

Auburn Zoning Ordinance

Revised August, 1978

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CHAPTER 29 - ZONING

ARTICLE 1 - PREAMBLE

Section 1.1 Division into Districts

* The City of Auburn is hereby divided into districts as hereinafter designated, defined, and described, and shown on an official copy of the zoning map, as amended, on file with the City Clerk which map is hereby made a part of this chapter.

Section 1.2 Agriculture and Resource Protection District

* The Agriculture and Resource Protection District allows for conservation of natural resources, open space land, limited recreation, agriculture, and forestry. These areas should be protected and conserved because of their natural, aesthetic, and scenic value, because of the need to retain and preserve open space lands, because of their economic contribution to the City, and because these areas are so remote from existing centers of development that any added uncontrolled growth could result in an economic burden on the City of Auburn and its inhabitants. This chapter shall be construed so as to effectuate the purposes outlined in this preamble and so as to prevent any attempt to establish uses which are inconsistent with the purposes of this chapter or any attempt to evade the provisions of this chapter.

ARTICLE 2 - DEFINITIONS

Section 2.1

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

(a) **ACCESSORY BUILDING:** A building used for a purpose which is clearly subordinate or incidental to that of the principal building or to the principal use of the land and which is located on the same lot as the principal building or use.

(b) **ACCESSORY USE:** The terms "accessory use" and "uses accessory thereto" shall include only the following unless further qualified in the text of this chapter.

1) A subordinate use of land or building which is customarily incidental to the principal building or to the principal use of the land and which is located on the same lot with the principal building or use.

2) Off-street parking, but in any residential zone not to include the parking or storage of more than one inoperable motor vehicle or in any urban residential district not more than one commercial vehicle.

3) Home occupation which shall be an occupation conducted by a resident of a dwelling which is clearly incidental and secondary to the residential use of the building in connection with which there is no display, no stock in trade, no commodity sold on the premises, not more than two persons not residents employed, and which does not interfere with the peace and quiet of the neighborhood.

(c) BUILDING: The word "building" shall include the word "structure," unless the content unequivocally indicates otherwise.

(d) DWELLING, ONE-FAMILY: A dwelling unit singly and apart from any other building and intended and designed to be occupied and used exclusively for residential purposes by one family.

(e) DWELLING, TWO-FAMILY: A free-standing building intended and designed to be occupied and used exclusively for residential purposes by each of not more than two families.

(f) ERECTED: The word "erected" shall include the words "build," "constructed," "reconstructed," "enlarged" and "moved."

(g) 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.

(h) HABITABLE SPACE: That area within a dwelling which has headroom of not less than 7 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, basement room, garage or other form of accessory structure attached to such dwelling shall not be counted in any measure of habitable space.

(i) 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.

(j) LOT: An area of land in one ownership with definite boundaries ascertainable by deed or recorded plan and used or set aside as available for use as the site of one or more buildings or for any other definite purpose.

** (k) MOBILE HOME: A moveable dwelling unit not more than 18 feet in width when assembled designed for stationary year-round occupancy and which is not limited to movement upon stationary wheels or tracks.

(l) **MOBILEHOME COURT:** A parcel of land under single ownership which has been planned and improved for the placement of not less than 20 mobilehomes for non-transient use.

(m) **OFFICE TRAILER:** A moveable vehicle or structure designed for year-round or temporary occupancy for purposes of conducting a commercial enterprise or other activity of a non-residential nature.

(n) **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.

*** (o) **STREET:** A public way laid out and established by the State of Maine, County Commissioners of the County of Androscoggin, or accepted by the municipal officers of the City of Auburn or (2) a way as to which a petition for improvements has been allowed under the provisions of section 204 of chapter 23 of these ordinances or (3) a way on a plan of a subdivision duly approved by the Planning Board.

(p) **SUMMER CAMPS:** Dwelling units intended for and actually used for dwellings only during the months of May, June, July, August and September or other periods of vacation or weekends.

** (q) **TRAILER HOME:** A travel trailer, camping trailer, or other similar vehicle capable of being hauled by a passenger automobile or light truck and designed primarily for temporary occupancy for recreational purposes or other seasonal use.

(r) **YARD, FRONT:** 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.

(s) **YARD, REAR:** 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.

(t) **YARD, SIDE:** 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 2.2 Institutional Uses Defined ****

The following terms representing institutional uses shall have the following meanings:

(a) A "hospital" is an establishment devoted to medical or surgical care of sick or injured persons.

Amended November 16, 1970 *Amended June 7, 1971 ****Amended March 16, 1970

(b) A "nursing home," also known as a "convalescent home" or "rest home," is an establishment principally devoted to offering non-intensive nursing care and board to persons who are chronically ill, infirm because of age or disabling physical or mental defect or disease, or convalescing from illness or surgery.

(c) A "boarding home" is an establishment principally devoted to offering board and room and occasional practical nursing service to persons who are inhibited in the performance of ordinary household tasks because of age, illness, or other physical or mental disease or defect.

ARTICLE 3 - MOBILE HOMES

Section 3.1 Uses of Mobile Homes, Trailer Homes, and Office Trailers Restricted

The use of mobile homes, trailer homes, and office trailers is prohibited except as follows:

(a) In mobile home courts.

*(b) As temporary residences for farm laborers or supervisory personnel employed on a seasonal basis on the farm of their employer and limited to the period of such employment.

(c) As a field headquarters or office space on construction sites for persons or firms actually engaged in construction work.

(d) As office space for persons or firms actually engaged in the business of selling mobile homes and trailer homes.

(e) As living quarters for construction workers located on or within one quarter of a mile from the construction site on which they are employed. Such occupancy shall be limited to the period during which construction is in progress.

(f) As temporary living quarters for persons whose need arises from emergency resulting from loss of their homes through accident, natural disaster, or other physical causes. The period of occupancy permitted by this subsection shall be limited to 6 months together with any additional period during which a valid building permit for construction of replacement living quarters may be in effect.

(g) As temporary office space for a business enterprise during the period in which permanent office space is being constructed as to which a valid building permit has been issued.

(h) As temporary living quarters for employees of itinerant businesses such as carnivals during the period when such businesses are actually being conducted within the city and in no case for longer than 30 days.

*Amended 6/21/76

Section 3.2 "Use" of Mobile Homes and Trailer Homes Defined

"Use" of mobile homes or trailer homes is hereby defined to mean occupancy while in a parked position for any purpose for which a private residence may be used including storage.

Section 3.3 "Reserved"

*Section 3.4 Parking of Mobile Homes

Off-street parking of any mobile home, office trailer, or trailer home which is more than $8\frac{1}{2}$ feet wide or 25 feet long while not in use as herein provided for more than 72 hours unless inside a garage or other enclosed structure is prohibited except in forest and farming, flood plain, and rural residence districts or except where such mobile homes are being exhibited for sale by one who is in the business of selling mobile homes. In zones where such parking is permitted, mobile homes shall nevertheless be located so as to be obscured from ordinary view from any public highway.

*ARTICLE 4 - BUILDINGS AND USES PERMITTED

Section 4.1 General

(a) In the zoning districts specified in the appendix to this chapter, the designated buildings and alterations and extensions thereof and buildings accessory thereto and the designated uses of land, of buildings and of parts of land or buildings and the uses accessory thereto are permitted. Except as provided in this chapter, 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.

(b) 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 chapter 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.

(c) 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.

Section 4.2 Continuance of Non-Conforming Building or Use

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.

Section 4.3 Change of Extension of Non-Conforming Building or Use

Except for a purpose permitted in the zoning district in which such building or use is situated, or 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 Article 9 of this chapter:

(a) A lawfully non-conforming use shall not be changed, extended or enlarged;

(b) A lawfully non-conforming residential building may not be enlarged beyond the size permitted by sideline, yard, and height limitations generally in effect for buildings in said zone, not beyond the size limitations for residential buildings contained in any other provision of law;

(c) A lawfully non-conforming building, other than a residential building, may not be extended or enlarged.

Section 4.4 Non-Conforming Use, Change of

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.

Section 4.5 Non-Conforming Use, Lapse

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 Article 9 of this chapter, as a variance, not as an exception.

Section 4.6 Non-Conforming Use, Damage to Building

Any non-conforming building or structure 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 Article 9 of this chapter, as a variance, not as an exception. A residence building on a full foundation in a Agriculture and Resource Protection zone shall not be deemed non-conforming for the purpose of this paragraph.

Section 4.7 Signs

In all districts, the following signs shall be permitted:

- (a) A single sign not over two square feet in area describing a home occupation located therein.
- (b) A single real estate sign not over 8 square feet in area relating to the sale, rental or lease of the premises.
- (c) Bulletin boards of 24 square feet or less on premises of public, charitable or religious institutions.
- (d) Temporary signs relating to construction projects provided they are removed within 3 months after the completion of the project.
- (e) Memorial signs or tablets, names of buildings and date of erection when cut into masonry, bronze, or other non-combustible material.
- (f) Traffic or other municipal signs, legal notices, railroad crossing signs, danger signs, directional signs and temporary and non-advertising signs as may be approved by the City Council.
- (g) On premise church signs.
- (h) Professional name plates not exceeding 8 square feet.
- (i) A maximum of 2 signs describing farm products. The display area of each sign shall not exceed 20 square feet, except that a single double-faced sign may be erected with a display area not to exceed 20 square feet on each side.

Section 4.8 Signs, Off Premises

Signs in General Business Districts, Neighborhood Business Districts and Industrial Districts shall relate to the premises on which they are located and shall only identify the occupants of said premises or advertise the nature of the occupancy or the products and services available within said premises, except that there shall be permitted off-premise signs in accordance with the following:

- (a) Signs shall be limited to 3 in number anywhere within the city limits of Auburn, where permissible, for any one business venture.
- (b) Signs shall not exceed 72 square feet each.

Section 4.9 Signs, Wall

Wall signs shall be permitted.

Section 4.10 Signs, Projecting and Wall

(a) Projecting signs and ground signs shall be permitted providing their aggregate area for any one premise shall not exceed 4 square feet per foot of street frontage to a maximum of 400 square feet or one (1) square foot per foot of street frontage, whichever is larger.

(b) Ground signs may be located within the front yard space required, but not nearer than 12 feet to either of the lot side lines unless written permission is obtained from the abutting property owner to erect such sign nearer than 12 feet to a lot side line.

Section 4.11 Roof Signs

Roof signs shall be permitted

Section 4.12 Flood Plain Districts, Uses Permitted

A. The purpose of this section is to reduce or prevent flood damage to structures, property and land, and to protect public health, safety and welfare. It is the intent of this section to prevent excessive and unnecessary development of the flood plain and to prevent development and activity in the flood plain which would be damaged in the event of high water.

B. Flood elevation means that elevation as established by Auburn's Engineering Office which has a one percent chance of being reached by a flood in a given year.

C. No alteration of the natural contour of perennial waterway of the land by excavation, grading or filling for any purpose shall be permitted except with permission of the Planning Board. Any person proposing to fill or regrade land within the Flood Plain must submit the following information to the City Planner's Office at least 10 days before the meeting at which the request is to be considered:

1. A site plan to a scale suitable for public presentation, showing the following information:

- (a) proposed fill or grading including existing and proposed contours shown at an interval of not more than five feet;
- (b) a contour map showing the relationship of fill or regrading to the total width of the flood-carrying channel;
- (c) a written certification by a professional Engineer of the effect of such proposed fill or regrading on flood heights.

The Planning Board shall grant such a request when it finds that the proposed fill or regrading will not increase any flood heights. In granting a request to fill or regrade, the Planning Board may impose reasonable conditions intended to insure the integrity of the Flood Zone. Upon granting such a request, the Planning Board shall notify other abutting communities adjacent to the waterway and the State Flood Insurance Coordinator.

D. No building of any kind shall be erected within a Flood Plain Zone except buildings to be used for general business purposes, including buildings with residential units on floors above the flood elevation, on parcels of land some portions of which abut a General Business Zone. No building may be erected unless all applicable state and federal permits have been obtained. In addition, no building of any kind shall be built in a Flood Plain Zone except as follows:

1. The building must be constructed of materials and by methods which will prevent flotation, collapse, or lateral movement of the structure in the event of a flood. In addition, any utility equipment must be either resistant to flood damage or located above the flood elevation.

2. All new structures must either be constructed with the lowest floor and basement elevations equal to or greater than the flood elevation or be equipped with sump pump and constructed of flood resistant materials below the flood elevation.

3. All structures within the Flood Plain which are substantially renovated or rehabilitated shall be equipped with sump pump and, to the extent feasible, such repairs or renovations shall be performed with flood resistant materials when located below the flood elevation.

E. In a Flood Plain Zone, all proposals for subdivisions or construction of one or more structures shall be accompanied by flood elevation information certified by a surveyor or professional engineer which is sufficiently detailed to permit establishment of the flood elevation adjacent to the proposed structure.

F. Construction of buildings may be permitted as exceptions under Section 9.5 of this chapter and subject to paragraph D of this section for uses permitted in General Business Zoning Districts provided such General Business Zone is located within 250 feet of the proposed building. Such exception may be granted under the following conditions:

1. No residential structures of any kind shall be permitted except that residential units may be located in the upper floors of buildings constructed for general business uses. Such buildings shall either have their lowest floors at or above the flood elevation or shall be flood proofed to the flood elevation or above. The elevation of any floor used for residential purposes shall be above the flood elevation.

2. No new construction shall be permitted except on lots which are contiguous to and surrounded by lots with existing structures constructed below the flood elevation. Such new structures shall be flood proofed to or above the flood elevation.

3. No exceptions shall be granted for any construction which would significantly increase flood heights, or result in threats to public safety, extraordinary public expense, or create nuisances. The Board of Zoning Appeals shall grant an exception only when a professional engineer has certified that no significant increase in flood heights would be caused by the proposed construction.

4. No exceptions may be granted unless the applicant is able to show that failure to grant an exception would result in undue hardship and that the exception otherwise meets the criteria set forth in section 9.5.

5. In its evaluation of the above mentioned criteria, the Board of Appeals may request an informational report from the Building Inspector, Public Works Director or City Planner to aid its evaluation of any requests under this section.

G. Land within the flood plain may be used for woodland, grassland, marshland, agricultural or horticultural purposes.

Section 4.13 Uses Permitted in Agriculture and Resource Protection Districts

* The uses permitted in the Agriculture and Resource Protection District hereafter set forth have been restricted in order to allow for conservation of natural resources and open space land, and to encourage agriculture and forestry and certain types of recreational uses. These areas shall be protected and conserved because of their natural, aesthetic, and scenic value, because of their economic contribution to the City, and because these areas are so remote from existing centers of development that any uncontrolled growth could result in an economic burden on the City and its inhabitants. This section shall therefore be construed so as to effectuate these purposes and to prevent any attempt to establish uses which are inconsistent with or represent an attempt to evade the policies for limiting and controlling development in this district.

The following uses are permitted in Agriculture and Resource Protection Districts:

(a) Farming of field crops, row crops, orchards, truck gardens, plant and tree nurseries, greenhouses, woodlands, pastures and fields with all land, building equipment and machinery and buildings accessory to the same including, but not limited to the following: barns, sales, service and storage of farm equipment and machinery; processing, handling, storage and sale of agricultural produce, services and supplies.

Section 4.13 Uses Permitted in Agriculture and Resource Protect
Districts (Cont.) Chapter 29

*(b) Poultry farms, cattle farms, dairy farms, stud farms, piggeries, sheep ranches, other animal farms including farms for raising fur-bearing animals; veterinary hospitals where operated by licensed veterinarians including offices, facilities for temporarily boarding animals, and a residence for the veterinarian and his family; provided that in each case there shall be available land area of at least ten acres exclusive of any bodies of water having a surface area of one quarter acre or more. On legally nonconforming undersized lots, the keeping of horses, mules, cows, goats, sheep, hogs, and similar size animals for domestic use of the residents of the lot is permitted provided that the lot contains at least three acres exclusive of water bodies of one quarter acre or larger and subject to the requirements of any other applicable ordinances.

*(c) Bonafide residences required for farm labor or management. No non-residential structures shall be converted to residences and no new residences shall be constructed in connection with any of the agricultural uses described in sub-sections (a) and (b), however, unless (1) at least 50% of the total annual income of the applicant and his or her spouse living in such residence will be derived from such uses or (2) at least 10 acres of the proposed farm will be devoted to the production by the applicant of field crops not including hay grown and harvested no less frequently than annually or to the grazing of the applicant's livestock. For purposes of this section "livestock" shall mean not less than 20 cattle or other animals being raised for commercial purposes. No certificate of occupancy shall be issued for any such farm residence until the barns, livestock pens, silos, or other such buildings or structures which are to be erected in connection with the proposed agricultural use as shown on the plans and specifications presented to the building inspector are substantially completed.

In no case shall any such farm residence constructed under the provisions of this sub-section after the effective date of this amended ordinance continue to be occupied as a residence if the principal agricultural use has been abandoned or reduced in scope below the minimum requirements hereof nor shall any residence constructed for farm labor be converted to non-farm residential use except by permission of the Board of Appeals based upon a finding that the abandonment or reduction in such use resulted from causes beyond the control of the applicant and not from any intention to circumvent the requirements of this section which finding and the conditions upon which such altered use may be continued shall be made a part of the permanent records.

*(d) Recreational uses of land intended or designed for public use after a public hearing and approval by the Planning Board. Any person wishing to establish a recreational use shall submit three copies of the following to the City Planner at least 15 days before the meeting at which it is to be considered.

- (1) A written statement of the proposed use.
- (2) A plan(s) drawn to appropriate scale to contain the following data:
 - a. Locus map showing adjacent properties and the names of all property owners.
 - b. Location and type of improvements. This portion of plan to be drawn at a scale not smaller than 100' per inch.
 - c. Access roads.
 - d. Water supply.
 - e. Sewage disposal.
 - f. Description of terrain.
 - g. Estimated date for completion of construction.
- (3) In considering such applications, the Planning Board shall grant approval when it finds that:
 - a. The developer has the financial capacity to fully comply with the conditions imposed by the Planning Board.
 - b. The provisions for vehicular loading, unloading and parking, and for vehicular and pedestrian circulation on the site and onto the adjacent public streets will be adequate. Such determination shall take into account a written report supplied by the City Engineer.
 - c. The provisions for on-site landscaping shall be adequate to screen neighboring properties from unsightly features of the development unless such landscaping is unreasonable because of the scale or location of the project.
 - d. There shall be no adverse impacts caused by storm drainage. Such determination shall take into account a written statement by the City Engineer.
 - e. There shall be no adverse impacts caused by soils which are unsuited for the development. Such determination shall take into account a written statement by the Auburn Health Officer.

- f. The provisions for exterior lighting shall not create safety hazards for motorists on adjacent streets and that lighting will be adequate for the safety of occupants and users of the site. Such lighting shall not be so intense as to constitute a nuisance to neighbors. No flashing lights of any kind shall be permitted if they or any glare is visible from outside the building.
- g. There shall be no excessive noise associated with the recreational use. The use of loud speakers may be permitted outside any building by permission from the Planning Board.
- h. The proposed development shall not create a fire hazard by failing to provide access to the site or buildings on the site for emergency vehicles. This determination shall be based on a written report from the Auburn Fire Department, a copy of which shall be made available to the applicant.
- i. In addition, the Planning Board may impose additional conditions on the proposed plan which are reasonably necessary to avoid or restrict the adverse impacts of the proposed use on neighboring properties.
- j. The applicant shall record with the City Clerk and the Androscoggin County Registry of Deeds a suitable copy of the plan and all conditions of approval, signed by the Chairman of the Planning Board and City Clerk within 21 days of approval of the plan.

No such recreational use shall be expanded or extended so as to occupy additional land area or by the construction of a structure or an addition to an existing structure containing more than two hundred (200) square feet of additional floor space or occupying more than 200 square feet of ground area unless the owner or occupant first obtains approval of the Planning Board in the same manner and upon the same terms as approvals are granted of initial recreational uses. Any proposed new or expanded recreational use shall be completed on or before the estimated completion date except that the Planning Board shall grant reasonable extension of time where good cause for the failure to complete is shown.

(e) Municipal Sanitary Land Fill.

*(f) Any legally nonconforming summer camp or cottage may be rebuilt if destroyed by fire or other casualty, provided that any such reconstruction shall comply with all ordinances applicable to new construction. Such reconstruction need not, however, comply with zoning ordinances which would otherwise be applicable except for the provisions of section 4.21 of this chapter and the further requirement that, in cases where no minimum set-back is established by section 4.21, an open yard space of at least ten feet between the building as reconstructed and each of the property lines is maintained.

Section 4.14 Uses Permitted in Rural Residence Districts
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Section 4.14 Uses Permitted in Rural Residence Districts

*The following uses are permitted in Rural Residence Districts:

(a) All uses permitted in the Agriculture and Resource Protection District; licensed kennels, animal shelters, and animal rescue facilities, provided none of the foregoing shall be located on a lot containing less than 3 acres. Bonafide summer camps are also permitted provided adequate sewerage disposal facilities are provided.

*(b) Schools, libraries, museums, churches, and all municipal uses.

(c) Radio, radar, television or radio-telephone transmitting or broadcasting towers but not studios nor offices for such transmitting or broadcasting, provided, however, that permission is first obtained from the Zoning Board of Appeals in the manner set out in Article 9 of this chapter.

(d) One family dwellings, provided each such dwelling shall contain not less than the following net floor areas of habitable space:

(1) If one-story, not less than 600 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. on each floor.

(e) Any one family dwelling erected prior to January 1, 1958 may be converted to accommodate not more than two families provided the application for a building permit for such conversion shall show that:

(1) There will be not less than one accessible off-street parking space of 250 sq. ft. area, exclusive of driveways, per dwelling unit resulting from such conversion;

(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 will retain substantially the appearance and character of a one-family dwelling.

****(f) Boarding homes for not more than 4 persons not members of the family resident in the dwelling so used, providing that there is no display or advertising on such dwelling or its lot. This section shall not limit the housing and feeding of seasonal agriculture workers on or near the premises where employed for the duration of the season employed.

*(g) Hospitals, nursing homes, and boarding homes (except as permitted under subsection (f)) shall be allowed only upon the granting of an exception by the Board of Appeals fulfilling the specific requirements of adequate off-street motor vehicle parking and adequate fire equipment access and fulfilling the other provisions for exceptions under the Zoning Ordinance.

** (h) Attached single family dwellings if approved by the Planning Board as part of a planned residential unit development under the provisions of Article 7A of this chapter and as a subdivision under Chapter 23.

*** (i) Access ways to parcels of land situated in districts zoned for commercial use where access to a public street is not otherwise reasonably available. Permission to establish such an access way may be granted by the Planning Board provided the land over which access is to be gained is owned by or subject to an option to purchase by the owners of the lot in the adjacent commercial district to which access is sought. Such approval may be given after a public hearing following notice of publication in a newspaper having general circulation in the City of Auburn not less than five days before the date of the hearing and by certified mail sent not less than ten days before the date of the hearing to owners of property located along the street within 500 feet of the intersection of the street and the proposed access way. Such certified mail notices shall be sent in the same manner and subject to the same conditions as are notices of proposed variances under Section 9.2(d). At least 10 days before the date of the hearing, the applicant shall submit the following information to the office of the City Planner:

(1) Written description of the proposed use together with a fee of \$25.00

(2) Plan or plans drawn to appropriate scale containing the following data:

a) Locus map showing adjacent properties with the names of all property owners of record

b) Location and type of improvements including the proposed access way

c) Description of the terrain including a topographic map at a scale not smaller than 200 feet per inch with contour intervals of not more than five feet

d) Estimated date of completion of construction

(3) In considering such applications, the Planning Board shall grant approval when it finds that:

a) The lot zoned for commercial use to which access is sought contains at least 22,500 square feet of land area.

b) The parcel of land over which access is to be gained has street frontage of at least 250 feet unless such lot was recorded before September 1, 1960.

c) Any proposed building or buildings will not cover more than 30 percent of the parcel of land zoned for commercial use or 10,000 square feet, whichever is greater.

d) There will be sufficient trees and other landscaping to adequately screen the building or buildings and access way from adjacent lots.

e) The street onto which access will be gained is adequate to carry projected volumes of traffic. Such access shall only be on a major street over which there is already a substantial volume of commercial traffic.

f) Title to the land used for access will be retained by the owner of the lot zoned for commercial use to which access is provided.

(4) In addition, the Planning Board may also impose additional restrictions upon the plan or the use of such access way relating to such matters as landscaping, type of vehicles using the access way, and times of day when the access way may be used. In imposing such additional restrictions, the Planning Board shall consider:

a) The need to prevent highway congestion and unsafe conditions with respect to the use of existing highways.

b) Preservation of the esthetic environment and residential character of the existing neighborhood.

(5) No use shall be made of the proposed access way until the site improvements required by the plan or by the plan or by the Planning Board have been completed.

(6) Two copies of the proposed plan and of any restrictions imposed by the Planning Board shall be furnished to the Building Inspector one of which shall be recorded by him at the applicant's expense in the Androscoggin County Registry of Deeds and indexed under the name of the owner of the land over which the proposed access way is to run.

Section 4.15 Uses Permitted in Suburban Residence Districts

The following uses are permitted in Suburban Residence Districts:

* (a) Schools, libraries, museums, churches and municipal uses.

(b) Radio, radar, television or radio-telephone transmitting or broadcasting towers, but not studios nor offices for such transmitting or broadcasting, provided, however, that permission is first obtained from the Zoning Board of Appeals in the manner set out in Article 9 of this chapter.

(c) Farming of field crops, row crops, orchards, truck gardens, plant and tree nurseries and greenhouses.

(d) Any licensed kennel or licensed veterinarian or any animal shelter or animal rescue facility may keep more than three animals or birds or pets of persons other than those of the family resident provided that the lot is of at least three acres.

(e) Not more than a combined total of 100 poultry or game birds, nor more than a combined total of 25 animals may be kept provided that lot is at least 3 acres excluding water bodies of one-quarter acre surface area or larger. For purposes of determining the number of animals kept, household pets of the resident family shall not be counted. This paragraph shall not apply to or limit the expansion of presently operating animal or poultry farms of 15 acres or more.

(f) One-family dwellings, provided each such dwelling shall contain not less than the following net floor areas of habitable space:

(1) If one-story, not less than 600 sq. ft. area;

(2) If 1½ 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. on each floor.

(g) Any one-family dwelling erected prior to January 1, 1958 may be converted, to accommodate not more than two families provided the application for a building permit for such conversion shall show that:

(1) There will be not less than one accessible off-street parking space of 250 sq. ft. area, exclusive of driveways, per dwelling unit resulting from such conversion;

(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.

*(h) Boarding homes for not more than 4 persons not members of the family resident in the dwelling so used, providing that there is no display or advertising on such dwelling or its lot. This section shall not limit the housing and feeding of seasonal agriculture workers on or near the premises where employed for the duration of the season employed.

** (i) Mobile Home Parks subject to the requirements of Chapter 29A.

*** (j) Hospitals, nursing homes, and boarding homes (except as permitted under subsection (h)) shall be allowed only upon the granting of an exception by the Board of Appeals fulfilling the specific requirements of adequate off-street motor vehicle parking and adequate fire equipment access and fulfilling the other provisions for exceptions under the Zoning Ordinance.

**** (k) Attached single family dwellings if approved by the Planning Board as part of a planned residential unit development under the provisions of Article 7A of this Chapter and as a subdivision under Chapter 23.

***** (1) Access ways to parcels of land situated in General Business and Industrial districts where access to a public street is not otherwise reasonably available. Permission to establish such an access way may be granted by the Planning Board provided the land over which access is to be gained is owned by or subject to an option to purchase by the owners of the lots in the adjacent commercial district to which access is sought. Such approval may be given after a public hearing following notice of publication in a newspaper having general circulation in the City of Auburn not less than five days before the date of the hearing and by certified mail sent not less than five days before the date of the hearing to owners of property located along the street within 500 feet of the intersection of the street and the proposed access way. Such certified mail notices shall be sent in the same manner and subject to the same conditions as are notices of proposed variances under section 9.2(d). At least 10 days before the date of the hearing, the applicant shall submit the following information to the office of the City Planner:

(1) Written description of the proposed use together with a fee of \$25.00

(2) Plan or plans drawn to appropriate scale containing the following data:

a) Locus map showing adjacent properties with the names of all property owners of record

* Amended 5-19-75

** Amended 9-5-73

*** Amended 6-2-75

**** Amended 12-16-74

***** Added 6-7-77

b) Location and type of improvements including the proposed access way

c) Description of the terrain including a topographic map at a scale not smaller than 200 feet per inch with contour intervals of not more than five feet

d) Estimated date of completion of construction.

(3) In considering such applications, the Planning Board shall grant approval when it finds that:

a) The lot zoned for general business or industrial use to which access is sought contains at least 22,500 square feet of land area.

b) The parcel of land over which access is to be gained has street frontage of at least 200 feet unless such lot was recorded before September 1, 1960.

c) Any proposed building or buildings will not cover more than 30 percent of the parcel of land zoned for general business or industrial use or 10,000 square feet, whichever is greater.

d) There will be sufficient trees and other landscaping to adequately screen the building or buildings and access way from adjacent lots.

e) The street onto which access will be gained is adequate to carry projected volumes of traffic. Such access shall only be on a major street over which there is already a substantial volume of commercial traffic.

f) Title to the land used for access will be retained by the owner of the lot zoned for general business or industrial use to which access is provided.

(4) In addition, the Planning Board may also impose additional restrictions upon the plan or the use of such access way relating to such matters as landscaping, type of vehicles using the access way, and times of day when the access way may be used. In imposing such additional restrictions, the Planning Board shall consider:

a) The need to prevent highway congestion and unsafe conditions with respect to the use of existing highways.

b) Preservation of the esthetic environment and residential character of the existing neighborhood.

(5) No use shall be made of the proposed access way until the site improvements required by the plan or by the Planning Board have been completed.

(6) Two copies of the proposed plan and of any restrictions imposed by the Planning Board shall be furnished to the Building Inspector one of which shall be recorded by him at the applicant's expense in the Androscoggin County Registry of Deeds and indexed under the name of the owner of the land over which the proposed access way is to run.

Section 4.16 Uses Permitted in Urban One-Family Residence Districts

The following uses are permitted in Urban One-Family Residence Districts:

- *(a) Schools, libraries, museums, churches, and municipal uses.
- (b) Radio, radar, television or radio-telephone transmitting or broadcasting towers, but not studios nor offices for such transmitting or broadcasting, provided, however, that prior permission is first obtained from the Board of Appeals in the manner set out in Article 9 of this Chapter.
- (c) Farming of field crops, row crops, orchards, truck gardens, plant and tree nurseries and greenhouses.
- (d) Any licensed kennel or licensed veterinarian or any animal shelter or animal rescue facility may keep more than three animals or birds or pets of persons other than those of the family resident on such lot, provided that the lot is at least 3 acres.
- (e) One-family dwellings, provided each such dwelling shall contain not less than the following net floor areas of habitable space.
 - (1) If one-story, not less than 600 sq. ft. area;
 - (2) If 1½ 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 each floor.
- (f) Any one-family dwelling erected prior to January 1, 1958, may be converted to accommodate not more than two families provided the application for a building permit for such conversion shall show 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;
 - (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 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.

*(g) Hospitals, nursing homes, and boarding homes shall be allowed only upon the granting of an exception by the Board of Appeals fulfilling the specific requirements of adequate off-street motor vehicle parking and adequate fire equipment access and fulfilling the other provisions for exceptions under the Zoning Ordinance.

** (h) Attached single family dwellings if approved by the Planning Board as part of a planned residential unit development under the provisions of Article 7A of this Chapter and as a subdivision under Chapter 23.

Section 4.17 Uses Permitted in Urban General Residence Districts

The following uses are permitted in Urban General Residence Districts:

- (a) Schools, libraries, museums, churches and municipal uses.
- (b) Radio, radar, television or radio-telephone transmitting or broadcasting towers but not studios nor offices for such transmitting or broadcasting, provided, however, that prior permission is first obtained from the Board of Appeals in the manner set out in Article 9 of this Chapter.
- (c) Farming of field crops, row crops, orchards, truck gardens, plant and tree nurseries and greenhouses.
- (d) Any licensed kennel or licensed veterinarian or any animal shelter or animal rescue facility may keep more than 3 animals or birds or pets of persons other than those of the family resident on such lot, provided the lot is at least 3 acres.
- *** (e) One family, two family, and multi-family dwellings and apartments.
- (f) One-family dwelling shall contain not less than the following net floor areas of habitable space:
 - (1) If one-story, not less than 600 sq. ft. area;
 - (2) If 1½ story, not less than 600 sq. ft. area 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. on each floor.

*Amended 12/21/70

**Added 12/16/74

***Amended 5/7/73

*(g) Horizontal row houses and garden apartments containing more than 2 horizontal units may be allowed after public hearing called in the manner provided by section 105.6(c) of Chapter 23 of these ordinances pertaining to subdivisions. At such meeting the Planning Board shall review the site plan for the project and satisfy itself that reasonable provision has been made for adequate land space, lot width, lot area, yard space, driveway layout, road access to the project, off-street parking, landscaping, building separation, sewage disposal, water supply and fire safety. The standards imposed shall in all cases be at least as stringent as those elsewhere imposed by the Auburn Building Code and by the provisions of this chapter. The Planning Board shall also satisfy itself that essential city services which will be required for the project are presently available or can be made available without disrupting the over-all plan for development of the city. Before any such project proposal is finally approved, and before any building permits are issued, a performance guaranty shall be submitted and approved in the manner provided by section 105.5(a) of these ordinances or a conditional approval agreement submitted in accordance with section 105.5(b).

** (h) Boarding homes for not more than 4 persons not members of the family resident in the dwelling so used, providing that there is no display or advertising on such dwelling or its lot. This section shall not limit the housing and feeding of seasonal agriculture workers on or near the premises where employed for the duration of the season employed.

**** (i) Hospitals, nursing homes, and boarding homes (except as permitted under subsection (h)) shall be allowed only upon the granting of an exception by the Board of Appeals fulfilling the specific requirements of adequate off-street motor vehicle parking and adequate fire equipment access and fulfilling the other provisions for exceptions under the Zoning Ordinance.

*Amended 1/6/75

**Amended 6/2/75

****Amended 5/19/75

*(j) Off-street parking provided that such parking is limited to occupants of buildings located within 500 feet of such parking area whether or not within the same zone and provided further that such use be approved by the Board of Appeals as an exception subject to the requirements of section 9.5 of this chapter. In approving any such use, the Board of Appeals may impose such reasonable conditions regarding fencing and screening, drainage, ingress and egress, signs and lighting, and total capacity of the parking area as it deems necessary to protect the residential character of the neighborhood. Upon receipt of any such application, the Building Inspector shall refer it to the Planning Board for a report as to the prospective effect of the proposed parking area upon the residential character of the neighborhood having particular reference to the factors set forth above, and any other pertinent information arising out of the comprehensive plan of the City of Auburn. If no meeting of the Planning Board is scheduled prior to the Board of Appeals hearing on the application, such report shall be given by the City Planner. If no report has been received by the Board of Appeals prior to the hearing, it may act without it.

**(k) Attached single family dwellings if approved by the Planning Board as part of a planned residential unit development under the provisions of Article 7A of this Chapter and as a subdivision under Chapter 23.

Section 4.18 Uses Permitted in Neighborhood Business Districts

The following uses are permitted in Neighborhood Business Districts:

(a) Stores for the retail sale of food, drugs and other articles or commodities for use and consumption in neighboring households; offices on premises for personal and professional services and one automobile lubricating and gasoline filling station. Automobile repair garages and automobile sales places shall not be permitted.

(b) Off-street parking shall be provided with each building erected or altered for non-dwelling uses in the ratio of not less than 4 sq. ft. 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 2 sq. ft. 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.

(c) No loading platforms or receiving doors shall be located on the street side of any retail store or other commercial building unless such platforms or receiving doors be located not less than 60 feet from the side line of any street.

*Added 3/1/71

**Added 12/16/74

(d) Churches, schools, libraries, museums, local passenger stations and municipal or other public or civic buildings.

*(e) One-family, two-family, and multi-family dwellings and apartments.

(f) One-family dwellings shall contain not less than the following net floor areas of habitable space:

(1) If one-story, not less than 600 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 each floor.

(g) Uses of land or of buildings customarily incident to and accessory to the foregoing, provided such uses shall not be noxious, injurious, offensive, dangerous or detrimental to the neighborhood.

Section 4.19 Uses Permitted in General Business Districts

The following uses are permitted in General Business Districts:

(a) Retail stores; wholesale stores; salesrooms; showrooms; places for any professional, artistic or mercantile activity, including wholesale and retail bakeries, warehouses, and light industrial plants which cannot create any semblance of nuisance by noise, vibration, smoke, odor or appearance.

(b) Banks, business offices, professional offices, personal service premises, local passenger stations, governmental offices, and municipal, civic or public service buildings.

(c) Hall, club, theatre or other place of amusement or assembly; restaurant, dining room or lunch room.

(d) Automobile service and filling stations, automobile repair garages including automobile body repairs and painting, automobile sale agencies for new and used cars, junk yards and automobile graveyards.

(e) Motels shall be allowed only after approval by the Planning Board of plans and specifications to be submitted by the applicant.

(1) All plans submitted for approval shall conform to minimum standards for such motels to be adopted by the Planning Board -- a copy of such standards shall be available at the office of the City Planner.

(2) The planning Board shall hold a public hearing on each application after due notice to the abutting property owners by certified mail and to the general public by advertising in a newspaper of general circulation in Auburn. Failure of any property owner to receive such 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 Planning Board on such matter.

(3) It shall be the duty of the Building Inspector to inspect and certify to the Planning Board that the motel is built in conformance to the approved plans prior to the occupancy of any motel.

(f) No loading platforms or receiving doors shall be located on the street side of any retail store or other commercial building except gasoline filling stations, unless such platform or receiving doors be located not less than 60 feet from the side line of any street.

*(g) One-family, two-family, and multi-family dwellings and apartments.

(h) One-family dwellings shall contain not less than the following net floor areas of habitable space:

(1) If one-story, not less than 600 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. on each floor.

(i) Off-street parking as a commercial use provided that such parking is limited to occupants of buildings located within 500 feet of such parking area whether or not within the same zone and provided further that such use be approved by the Board of Appeals an exception subject to the requirements of section 9.5 of this chapter. In approving any such use, the Board of Appeals may impose such reasonable conditions regarding fencing and screening, drainage, ingress and egress, signs and lighting, and total capacity of the parking area as it deems necessary to protect the character of the neighborhood. Upon receipt of any such application, the Building Inspector shall refer it to the Planning Board for a report as to the prospective effect of the proposed parking area upon the character of the neighborhood having particular reference to the factors set forth above, and any other pertinent information arising out of the comprehensive plan of the City of Auburn. If no meeting of the Planning Board is scheduled prior

to the Board of Appeals hearing on the application, such report shall be given by the City Planner. If no report has been received by the Board of Appeals prior to the hearing, it may act without it.

Section 4.20 Uses Permitted in Industrial Districts

The following uses are permitted in Industrial Districts:

(a) 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 objectional characteristics.

*(b) Schools, libraries, museums, churches, hospitals, and municipal uses.

(c) Radio, radar, television or radio-telephone transmitting or broadcasting towers, but not studios nor offices for such transmitting or broadcasting, provided, however, that prior permission is first obtained from the Board of Appeals in the manner set out in Article 9 of this chapter.

(d) Farming of field crops, row crops, orchards, truck gardens, plant and tree nurseries and greenhouses, including farm dwellings on premises actively farmed.

(e) Banks, post offices, telephone exchanges or telephone business offices, local bus passenger stations, airports, and governmental buildings.

(f) 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, diners, restaurants, retail food stores, but not other retail stores of any kind.

(g) Motels shall be allowed only after approval by the Planning Board of plans and specifications to be submitted by the applicant.

(1) All plans submitted for approval shall conform to minimum standards for such motels to be adopted by the Planning Board; a copy of such standards shall be available at the office of the City Planner.

(2) The Planning Board shall hold a public hearing on each application after due notice to the abutting property owners by certified mail and to the general public by advertising in a newspaper of general circulation in Auburn. Failure of any property owner to receive such 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 Planning Board on such matter.

(3) It shall be the duty of the Building Inspector to inspect and certify to the Planning Board that the motel is built in conformance to the approved plans prior to the occupancy of any motel.

(h) Junk yards and automobile graveyards.

(i) No loading platforms or receiving doors shall be located on the street side of any retail store or other commercial building unless such platforms or receiving doors be located not less than 60 feet from the side line of any street.

(a) Purpose and Definitions

(1) The Shoreland Zone is defined as those sections of Auburn which are located within 250 feet of the normal high water mark of the Androscoggin River, the Little Androscoggin River, Taylor Pond and Taylor Brook. The perimeters of the shoreland zoning districts shall be superimposed over existing zone lines, and permitted uses in the existing zones shall continue, subject to compliance with the provisions of the shoreland zone as well. Nothing in Section 4.21 shall permit uses in zones where such uses are not otherwise permitted.

(2) The purpose of the shoreland zone is to maintain safe and healthful environmental conditions; prevent and control water pollution; protect spawning grounds, fish, aquatic life, bird and other wildlife habitats, control building sites, placement of structures and land uses; and conserve shore cover, visual and actual points of access to waters, and natural beauty.

(3) "Normal high water mark" is defined as the line along lakes and ponds where vegetative cover changes from predominantly aquatic to predominantly terrestrial and, along rivers and streams, the highest elevation on the bank of a channel at which the water has left a definite mark.

(b) Manure Spreading and Disposal

All spreading and disposal of manure shall be accomplished in conformance with "Maine Guidelines for Manure and Manure Sludge Disposal on Land," published by the Life Sciences and Agriculture Experiment Station and the Cooperative Extension and Water Conservation Commission in July, 1972. Three copies of the "Maine Guidelines" shall be on file in the office of the City Clerk.

(c) Agricultural Buffer Strip

An untilled buffer strip at least fifteen feet wide shall be retained the normal high water mark and that portion of any lot within the shoreland zone which is used for agricultural purposes. Agricultural tilling may be permitted within 50 feet of the normal high water mark only after a finding by the Board of Zoning Appeals, after hearing and notice to abutting landowners in the manner provided in this chapter with respect to zoning exceptions, that such use would not adversely affect the water body in question. This subsection shall not be taken to permit agricultural tillage in any zoning district in which it is not otherwise permitted.

(d) Erosion Control

(1) Any earth cutting, moving or removal activities that will result in erosion or runoff which is likely to increase sedimentation of Taylor Pond, Taylor Brook, and Little Androscoggin River or the Androscoggin River as determined by the City Engineer with the advice, as needed of appropriate State or Federal Agencies is prohibited.

(2) The removal of sand, earth, or gravel from natural beaches or land areas contiguous to the shoreline within 50 feet of the normal high water mark or the addition of sand, earth, or gravel to such areas is prohibited.

(3) Vegetative cover shall not be removed except in a manner which will minimize erosion. Harvesting of trees shall be permitted only after a plan prepared by a qualified forester is submitted to and approved by the Auburn City Engineer. Such a plan will be approved or disapproved on the basis of its conformance with good watershed management practice for recreational water bodies.

(4) Trees may be cleared, provided the cleared areas are converted to other vegetation for approved building or landscaping. Where such clearing extends to the shoreline, a cleared opening no greater than 30 feet in width for every 100 feet of shoreline (measured along the normal high water mark) may be created in the strip of land extending 50 feet inland from the normal high water mark. For purposes of this section, clearing is the removal of adjacent dominant trees which extend into the canopy and shrubs within 10 feet of the shoreline. Where natural vegetation is removed, it shall be replaced within six months with other vegetation which is equally effective in retarding erosion and preserving natural beauty.

(e) Private Sewage Disposal Systems

(1) The Health Officer or Plumbing Inspector shall have the right to inspect any system within any shoreland zone during its construction as well as its operation and shall require the abatement of any defects, improper construction or operation.

(2) Replacement or reconstruction of private residential sewage disposal systems in existence and in use when this section was first enacted shall be required to comply with the State Plumbing Code as revised.

(f) Agricultural Uses

All uses of land for chicken farms, cattle farms, horse farms, egg farms, piggeries, sheep farms, stables, crop farming and other agricultural purposes shall be subject to the approval of the Auburn

Building Inspector. Such approval be granted upon a showing that such uses will not cause ground water contamination or contaminate or disturb the normal course of surface water runoff. In considering any such proposed agricultural uses, the Building Inspector may consult or may require the proponent to supply certification by a soil scientist or other expert as to the effect on ground water and surface water runoff, if any, which the proposed use is likely to cause.

(g) Setbacks

All new buildings and structures, except those requiring direct access as an operational necessity, shall be constructed not less than 75 feet from the normal high water mark. Operational necessity shall include docks and marinas. Buildings in existence before December 17, 1973 may be replaced if destroyed as defined by Section 4.6 of the Zoning Ordinance. Lots less than 120 feet deep measures at right angles to the shoreline which were in existence on or before December 17, 1973 shall have a shoreline setback requirement of 50% of the lot depth. Nothing in this section shall permit any structure to be constructed in a location where it is not otherwise permitted.

(h) Conflicts

In any case in which a provision of this section conflicts with a provision in any other section of this chapter, the provision which establishes the more stringent standard shall apply.

(i) Variances

When by reasons of extraordinary physical conditions peculiar to the land or buildings under appeal but not to other land or buildings adjoining or nearby, an owner of land would be subject to unusual difficulty or special hardships (not mere financial hardship or hardships caused by reason of the literal application and rigorous enforcement of the terms of this section), the Board of Zoning Appeals may grant a variance from strict compliance with the requirements of this section after notice and public hearing as provided in Article 9 of this Chapter. No such variance shall be granted unless the Board is satisfied that the variance applied for will not adversely affect the quality of the adjacent water body. When an application for a variance is filed, it shall be forwarded to the Auburn Engineering Department together with a request for an informational report and a recommendation to the Board regarding the disposition of the requested variance application. In any case in which a variance request is granted despite the recommendation of the Engineering Department that it be denied, the Board of Appeals shall make part of its permanent records a written statement of its reasons for taking such action. In granting any such variance application, the Board may also impose reasonable conditions upon the use of the land in question which shall be reduced to writing and made a part of the permanent records of the Board.

SECTION 4.22 Lake Auburn Watershed Zone

(a) Purpose and Definitions

- (1) The Lake Auburn Watershed Zone is defined as that section of Auburn in which surface and subsurface waters ultimately flow or drain into Lake Auburn as such section is delineated on a watershed map and survey by the Auburn Water District on file in the offices of the Auburn Water District, the Auburn City Planning Department, and the Auburn City Clerk. The watershed zone shall be superimposed over existing zones within such sections. Permitted uses in the existing zones shall continue subject to compliance with the provisions of the watershed zone.
- (2) The purpose of the watershed zone is to maintain safe and healthful environmental conditions; prevent and control water pollution; protect spawning grounds, fish, aquatic life, bird and other wildlife habitats; control building sites, visual and actual points of access to waters and natural beauty; and protect and maintain in its present quality and volume the potable water supplied from the Lake Auburn watershed to the population of the Auburn-Lewiston area.
- (3) "Normal high water mark" is defined as the line along lakes and ponds where vegetative cover changes from predominantly aquatic to predominantly terrestrial and, along rivers and streams, the highest elevation on the bank of a channel at which the water has left a definite mark.

(b) Manure Spreading and Disposal

All spreading and disposal of manure shall be accomplished in conformance with "Maine Guidelines for Manure and Manure Sludge Disposal on Land," published by the Life Sciences and Agriculture Experiment Station and the Cooperative Extension Service, University of Maine at Orono, and the Maine Soil and Water Conservation Commission in July, 1972. Three copies of the "Maine Guidelines" shall be on file in the office of the City Clerk.

(c) Agricultural Buffer Strip

Where land adjoining Lake Auburn or its perennial tributaries is tilled for agricultural purposes, an untilled buffer strip 50 feet wide shall be retained between the tilled area and the normal high water mark. This subsection shall not be taken to permit agricultural tillage in any zoning district in which it is not otherwise permitted.

(d) Erosion Control

- (1) Any earth cutting, moving or removal activities that will result in erosion or run off which is likely to increase sedimentation of Lake Auburn, or any tributaries or water body in the watershed is prohibited.
- (2) The removal of sand, earth, or gravel from natural beaches or land areas contiguous to the shoreline within 50 feet of the normal high water mark or the addition of sand, earth, or gravel to such areas is prohibited.
- (3) Vegetative cover shall not be removed except in a manner which will minimize erosion. Harvesting of trees shall be permitted only after a plan prepared by a qualified forester is submitted to and approved by the Water District. Such a plan will be approved or disapproved on the basis of its conformance with good watershed management practice for domestic water supplies.
- (4) Trees may be cleared, provided the cleared areas are converted to other vegetation, for approved construction and landscaping. Where such clearing extends to the shoreline, a cleared opening or openings not greater than 30 feet in width for every 100 feet of shoreline (measured along the normal high water mark) may be created in the strip extending 50 feet inland from the normal high water mark. Where natural vegetation is removed, it shall be replaced with other vegetation which is equally effective in retarding erosion and preserving natural beauty. When the vegetative cover is changed in areas greater than 3 acres, a plan shall be filed with the Auburn Water District indicating the changes so that a record can be maintained of watershed water yields to the system.

(e) Private Sewage Disposal Systems

- (1) Subsurface absorption areas shall not be permitted on sites on which the highest seasonal ground water table, bed rock, or other impervious layer is less than 36 inches below the bottom of the organic horizon. Not less than 24 inches of suitable soil shall be present below the bottom of the subsurface absorption area. The bottom of such subsurface absorption area shall not be less than 12 inches below the bottom of the organic horizon measured from the lowest point on such subsurface absorption area.

- (2) Within areas containing soils described as "deep, loose and sandy" or "gravelly" and which contain more than 70% sand as shown on Table 9-3 of the State of Maine Plumbing Code, Part II (April 25, 1975), no subsurface absorption area shall be installed closer than 300 feet to the normal high water mark of any lake, pond, or year round or intermittent stream. Where the daily sewage flow is or is reasonably likely to be in excess of 2,000 gallons, the system shall be located at least 1,000 feet from the normal high water mark of any lake, pond, or year round or intermittent stream.
- (3) The Water District shall have the right to inspect any system within the Lake Auburn Watershed Zone during its construction as well as its operation and may notify the Health Officer, Police Chief, Local Plumbing Inspector or Building Inspector of any defects or malfunctions. The Health Officer, Police Chief, Local Plumbing Inspector or Building Inspector shall require the abatement of such defects or malfunctions.
- (4) The Local Plumbing Inspector shall furnish a copy of all Site Investigation Reports in the Watershed Zone to the Water District.
- (5) Replacement or reconstruction of private residential sewage disposal systems in existence and in use on December 17, 1973 when this section was first enacted shall not be subject to the requirements of this section but shall be required to comply with the current State Plumbing Code.

(f) Agricultural Uses

All uses of land for chicken farms, cattle farms, horse farms, egg farms, piggeries, sheep farms, stables, crop farming and other agricultural purposes shall be subject to the approval of the Auburn Water District. Such approval shall be granted upon a showing that such uses will not cause ground water contamination or contaminate or disturb the normal course of surface water run off.

(g) Building Setbacks

All buildings and structures, except those requiring direct access to the water as an operational necessity, shall be constructed not less than 75 feet from the normal high water mark. Operational necessity shall include private docks, but shall not include boat houses, storage sheds, garages, or other structures. Marinas shall not be permitted and boat rental facilities shall not be permitted within 75 feet of the normal high water mark of Lake Auburn.

(h) Conflicts

In any case in which a provision of this section conflicts with a provision in any other section of this chapter, the provision which establishes the more stringent standard shall apply.

(i) Variances

When by reason of extraordinary physical conditions peculiar to the land or buildings under appeal but not to other land or buildings adjoining or nearby, an owner of land would be subject to unusual difficulty or special hardships (not mere financial hardship or hardships caused by rigid sewage disposal regulations) by reason of the literal application and rigorous enforcement of the terms of this section, the Board of Zoning Appeals may grant a variance from strict compliance with the requirements of this section after notice and public hearing as provided in article 9 of this chapter. No such variance shall be granted unless the Board is satisfied that the variance applied for will not adversely affect the quality of the Lake Auburn water supply. When an application for a variance is filed, it shall be forwarded to the Auburn Water District and to the Auburn Engineering Department together with a request for an informational report and a recommendation to the Board regarding the disposition of the requested variance application. In any case in which a variance request is granted despite the recommendation of either the Engineering Department or the Water District that it be denied, the Board of Appeals shall make part of its permanent records a written statement of its reasons for taking such action. In granting any such variance application, the Board may also impose reasonable conditions upon the use of the land in question which shall be reduced to writing and made a part of the permanent records of the Board.

ARTICLE 5 - LOT AREA AND LOT WIDTH REQUIRED AND SPECIFIC EXCEPTIONS**Section 5.1 Minimum Area Determined**

In determining the minimum area of lot required in any zoning district, any land within the lines of the street upon which such lot abuts shall not be included, even if the fee to such street is in the owner of the lot.

Exception: If a lot at a street corner is bounded in part by a curved exterior street line not more than eighty (80) 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 said line were extended. If such curved line is more than eighty (80) feet in length, the minimum area required in such lot shall be measured and computed entirely within the lines bounding such lot.

Section 5.2 Subdivision

No lot shall be subdivided or reduced in area in any manner unless said lot(s) thereafter fulfill the lot area, lot width, and yard space requirements of this chapter. If land be subdivided, conveyed, divided 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 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. *This section shall not prevent the division of lots on which more than one residential building is located into separate lots for each residence provided that the owner can establish that such residential buildings, when constructed, were not in violation of the lot area, lot width, and yard space requirements of any applicable zoning ordinance then in effect.

****Section 5.3 Agriculture & Resource Protection Districts**

In Agriculture and Resource Protection Districts, no building shall be erected on a lot containing less than 10 acres or less than 250 feet at the street frontage provided that a building may be erected on a lot containing not less than 50,000 square feet and possessing the necessary minimum frontage if it is contiguous with other parcels of land in the same ownership containing an aggregate of not less than 10 acres even though the other lots or parcels of land are separated by a road, stream, private right of way, or other natural boundary from the lot on which the building is to be constructed. This sub-section shall not be construed to prevent the construction of non-residential accessory farm buildings on any such lot.

*Amended August 20, 1973

**Added January 6, 1975

The lot area and lot width requirements imposed by this subsection shall not apply to any lot which was lawfully laid out and duly recorded by plan or deed prior to December 16, 1974. The lot area and lot width requirements shall apply, however, to undersized lots adjacent to each other under one owner if the collective area of these undersized lots is as large or larger than the minimum requirements for a single lot.

Section 5.4 Rural Residence Districts

In Rural Residence Districts, no building shall be erected except on a lot containing not less than fifty thousand (50,000) square feet and not less than two hundred and fifty (250) feet at the street frontage.

A summer camp may be erected on a lot containing not less than 22,500 square feet and not less than 100 feet in the least dimension unless such lot was duly recorded on or before September 14, 1960, and can be shown to be of adequate size to properly provide for required yard space and sewage disposal facilities.

Section 5.5 Suburban Residence Districts

In Suburban Residence Districts, no building shall be erected except on a lot containing not less than 22,500 square feet area and not less than one hundred and fifty (150) feet width at the street frontage.

In Suburban Residence Districts bordering a Great Pond, no sewerage effluent or sewerage disposal field shall be allowed within 500 feet of the high water mark of a Great Pond or within 500 feet of a water course leading to or emptying into a Great Pond.

In a Suburban Residence District bordering a Great Pond within 500 feet of high water mark, a summer camp or year round residence may be erected on a lot containing not less than 22,500 square feet and not less than 100 feet in the least dimension provided the foregoing area and dimension requirement shall not apply to a lot of record on or before September 14, 1960.

In a Suburban Residence District bordering a Great Pond, conversion of existing camps to a year round use as permanent dwellings will be allowed only on appeal to the Zoning Board of Appeals and when lots can be shown to be of adequate size to properly provide for required yard space and sewerage disposal facilities.

Section 5.6 Urban One-Family Residence Districts

In Urban One-Family Residence Districts, no building shall be erected except on a lot containing not less than 10,000 square feet and not less than one hundred (100) feet width at the street frontage.

Section 5.7 Urban General Residence Districts

In Urban General Residence Districts, outside the Fire Zone as defined in the Auburn Building Code, as amended, for each building erected, there shall be provided lot areas as follows:

(a) Buildings housing one family: 10,000 square feet minimum lot area, not less than 100 feet width at street frontage;

(b) Buildings housing two families: 12,500 square feet minimum lot area; not less than 100 feet width at street frontage;

(c) Buildings housing three families: 15,000 square feet minimum lot area, not less than 100 feet width at street frontage;

(d) Buildings housing four families: 17,500 square feet minimum lot area, not less than 150 feet width at street frontage;

(e) Multi-family, vertical, fire resistant apartment buildings inside Fire Zone as defined in the Auburn Building Code, as amended: 10,000 square feet for the first apartment and 2,500 square feet additional for each apartment.

Section 5.8 General Business Districts

In General Business Districts, each lot recorded after September 14, 1960 shall contain not less than twenty-two thousand five hundred (22,500) square feet and not less than one hundred twenty-five (125) feet at the street frontage, and not more than thirty (30) percent of the total area shall be covered by buildings.

The requirements as to lot area, lot width and the portion of lot coverable by buildings shall apply to undersized lots adjacent to each other under one ownership if the collective area of these undersized lots is as large or larger than required in this section. The requirements of this section shall not apply to individual lots not adjoined by other land of the same owner provided the lots are less than required by this section and were lawfully laid out and duly recorded prior to September 14, 1960. *The requirements of this section shall also not apply to any lot shown on an urban renewal plan approved by the Auburn City Council.

Section 5.9 Industrial Districts

In Industrial Districts, each lot recorded after September 14, 1960, shall contain not less than forty thousand (40,000) square feet area and not less than one hundred and fifty (150) feet width at the street frontage, and not more than twenty (20) percent of the total area of any such lot may be covered by buildings.

The requirements as to lot area, lot width and the portion of lot coverable by buildings shall apply to undersized lots adjacent to each other under one ownership if the collective area of these undersized lots is as large or larger than required in this section. The requirements of this section shall not apply to individual lots not adjoined by other land of the same owner provided the lots are less than required by this section and were lawfully laid out and duly recorded prior to September 14, 1960.

Section 5.10 Resident Zone Exception

Exception: In any resident zone, the lot area and lot width requirements shall not apply to any lot used for a building to house not more than two families if such lot contains less area or is of less width than required by paragraphs 5.4, 5.5, 5.6 and 5.7 and if such lot was lawfully laid out and duly recorded by plan or deed prior to September 14, 1960. However, the requirements as to lot area, lot width and the portion of lot coverable by building shall apply to undersized lots adjacent to each other under one ownership if the collective area of these undersized lots is as large or larger than required.

ARTICLE 6 - YARD SPACE REQUIRED

Section 6.1 Residence Districts

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 lots, except as may be permitted otherwise by the Board of Appeals, and only as a variance under Article 9 of this chapter.

**Section 6.2 Urban One-Family Residence, Urban General Residence, Suburban Residence, Rural Residence and Agriculture Resource Protection District

(a) There shall be behind every building a rear yard having a minimum depth of 25' or 25% of the coverage depth of lot, whichever is less.

(b) Side - There shall be minimum distance of 5' between any building and the side property line plus the side yard set back shall be increased 1' for every 5' or part thereof increase in street frontage over 50' to a maximum of 15' for side yard set back.

(c) Front - There shall be in front of every building a front yard having a minimum depth of 25' provided that no front yard need be any deeper than the average depths of the front yards on the lots next thereto on either side. A vacant lot or a lot occupied by a building with a front yard more than 25' shall be considered as having a front yard 25' deep. If average depth of lot is less than 100', the front yard need be no deeper than 25% of the average depth of the lot.

Section 6.3 General Business and Neighborhood Business Districts

(a) Rear - There shall be behind every building a rear yard having a minimum depth of 35' or 20% of the average depth of the lot, whichever is less.

(b) Side - There shall be a distance of 5' between any building and the side property line, plus the side yard set back shall be increased 1' for every 4' or part thereof increase in street frontage over 49' to a maximum of 25' for side yard set back.

(c) Front - There shall be in front of every building a front yard having a minimum depth of 25' or 15% of the average depth of the lot, whichever is less. No front yard need be any deeper than the average depth of front yards on the lots next thereto on either side. A vacant lot or a lot occupied by a building with a front yard with more than 25' shall be considered as having a front yard of 25'.

(d) Where the requirements of a railroad siding exists, the open yard space regulations as set forth are disregarded for the side(s) of the building requiring the siding. The engineering requisites for a safe and properly designed siding and building set back acceptable to the railroad shall take precedence.

(e) Any yard space or area required to be kept open and unbuilt on may be used, if otherwise lawful, for off-street automobile parking, except that a green strip not less than ten (10) feet wide on which to grow trees, grass, bushes or flowers shall be maintained open and green; unbuilt on, unpaved and not parked on, all along each property line that abuts land residentially zoned.

*(f) The requirements of this section shall not apply to any lot shown on an urban renewal plan approved by the Auburn City Council.

Section 6.4 Industrial District

(a) Rear - There shall be behind every building a rear yard having a minimum depth of 50' or 20% of the average depth of the lot whichever is less.

(b) Side - There shall be a minimum distance of 5' between any building and the side property line plus the side yard set back shall be increased one (1) foot for every three (3) feet or part thereof increase in street frontage over sixty-three (63) feet to a maximum of thirty-five (35) feet for side yard set back.

(c) Front - There shall be in front of every building a front yard having a maximum depth of thirty-five (35) feet or 15% of the average depth of the lot, whichever is less. No front yard need be any deeper than the average depth of front yards on the lots next thereto on either side. A vacant lot or a lot occupied by a building with a front yard having more than thirty-five (35) feet shall be considered as having a front yard of thirty-five (35) feet.

(d) Where the requirements of a railroad siding exists, the open yard space regulations as set forth are disregarded for the side(s) of the building requiring the siding. The engineering requisites for a safe and properly designed siding and building set back acceptable to the railroad, shall take precedence.

(e) Any yard space or area required to be kept open and unbuilt on may be used, if otherwise lawful, for off-street automobile parking, except that a green strip not less than thirty (30) feet wide on which to grow grass, shrubs, flowers or trees shall be maintained open and green, unbuilt on, unpaved and not parked on, all along each property line that abuts land residentially zoned.

*(f) Any yard space or area required to be kept open and unbuilt on may be used, if otherwise lawful, for outdoor storage of articles, supplies and materials except that such storage be screened from the view of abutting property owners and/or streets; also providing that such outdoor storage occupy not more than an additional ten (10) per cent of the lot; also a green strip as described in 6.4(e).

ARTICLE 7 - BUILDING HEIGHTS PERMITTED

Section 7.1 Residence Districts & Business Districts

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 and thirty-five (35) feet in height.

Section 7.2 Urban General Residence Districts

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 chapter shall not exceed six stories and seventy five (75) feet in height.

No wood frame or timber dwelling structures existing within said Fire Zone on the effective date of this chapter shall thereafter be increased in height, and the Board of Appeals shall not entertain any appeal for any such height increase.

* Added 9-5-73

** Revised 8-16-76

****Section 7.3 Neighborhood Business Districts and General Business Districts**

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 and thirty-five (35) feet in height.

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 seven stories and seventy-five (75) feet in height.

Section 7.4 Industrial District

In Industrial District, buildings shall not exceed forty-five (45) feet in height.

Section 7.5 Limitations (Application)

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, penthouses, 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.

* Revised 5-17-76

** Revised 8-16-76

*ARTICLE 7A PLANNED RESIDENTIAL UNIT DEVELOPMENTS

Section 7A.1 General Purpose

The purpose of this article is to permit greater flexibility and, consequently, more creative and imaginative design for the development of residential areas than generally is possible under the other provisions of this chapter. It is further intended to promote more economical and efficient use of the land while providing a harmonious variety of housing choices, a higher level of urban amenities, and preservation of natural scenic qualities of open spaces.

The Planning Board, in reviewing and approving proposed subdivisions under Chapter 23 of these ordinances containing area of at least ten acres may modify the minimum requirements for lot area, lot width, yard space, and building height which would otherwise apply in order to achieve the purposes stated. The provisions of this article shall not be used in lieu of those regarding the granting of variances to relieve hardship.

Section 7A.2 General Requirements

In any such proposed subdivision or "planned residential unit development" to which the Planning Board is requested to apply the provisions of this article:

(a). The purpose and intent of this chapter shall be maintained.

(b). Net residential density allowable in the zone in which it is located shall not be exceeded by more than 20%. For purposes of this article, net residential density shall mean the area of residential space available for residential development after deduction of vehicular rights of way and land not buildable because of drainage subsurface conditions or other natural impediments.

(c). Front yard set back requirements shall not apply except with respect to residential buildings located on a public street.

(d). Open space between unattached principal buildings shall not be reduced to an amount less than the height of the higher of such unattached buildings.

(e). Frontage requirements shall not apply provided that the Planning Board receives satisfactory evidence that a suitable access for public safety and other vehicles will be provided and properly maintained to all dwelling units, and that trash collection and other essential services will be available.

(f). No residential building, whether or not consisting of apartments, unattached, or attached single family units, shall exceed two and one half stories in height unless expressly permitted by the

Section 7A.2 (f) (cont.)

Planning Board on the basis of a finding that such additional height would be justified by unusual topographical features of the site and that the resulting construction will not be inconsistent with the residential character of the immediate neighborhood in which the planned residential unit development is to be located.

(g). No more than four units shall be attached together in a single building, row, group, or cluster.

(h). Where possible, buildings shall be oriented with respect to scenic vistas, natural landscape features, natural drainage areas, and contiguous residential areas.

(i). Development proposals shall include a landscape program which sets forth the proposed treatment of space, roads, paths, service and parking areas. Screening devices shall not impair pedestrian and vehicular safety.

(j). All utilities shall be installed underground wherever possible. All transformer boxes, substations, pumping stations, and meters shall be located and designed so as not to be unsightly or hazardous to the public.

(k). Residual open space accumulated by modifying space requirements within the allowable density limits shall be used for recreational or other outdoor living purposes and for preserving large trees, tree groves, woods, ponds, streams, glens, rock outcroppings, native plant life and wild life cover, or simply reserved as open space. The use of any open space may be further limited or controlled by the Planning Board at the time of preliminary and final plan approval where necessary to protect adjacent properties or uses. Such common open space shall be shown on the subdivision plan with appropriate notation that it is not to be used for future building lots.

(l). The developments proposal, including the lay-out of land and buildings and the landscape program, shall be prepared under the direction of a professional consultant who is an architect registered in the State of Maine, or one with formal professional training in planning and/or landscape architecture, or who has been specifically approved by the Planning Board in advance to prepare the development proposal. The Planning Board may require that the professional consultant be available at any meeting at which the development proposal is being considered to provide additional information regarding the proposal.

Section 7A.3 Maintenance of Common Open Space

The developer shall establish and incorporate a neighborhood development association and specify the anticipated membership thereof prior to approval of the final subdivision plan. Covenants providing for mandatory membership in the association and setting forth the

Section 7A.3 (cont)

members' rights, interest and privilege in the association and in the common open space shall be approved by the Planning Board for inclusion in the deed for each unit ownership in the proposed development. A neighborhood development association shall have responsibility for maintaining the common open space and for operating and maintaining the local neighborhood recreational facilities if any, within the open space at its own expense. The developer or subdivider shall maintain control of any such open space and be responsible for maintaining it until the neighborhood development association has attained 75% of its anticipated total membership.

In any case in which the owners of residential units in the development are to hold title in common to all open space land in the development or are to retain responsibility jointly for maintaining private ways or providing essential services, the developer or owners shall file and record a declaration describing the area to be held in common and otherwise meeting the requirements of 33 M.R.S.A. Sec. 569 prior to approval of the final subdivision plan. The mutual rights and obligations of the common owners shall thereafter be governed by the State "Unit Ownership Act" as well as by the provisions of these ordinances.

In any case where after notice, the person or persons charged with the responsibility for maintaining such common open space shall fail or refuse to do so, the City of Auburn may perform such maintenance work and collect the expense of the same together with a surcharge of ten percent from the person or persons responsible for such maintenance under this ordinance.

Section 7A.4 Accessory Uses

For purposes of this article, accessory uses may include as an integral part of the development plan, retail and service facilities intended solely for the convenience of the residents of the development if, in the judgment of the Planning Board, such facilities will in no way conflict with the comprehensive plan of the City of Auburn. Before permitting the incorporation of such limited commercial uses in the development plan, the Planning Board may require a specific showing of the prospective needs of the occupants of dwellings units in the development for the goods and services to be sold and the scope of the commercial operation proposed. The Board may also include specific limitations upon the number and scope of the goods and services to be offered for sale, the hours when such sales may be made, the nature of the commercial displays which will be visible on the exterior of the premises, and upon other similar aspects of the operation of any such limited commercial use.

Section 7A.5 Applications

Applications for approval by the Planning Board of any planned residential unit development shall be signed by all of the owners of the property to be included in the development.

ARTICLE 8 - EARTH MATERIALS REMOVAL REGULATIONSSection 8.1 Removal Permit, Application, Hearing and Notice

(a) 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 or is otherwise permitted under this chapter.

(b) 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:

- (1) Extent of time
- (2) Area and depth of excavation
- (3) Steepness of slopes excavated
- (4) Distance between edge of excavation and neighboring properties or ways
- (5) Temporary or permanent drainage in a manner to be approved by the City Engineer.
- (6) The posting of security or bond in a dollar amount to be determined by the Planning Board on the advice of the City Engineer, to be sufficient to guarantee fulfillment of conditions imposed.
- (7) The replacement of not less than six (6) inches of topsoil 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
- (8) 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.

(c) No such permit shall be issued except upon written application therefor to the Planning Board not until after a public hearing by the Planning Board on such application.

(d) 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.

(e) 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.

Section 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.

Section 8.3 Earth Removal Exceptions

(a) 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.

(b) 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.

(c) 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.

(d) 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 chapter 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 provide 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 filed, on the thirtieth day after the effective date of this chapter.

ARTICLE 8A - SWIMMING POOLSection 1.1 Swimming Pool Defined

For purpose of this article, a swimming pool is defined as any outdoor man-made receptacle or excavation having a surface area of 250 square feet, or more, designed to hold water to a depth of at least 24 inches, primarily for swimming or bathing whether in the ground or above the ground.

Section 1.2 Permit Required

No person or firm shall begin construction of or erect a swimming pool without first obtaining a building permit. The Building Inspector shall issue a permit only after satisfying himself from plans or specifications presented by the applicant that the proposed swimming pool will conform with the requirements of this article.

Section 1.3 Pools to be Kept Enclosed

Every swimming pool shall be enclosed by a fence or wall at least 5 feet in height, and constructed so as to exclude children, which shall have no openings larger than four inches in the least dimension. Any building or related structure may be included as a part of the required enclosure. Any inaccessible banking of earth, or any body of water, either of which cannot be traversed readily on foot shall be considered a part of the enclosure. All gates and doors opening through the enclosure shall be equipped with a self-closing and self-latching device for keeping the gate or door securely latched at all times when not in use.

* Section 1.4 Set-back Requirements

No swimming pool shall be constructed closer than ten (10) feet from the side or rear lot line, nor closer to the front line of any lot than would be permitted for buildings or other structures by other provisions of this chapter.

Section 1.5 Fences Required for Existing Pools

Any swimming pool constructed or erected prior to the effective date of this ordinance shall be fenced or enclosed in accordance with the provisions of this article by September 1, 1968.

ARTICLE 9 - BOARD OF APPEALS AND ADJUSTMENT** Section 9.1 Board of Appeals: Composition and Procedure

(a) There shall be a Board of Appeals consisting of seven members and two associate members to be appointed by the City Council. Each member shall be a resident of the City of Auburn and shall not be an employee of the City of Auburn. The Board of Appeals shall have jurisdiction over appeals from decisions of the Building Inspector under the Building Code and the Zoning Ordinance, from the Housing Inspector under the Housing Code, and from the Fire Chief under the Fire Code.

* (b) The members of the Board shall serve for the remainder of their terms and their successors shall serve for terms of five years apiece. Present members of the Board may be reappointed. Members of the Board shall continue to serve until their successors are appointed and qualified. The two associate members shall each be appointed for terms of five years. An associate member shall have a vote only in the event that one or more regular members of the Board is absent or is disqualified from serving on a particular matter because of a conflict of interest.

(c) The members of the Board of Appeals shall elect annually from among their number a Chairman and a Secretary.

(d) The Board shall adopt, and may from time to time amend, rules and regulations to govern the conduct of its business. The Board shall keep a record of the evidence presented to it in each proceeding including the vote in each case and the reasons for its decision. Where the members of the Board disagree as to the reasons for the decision reached, their reasons shall be separately stated.

* (e) Five members shall constitute a quorum at any meeting. Except in case of emergency, any member unable to attend a meeting of the Board shall so notify the Chairman and the Building Inspector no less than forty-eight hours before the scheduled time of the meeting. At every meeting the Board shall note the reasons for the absence of any member and whether or not such absence was excused by the Chairman in advance of the meeting. Any member missing three consecutive meetings of the Board without prior excuse from the Chairman shall be deemed to have resigned from the Board effective upon the date that notice of this fact is given in writing to the City Council by the Chairman of the Board.

(f) All petitions for appeal shall be filed, notice thereof, given, and proceedings of the Board with respect thereto conducted in the manner hereafter provided with respect to zoning appeals unless the application of such provisions would obviously be inappropriate or where specifically otherwise provided in these ordinances. In any case involving an administrative appeal which does not concern zoning in which application of the provisions of this chapter governing the conduct of such appeal would be inappropriate, the Board shall provide by rule for an alternative method of proceeding.

*** (g) The City Planner, or his representative, shall be responsible for reviewing the records of hearings of the Zoning Board of Appeals. Such review shall be conducted on a monthly basis and shall be for the purpose of maintaining the integrity of the Auburn Zoning Ordinances. The Ordinances shall be deemed to be in need of study when variances seeking the establishment of new nonconforming uses are applied for in a single zoning district on three or more occasions within a given

* Revised 2-7-77

** Amended 5-15-78

*** Added 5-15-78

Section 9.1 (g)

calendar year. The Ordinances shall also be deemed to be in need of study when variances to the application of a specific section of this chapter are applied for on more than three occasions within any calendar year. In any case in which the Zoning Ordinances are deemed to be in need of study, the City Planner, or his representative, shall prepare a report indicating whether the variances applied for suggest that the Ordinances or the description of the zoning districts should be amended. Such reports shall be forwarded to the Planning Board for its review.

Section 9.2 Appeal Procedure

* (a) Written petitions for appeal signed by any party in interest shall be filed in duplicate in the office of the Building Inspector together with a fee of \$25.00 within thirty days from the date of the decision or order appealed from in any case involving a zoning appeal. The Building Inspector shall forward to the City Planner, the Chairman of the Planning Board, and the City Solicitor one copy of such petition. The City Planner, or in his absence, the Chairman of the Planning Board, shall forward to the Board of Appeals as soon as possible any pertinent city planning information in his possession bearing on such appeal. The City Solicitor shall forward to the Board of Appeals as soon as possible any pertinent legal information bearing on such appeal. Where no such information is received by the Board of Appeals by the time of the meeting at which such appeal is scheduled to be heard, it shall be presumed that none was available at that time. In any case in which such planning information is received, it shall be read aloud at the public hearing and an opportunity afforded for comment by those interested in the appeal.

(b) On each such petition, the Board shall hold a public hearing.

** (c) Notice of the time, date, place and subject of each such hearing shall be given by publication in a newspaper of general circulation in the City of Auburn on two separate dates not more than twelve nor less than three days before the date of such hearing.

*** (d) In the case of exceptions, and in any case involving a proposed change of an existing nonconforming use to another nonconforming use, the Board shall notify all owners of property located within 500 feet of the site of the requested exception by mailing to them copies of such notice as published. In the case of variances, except as above noted, the Board shall notify all owners of property immediately adjacent to and abutting the site of the requested variance including the owners of property located directly across the street from the site, by mailing to them copies of such notice as published. Such notices shall be mailed to such property owners at the addresses

* Amended 11-20-72

** Amended 11-20-72

*** Amended 2-20-74

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.

(e) The right to proceed under any variation from or exception to the terms of this chapter, 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.

(f) 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.

(g) All the foregoing shall be public records.

Section 9.3 Appeal and Adjustment

(a) 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.

(b) The Board of Appeals, on petition in specific cases after public hearing with due notice given as above provided, may be four-fifths 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 chapter, 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 chapter, and provided the Board shall in each case prescribe appropriate conditions and safeguards.

(c) 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. Also, the Board shall hear and decide any matter specifically referred to it by the terms of this chapter and in such matters the Board may determine and vary the

application and enforcement of the terms of this chapter 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.

Section 9.4 Variances

* The Board in specific cases on written petition may vary to a reasonable extent, in view of all the attendant circumstances, the limitations in this ordinance which govern:

- (a) The height of buildings;
- (b) The yard space and street frontage requirements;
- (c) The lot area requirements;
- (d) The percentage of a lot that may be covered by buildings;
- (e) Uses permitted within such zoning district subject to the limitation that a variance may not be granted which would establish any use not specifically permitted in any other zoning district;
- (f) The expansion of an existing lawfully nonconforming building or use.

* Variances may be granted when, by reason of extraordinary physical conditions peculiar to the land or buildings under appeal and not substantially duplicated on other land or buildings adjoining or nearby within the same zoning district, a special hardship (which may include inability to realize a reasonable return unless a variance is granted) would be caused the owners or occupants of such property by literal application and rigorous enforcement of the terms of the Auburn Zoning Ordinance or where necessary to avoid confiscation. The Board shall take into consideration fire, electrical, and police safety requirements, the adequacy of the traffic circulation system in the immediate vicinity, the availability of an adequate water supply, and the availability of adequate sewerage facilities. The Board shall satisfy itself that the relief sought would not adversely affect property adjoining the premises under appeal or nearby in the same neighborhood or in 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.

PURPOSE: The purpose of the proposed amendment is to liberalize existing power of the Zoning Board of Appeals so that it may permit variances to establish new uses not ordinarily permitted in the particular zoning district in question where it finds that a special hardship would otherwise occur and where it is satisfied that granting the proposed variance

would not cause a safety hazard or affect the property values in the vicinity. Although the Board of Appeals have in fact acted to permit the establishment of new uses in the past, it has not actually possessed the power to do so since its authority to grant variances under the existing ordinance is limited to such relatively minor matters as adjustments in the yard space or frontage which any particular lot must contain.

* The Board may also permit an existing non-conforming use, whether or not it has previously lapsed, to be changed to another non-conforming use when the Board finds it would not be economically feasible to convert the property to conforming uses and that the use proposed would have less adverse impact upon the neighborhood in terms of noise, odor, smoke, traffic, physical appearance and other similar conditions than the use presently existing. In any case involving the change or expansion of a non-conforming use, the Board shall make a part of its records a detailed description of the expansion or change proposed together with any restrictions or conditions upon the exercise of the proposed use which the Board may impose.

(a) 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.

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

- (1) That the exception sought fulfills the specific requirements, if any, set forth in the Auburn Zoning Ordinance relative to such exception;
- (2) That the exception sought will neither create nor aggravate a traffic hazard, a fire hazard or a panic hazard;
- (3) 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;
- (4) 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.

(c) As part of the grant or of the denial of any such petition for an 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.

ARTICLE 10 - ZONING AMENDMENTS

Section 10.1 Public Hearing

The Planning Board, on its own initiative, or reference from the City Council, 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.

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:

- (1) In the case of a private petition, by a fee of \$25 to help defray the cost of public notice;
- (2) 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;
- (3) 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.

Section 10.3 Urban General Residence District

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.

Section 10.4 Wording

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.

Section 10.5 Notices, Publication

(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;

(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.

The planning Board shall also give notice of such hearing to the petitioners and may give notice to 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 objections, by such petitioner or other and shall not invalidate any recommendation by the Planning Board on such zoning matter.

*Section 10.7 Planning Board Recommendation

When the Planning Board votes to recommend to the Auburn City Council passage of zoning amendments or, in cases in which, in response to a request for action on amendments by the City Council, the Planning Board has voted not to recommend their passage, the Planning Board shall promptly forward to the Auburn City Council a written statement of the reasons for its action.

ARTICLE 11 - ENFORCEMENT

Section 11.1 Permit required

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 chapter.

Section 11.2 Plan

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 need not be submitted unless deemed necessary by the Building Inspector.

Section 11.3 Building Inspector-Police Chief, to Enforce

(a) The Auburn Zoning Ordinance shall be enforced by the Auburn Building Inspector and 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.

(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.

Section 11.4 Violation, Abatement

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 chapter.

Section 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 chapter, 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 (\$5) dollars not 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.

ARTICLE 12 - CONFLICT OF LAWS, VALIDITY, SEVERABILITY

Section 12.1 Conflict of Laws

In general, this chapter is supplementary to other Auburn ordinances affecting the use, height, area, and location of buildings and structures and the use of premises. Where this chapter imposes a greater restriction upon the use, height, area and location of building and structures and the use of premises than is imposed by other ordinances the provisions of this chapter shall control.

Section 12.2 Validity

The invalidity of any section provision of this chapter shall not invalidate any other section or provision thereof.

Section 12.3 Severability

Nothing in this chapter shall be construed to affect any suit or proceeding now pending in any court, or any rights acquired, or liability incurred nor any cause or causes of action accrued or existing under any act or ordinance repealed hereby. Nor shall any right or remedy of any character be lost, impaired or affected by this chapter.