lot, in addition to the portion of lot area covered by any other permitted enclosed building.

5.52 Any yard space or area required to be kept open and unbuilt on such lot may nevertheless, if otherwise lawful, be used for off-street automobile parking, or for outdoor storage of articles, supplies and materials, except that a green strip not less than thirty (30) feet wide on which to grow grass, bushes, flowers or trees, shall be maintained open and green, unbuilt on, unpaved and not parked on, all along each side or rear property line of such a lot wherever it abuts land residentially zoned.

5.6 Lot Area and Lot Width Exceptions

- 5.61 a) The lot area and lot width requirements of paragraph 5.3 of this Ordinance shall not apply in any Residence District to any lot containing less area or of less width than above required if such lot was lawfully laid out and duly recorded by plan or deed prior to the effective date of this Ordinance, and provided the front yard, side yard and rear yard requirements, if any, in effect on the date of recording of such plan or deed shall apply to each such lot.
- b) In Business Districts, the requirements under paragraph 5.41 of this Ordinance as to lot area, lot width and the portion of lot coverable by buildings, shall apply to groups in one ownership of older lots of less area or less width than above required, but shall not apply to individual lots not adjoined by other land of the same owner provided any such individual lot was lawfully laid out and duly recorded by plan or deed prior to the effective date of this Ordinance and provided the front yard, side yard and rear yard requirements, if any, in effect on the date of recording of such plan or deed shall apply to each individual lot.

SECTION 6: YARD SPACES REQUIRED

- 6.1 In All Residence Districts there shall be provided on each lot open yard spaces of not less than the number of feet depth below stated all along the front, rear and each side property line of such lot, except as may be permitted otherwise by the Board of Appeals in Urban Residence Districts only and only as a variance under Section 9 of this ordinance in cases where the literal enforcement of the number of feet yard depth stated below as to one or more of such yard spaces would cause unusual hardship or severe practical difficulty peculiar to the placement of of a building on such lot but not on other lots adjoining or nearby within the same Urban Residence Zoning District.
- 6.2 No building or structure shall hereafter be erected, altered or moved so that any part thereof (except eaves steps or uncovered porches) shall be nearer than twenty-five (25) feet from the front line or rear line of any lot in any Residence District or Farm & Forest District, or nearer than fifteen (15) feet from either sideline of any lot in any such district, except that on a corner lot, no building or structure hereafter erected shall be nearer than twenty-five (25) feet from any street line.
- 6.3 In Business Districts
- a) There shall be provided on each lot an open yard space of not less than twenty-five (25) feet depth all along the front and along each side property line of such lot except as may be permitted otherwise as an exception under Sec. 9 of this Ordinance by the Board of Appeals as to front yards and side yards (but not rear yards) on petition after a public hearing with due notice given.
 - b) In the rear of every building or structure hereafter erected in any Business District there shall be an open yard space unbuilt upon of not less than thirty-five (35) feet depth. No building or structure shall hereafter be built, altered, moved, reconstructed or extended so that any part thereof including loading platforms, covered or open, but not caves, or steps shall be nearer than twenty-five (25) feet from the front line or side line of any lot in such district except as above provided, nor nearer than thirty-five (35) feet from the rear line of such lot.

- 6.4 In Industrial Districts there shall be provided on each lot an open yard space of not less than thirty five (35) feet depth all along the front line and along each sideline of such lot, and not less than fifty (50) feet depth along the rear line of such lot, except that an open yard space of not less than fifty (50) feet depth shall be provided on any lot in an Industrial District wherever such lot abuts land residentially zoned, except as otherwise specified in Secs. 4.53 and 4.54 of this Ordinance regarding motels and designed retail store clusters when permitted in Industrial Zoning Districts.

SECTION 7: BUILDING HEIGHTS PERMITTED

- 7.1 In all Residence Districts and in Business Districts where permitted one-family, two-family and row house structures shall not exceed two and one-half stories or thirty-five (35) feet in height.
- 7.2
 - a) In Urban General Residence Districts inside the Fire Zone as defined by the Auburn Building Code, as amended, multifamily vertical apartment structures erected after the effective date of this Ordinance shall not exceed six stories or seventy-five (75) feet in height.
 - b) No wood frame or timber dwelling structure existing within said Fire Zone on the effective date of this Ordinance shall thereafter be increased in height, and the Board of Appeals shall not entertain any appeal for any such height increase.
- 7.3 In Neighborhood Business Districts and in General Business Districts or portions of General Business Districts outside the Fire Zone as defined by the Auburn Building Code, as amended, all permitted structures whether for business, commercial or dwelling purposes shall not exceed two stories or thirty-five (35) feet in height.
- 7.4 In General Business Districts or portions of General Business Districts inside the Fire Zone as defined by the Auburn Building Code, as amended, masonry and/or steel business structures and apartment structures as above provided shall not exceed six stories or seventy-five (75) feet in height.
- 7.5 In Industrial Districts buildings shall not exceed forty-five (45) feet in height.
- 7.6 The foregoing limitations of height in feet in the zoning districts designated shall apply to all farm dwellings but shall not apply to other farm buildings on farms of not less than three acres nor shall such limitations apply to chimneys, ventilators, skylights, tanks, bulkheads, pent-houses, processing towers and other accessory structural features usually erected at a height greater than the main roofs of any buildings, nor to domes, bell towers, or spires of churches or other buildings, provided all such features are in no way used for dwelling purposes.

SECTION 8: EARTH MATERIALS REMOVAL REGULATIONS

8.1 Removal Permit, Application, Hearing & Notice

- 8.11 The removal of sod, loam, soil, clay, sand, borrow, gravel or stone from any land in the City of Auburn not in public use is hereby prohibited except such removal as may be authorized in any zoning district by a permit issued by the Planning Board and except such removal or transferral as is permitted under sub-paragraphs 8.31 to 8.34 of this Ordinance.
- 8.12 The Planning Board in granting any such permit may impose reasonable conditions protective of health, safety and welfare in the community and of individuals in the community. Without limiting the generality of the foregoing limitation, such conditions may include limitation of removal in respect of all or any of the following:
- (a) extent of time,
 - (b) area and depth of excavation,
 - (c) steepness of slopes excavated,
 - (d) distance between edge of excavation and neighboring properties or ways,
 - (e) temporary or permanent drainage in a manner to be approved by the City Engineer,
 - (f) The posting of security or bond in a dollar amount to be determined by the Planning Board on the advice of the City Engineer,
 - (g) the replacement of not less than six (6) inches of top-soil over the whole of any area from which earth materials are removed where the location of such removal is afterward to become a residential subdivision, or,
 - (h) in the case of continuing clay-pit or sand or gravel pit operations in one general locus (but not in the case of continuing cut-stone or of continuing crushed rock removal operations at one general locus) recovering finished out banks with not less than six (6) inches of top soil.

8.1 Removal Permit, Application, Hearing & Notice (Cont'd)

- 8.13 No such permit shall be issued except upon written application therefor to the Planning Board nor until after a public hearing by the Planning Board on such application.
- 8.14 Such application shall include a diagram to scale of the land concerned, indicating existing and proposed elevations in the area to be excavated and stating the ownership and boundaries of the land for which such permit is sought, the names of all adjoining owners as found in the most recent tax list and the approximate locations of existing public and private ways nearest such land.
- 8.15 Notice of said public hearing shall be given by publication in a newspaper published in or of general circulation in Auburn twelve (12) days at least before the date of such hearing.

8.2 Permit or Denial Promptly Mailed

A copy of any permit granted hereunder by the Planning Board stating all of the conditions imposed, if any, or a copy of the denial by the Planning Board of any such application, stating the reasons for such denial, shall be mailed forthwith by the Board to the parties in interest and to the Building Inspector.

8.3 Earth Removal Exceptions

- 8.31 The foregoing regulations shall be deemed not to prohibit such removal of sod, loam, soil, clay, sand, borrow, gravel or stone as may be incidental to any lawfully permitted use of land or of a building or incidental to and necessitated by any building construction for which a building permit has lawfully been issued under the Auburn Zoning Ordinance prior to such earth materials removal.
- 8.32 The foregoing regulations shall also be deemed not to prohibit the removal from any lot or way of earth materials so far as may be necessitated by the construction or installation of utilities or other engineering works for public service on such lot or in such way, or as may be necessitated in constructing ways, provided the layout lines and grades of such ways have been duly approved by the Planning Board prior to such removal.
- 8.33 The foregoing regulations shall also be deemed not to prohibit removal, grading or transferring of any of said materials from one part of a lot, tract or parcel of land to another part of the same lot, tract or parcel of land in the same ownership, or removal for sale at a rate not exceeding ten (10) cubic yards per acre per year.
- 8.34 The foregoing regulations shall also be deemed not to prohibit the removal of any or all of the above specified earth materials by any person, firm or corporation who on the effective date of this Ordinance shall be lawfully engaged in the business of dealing in or with any of such materials, or shall be a party to any agreement for the removal of any thereof, regardless of the annual average rate of any such removal, provided such person, firm or corporation shall, within 30 days after such effective date, apply to the Planning Board for a permit for such removal, and further provided that the time within which such removal may be carried on under this paragraph without a permit shall end on the date of formal action by the Board on such application, or, if no such application shall have been filled, on the thirtieth day after the effective date of this Ordinance.

SECTION 9: BOARD OF APPEALS AND ADJUSTMENT

- 9.1 Board of Appeals, Members, Terms, Records
- 9.11 There shall be a Board of Zoning Appeals, hereinafter called the Board consisting of not less than five members and not more than three associate members, to be appointed to said Board by the City Council as authorized by Maine General Laws, Chapter 90-A. Each of such members and associate members shall be a resident of the City of Auburn and shall not be at the same time in any other capacity a member or an employee of any other agency of the City of Auburn.
- 9.12 The members of the Zoning Board of Appeals shall serve for terms of five years each and the associate members for terms of three years each, the terms in both classifications to be so arranged that one term shall expire each year. Any vacancy in the membership or associate membership of the Board shall be filled within sixty days from the date of occurrence of such vacancy for the remaining unexpired portion of their term of such membership by vote of a majority of the whole number of members of the City Council.
- 9.13 An associate member shall act in place of any regular member who may be unable to act on the Board due to interest in the matter being heard, absence or other temporary incapacity.
- 9.14 The members of the Board shall elect annually from among their number a Chairman and a Secretary.
- 9.15 Four members shall constitute a quorum for the conduct of its business.
- 9.16 The Board shall adopt, and may from time to time amend, rules and regulations for the conduct of its business as it shall deem appropriate or necessary under Maine General Laws and the terms of this Ordinance, and the Board shall keep minutes of its proceedings, recording the vote of each member of each appeal or the absence or non-voting of any member on such appeal.

9.2 Appeal and Adjustment Procedure

- 9.21 Written petitions for appeal or adjustment shall be filed in duplicate with the City Clerk together with a fee of \$10.00 and in the case of appeals within thirty (30) days from the date of the order or decision appealed from. The Clerk shall forward to the Planning Board one copy of such petition, and the Planning Board shall forward to the Board of Appeals as soon as possible any pertinent city planning information in possession of the Planning Board bearing on such appeal.
- 9.22 On each such petition the Board shall hold a public hearing.
- 9.23 Notice of the time, date, place and subject of each such hearing shall be given by publication by the Board in a newspaper of general circulation in the City of Auburn on two separate dates, the first time not less than twelve days before the date of such hearing and the second, not more than seven days and not less than three days before the date of such hearing.
- 9.24 The Board shall also notify all owners of property within 500 feet from the boundaries of the property under appeal by mailing to them and to the Planning Board and the Building Inspector copies of such notice as published. Such notices shall be mailed to such property owners at the addresses appearing for them in the then current property tax listing of the City of Auburn. Failure of any property owner to receive such mail notice of any such public hearing shall not necessitate another hearing, and shall not constitute grounds for objection by such property owner and shall not invalidate any action by the Board of Appeals on such appeal or application for variance or exception.

- 9.25 The right to proceed under any variation from or exception to the terms of this Ordinance, voted by the Board of Appeals, or under change in a decision of the Building Inspector or other municipal official voted by the Board of Appeals, shall expire if such right be not exercised beginning within six months from the date of such vote and if the physical work or changes thereunder be not completed within twenty-four months from the date of such vote.
- 9.26 The Board shall keep a record of each appeal entertained, noting the date when received from the City Clerk, the date of hearing and the person by whom such appeal was formally presented at the hearing. The Board shall record by resolution the final disposition of each and every appeal.
- 9.27 All the foregoing shall be public records.
- 9.3 Appeals and Adjustments
- 9.31 Appeal shall lie from any decision of the Inspector of Buildings or from the decision of any other municipal official under the Auburn Zoning Ordinance to the Board of Appeals and from said Board to the Superior Court as provided in Revised Statutes of Maine Chapter 90a when error is alleged in any such order or decision, or in the decision of the Board of Appeals.
- 9.32 The Board of Appeals, on petition in specific cases after public hearing with due notice given as above provided, may by unanimous vote of those members present (not less than a quorum being present) amend or revise a decision of the Inspector of Buildings or of any other municipal official under the Zoning Ordinance and may permit exceptions to or variations from literal application of the zoning regulations in accordance with the principles, conditions and procedures set forth in this Ordinance, subject always to the paramount duty of said Board to promote the public health, safety, convenience and welfare and to adhere to the central intents and purposes of this ordinance, and provided the Board shall in each case prescribe appropriate conditions and safeguards.

- 9.33 The Board shall hear and decide appeals from any order or decision of the Building Inspector or any other municipal official under the Auburn Zoning Ordinance when error is alleged in such order or decision. Also the Board shall hear and decide any matter specifically referred to it by the terms of this Ordinance and in such matters the Board may determine and vary the application and enforcement of the terms of this Ordinance but only as further set forth below and only when such variation or exception will substantially serve public convenience and welfare and will not adversely affect the owners and occupants of property adjoining or near the property under appeal and will not substantially derogate from the central purposes of the Auburn Zoning Ordinance.

9.34 Variances

When, by reason of extraordinary physical conditions peculiar to land or building under appeal but not to other land or buildings adjoining or nearby within the same zoning district, unusual difficulty or special hardship (not mere financial limitation on an owner by reason of land use regulation) would be caused the owners or occupants of such property by literal application and rigorous enforcement of the terms of the Auburn Zoning Ordinance, the Board in specific cases on written petition may determine and vary to a moderate extent the yard space, lot width, lot area, and percentage of lot that may be covered by buildings and may permit expansion of an existing lawfully non-conforming building or use but only on a lot owned at the time the use became lawfully non-conforming.

As a condition prerequisite to granting any such variance the Board shall require evidence of the following:

- a) that the physical circumstances, fully set forth would result in unusual difficulty or special hardship to the owners or occupants of the property under appeal:
- b) that such physical circumstances are indeed peculiar to the property under appeal, and are not substantially duplicated on other property adjoining or nearby in the same neighborhood or the same zoning district:

9.34 (continued)

- c) that the relief sought would not adversely affect property adjoining or nearby in the same neighborhood or the same zoning district, and would not endanger the public health, safety or convenience and would not impair the integrity of the Auburn Zoning Ordinance.

9.35 Exceptions

On matters referred to the Board as exceptions under the terms of the Auburn Zoning Ordinance, the determinations of the Board shall be in harmony with the expressed intent of the Auburn Zoning Ordinance and with the expressed major purposes of the Auburn City Plan as amended. Exceptions shall be allowed only when they will substantially serve public convenience and welfare and will not involve dangers to health or safety.

As conditions prerequisite to the granting of any exceptions, the Board shall require evidence of the following:

- a) that the exception sought fulfills the specific requirements, if any, set forth in the Auburn Zoning Ordinance relative to such exception;
- b) that the exception sought will not aggravate a traffic hazard, a fire hazard or a panic hazard;
- c) that the exception sought will not block or hamper the City Plan pattern of highway circulation or of planned major public or semi-public land acquisition;
- d) that the exception sought will not alter the essential characteristics of the neighborhood and will not tend to depreciate the value of property adjoining and neighboring the property under petition.

As part of the grant or of the denial of any such petition for as exception, the Board shall show by written statements filed in its records of such petition and by a statement in the minutes of the Board how the exception sought fulfills (or does not fulfill) the foregoing conditions and how it may be granted without danger to health or safety and without substantially derogating from the essential intents and purposes of the Auburn Zoning Ordinance or of the Auburn City Plan.

SECTION 10: ZONING AMENDMENTS

- 10.1 The Planning Board, on its own initiative, or on petition signed by not less than twenty-five (25) Auburn registered voters, shall hold a public hearing on any written proposal to amend the Zoning Ordinance or the zoning map and shall report such hearing and the recommendations of the Board thereon to the Auburn City Council.
- 10.2 Each proposal to change the zoning map shall be made in writing and shall explicitly state the nature, extent, location and purpose of the map change proposed and shall be accompanied by the following:
 - a) Three blackline prints of a diagram to scale showing and stating clearly the dimensions in feet and the area of the land proposed to be changed as to zone;
 - b) also a sketch or other explicit identification of the general location and relationship of such land to some major neighborhood or other recognizable geographic segment of Auburn.
- 10.3 Each proposal to change any words of zoning ordinance (other than a change of zoning district name or of zoning boundary description) shall include the wording then current, the words of change, the wording if so amended, and a statement of the reasons for such change, showing how such change would affect the public health, safety, convenience and welfare.
- 10.4 a) Two notices of each public hearing on a zoning amendment shall be given by publication by the Planning Board in a newspaper published in or of general circulation in Auburn upon payment to the Planning Board by any private petitioner of not less than Twenty-Five (\$25) Dollars toward the cost of such publication.

10.4 (Continued)

- b) The first such notice stating the time, date, place and general subject to be heard shall be published not less than twelve (12) days before the date of such hearing, and the second such notice shall be published not more than seven (7) days and not less than three (3) days before the date of such hearing.

- 10.5 The Planning Board may also notify of such hearing the petitioners and others by mailing to them at such addresses as may be known to the Board or as may appear in the Auburn property tax listing copies of the first such notice as published. Failure of any petitioner or other to receive such mailed notice of such a zoning hearing shall not necessitate another hearing and shall not constitute grounds for objection, by such petitioner or other and shall not invalidate any recommendation by the Planning Board on such zoning matter.

SECTION 11: ENFORCEMENT

- 11.1 No building shall be erected, altered or moved in Auburn without a written permit issued by the Building Inspector. Such permits shall be applied for in writing to the Building Inspector, and he shall not approve an application for a building permit unless the plans for such a building and the intended use thereof in all respects fulfill the provision of this Ordinance.
- 11.2 Each application for a permit to build, enlarge or move a building shall be accompanied by a plot plan in duplicate drawn to scale showing and stating the dimensions in feet of the lot on which such building is proposed to be erected, enlarged or moved, also the location and ground coverage dimensions of any building already existing upon such lot, and the location thereon and ground coverage dimensions on such lot of any building or structure proposed to be erected or moved onto it. Such plot plan shall also show each street, alley or right-of-way on or adjacent to the lot in question. One copy of each such application and plot plan shall be kept on file in the office of the Building Inspector. Submission of a plot plan in connection with permits for agricultural buildings on lots of 25 acres or more need not be submitted unless deemed necessary by the Building Inspector.
- 11.3
- a) The Auburn Zoning Ordinance shall be enforced by the Auburn Building Inspector and by the Auburn Police Chief.
 - b) The Building Inspector or the Police Chief, on the individual initiative of one or other of them, or on request by any municipal official, or upon any well-founded information in writing showing possible violation of the zoning ordinance, shall make or cause to be made an investigation of facts and an inspection of the premises where such violation may exist.
 - c) On evidence of any violation, after investigation and inspection, written notice of such violation shall be mailed or given to the owner and to the occupant of such premises by the office of the Building Inspector with a demand in such notice that such violation be abated within such reasonable time as may be designated in said notice of violation.

11.3 (Continued)

- d) Such notice and demand may be delivered. If mailed, such notice and demand shall be sent by certified mail addressed to the owner at the address appearing for him on the Auburn property tax listing and to the occupant at the address of the premises of such seeming violation.

11.4 If, after such notice and demand, such violation has not been abated within the time specified, the Building Inspector, the Police Chief, or the City Manager shall through the City Solicitor institute appropriate action or proceedings in the name of the City of Auburn to prevent, correct, restrain or abate any violation of this Ordinance.

11.5 Penalty

Any person or persons, firm, or corporation being the owner or tenant of, or having the control or use of any land, building, structure or premises, or part thereof in Auburn, who violates any of the provisions of this Ordinance, or who fails to conform to any of the provisions hereof, shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than five dollars nor more than fifty (\$50) dollars for each offense. Each day each such violation or failure to comply is permitted to exist after notification thereof shall constitute a separate offense.

SECTION 12: CONFLICT OF LAWS
VALIDITY, SEVERABILITY

- 12.1 In general this Ordinance is supplementary to other Auburn ordinances affecting the use, height, area, and location of buildings and structures and the use of premises. Where this ordinance imposes a greater restriction upon the use, height, area and location of buildings and structures and the use of premises than is imposed by other ordinances the provisions of this ordinance shall control.
- 12.2 The invalidity of any section or provision of this ordinance shall not invalidate any other section or provision thereof.