

1931-1949

ZONING ORDINANCE FOR THE CITY OF AUBURN

TITLE: An Ordinance Regulating and Restricting the Location, Construction and Use of Buildings in the City of Auburn and for said Purposes Dividing the City into Zones.

Be it ordained by the City Council of the City of Auburn as follows:

ESTABLISHMENT OF ZONES

Section 1. (a) In order to restrict the location of buildings to be used for particular industries, trades, manufacturing, commercial and other purposes, to restrict the location of certain kinds of dwelling houses and tenement houses and to regulate the construction and use of buildings for the above purposes, the City of Auburn is hereby divided into the following classes of zones:

Unrestricted zones,
Industrial zones,
General Business zones,
Apartment zones,
General Residence zones, and
Single Residence zones,

which are hereby established as shown upon the Zoning Map dated1931 and filed in the office of the City Clerk.

(b) In interpreting and applying the provisions of this ordinance they shall be held to be minimum requirements for the promotion of health, safety, convenience and welfare of the inhabitants, for reducing the danger from fire and for improving the City of Auburn.

(c) No building shall be erected, altered or used and no premise shall be used except as permitted in the zone in which they are located; nor shall any existing building or premise be put to a use substantially different from its use at the time of the adoption of this ordinance except in a zone wherein such new use is permitted. (See however, Section 8).

(d) No lot shall be so reduced that the yards, courts or other open spaces shall be smaller than prescribed by this Ordinance. No yard, court or other open space shall at any time be counted as required open space for more than one building.

(e) Unless otherwise specifically provided, words and terms used herein shall be construed as defined or used in the Building Code of the City of Auburn.

UNRESTRICTED ZONES

Section 2. In an unrestricted zone —

(a) Use: Buildings or premises may be used for any purpose not prohibited by law, ordinance or regulation.

(b) Height: No building shall exceed one hundred feet in height. No dwelling house, tenement house or hotel shall exceed forty feet or three stories in height.

INDUSTRIAL ZONES

Section 3. In an industrial zone —

(a) Use: No building shall be erected, altered or used and no premises shall be used for any of the following specified trades; industries or uses:

- (1) Ammonia, bleaching powder or chlorine manufacture or refining;
- (2) Asphalt manufacture or refining;
- (3) Blast furnace;
- (4) Cement, gypsum, lime or plaster of Paris manufacture;
- (5) Coke manufacture;
- (6) Creosote manufacture;
- (7) Dextrin, glucose or starch manufacture;
- (8) Distillation of bones, coal or wood or manufacture of any of their by-products;
- (9) Dye manufacture;
- (10) Explosives or fire works manufacture, or storage in excess of five hundred pounds;
- (11) Fat, grease, lard or tallow manufacture, refining or rendering;
- (12) Fertilizer manufacture;
- (13) Gas (fuel or illuminating) manufacture in excess of one thousand cubic feet per day or storage in excess of ten thousand cubic feet;
- (14) Gelatin, glue or size manufacture;
- (15) Hair manufacture;
- (16) Hot rolling mill;
- (17) Hydrochloric, nitric, picric, sulphuric or sulphurous acid manufacture;
- (18) Incineration, cremation or reduction of dead animals, garbage, offal or refuse unless accumulated and consumed on the same premises without the omission of odor;
- (19) Lamp black manufacture;
- (20) Linoleum or oilcloth manufacture;
- (21) Match manufacture;
- (22) Metal or ore reduction or smelting;
- (23) Petroleum or other inflammable liquids; production or refining;
- (24) Pyroxylin manufacture, manufacture of articles thereof, or storage in excess of five hundred pounds unless in a vault approved by the Building Inspector;
- (25) Rubber manufacture, or treatment involving offensive odor;
- (26) Slaughtering except as permitted by the Health Officer;
- (27) Stock-yards;
- (28) Tanning, curing or storage of raw hides or skins;
- (29) Tar distillation or manufacture;

(30) Turpentine or varnish manufacture;

(31) Any other trade, industry or use that is injurious, noxious or offensive to a neighborhood by reason of the emission of odor, fumes, dust, smoke, vibration or noise or other cause, but not including places of amusement;

Provided, however, that a building or use otherwise excluded but distinctly incidental and essential to a use of a building or plant with a series of buildings permitted in an industrial zone may be erected altered and used if not more than ten per cent of the total floor area of the building or plant is to be so occupied, if not more than ten per cent of all the employees are to be engaged therein, if it is not located within fifty feet of any street line or lot line unless such line faces or adjoins property in an unrestricted zone, and if it is not injurious or detrimental to the neighborhood, and provided further that any building used for one of the above excluded uses at the time this ordinance goes into effect may be enlarged to an extent not exceeding fifty per cent of its volume for the same use or one not more objectionable or detrimental to the neighborhood.

(b) Height: Buildings shall conform to the height regulations in unrestricted zones.

GENERAL BUSINESS ZONES

Section 4. In a general business zone —

(a) Use: No building shall be erected, altered or used and no premises shall be used for any use prohibited in an Industrial Zone or for any use injurious, noxious or offensive to a neighborhood by reason of the emission of odor, fumes, dust, smoke, vibration or noise or other cause, but not including places of amusement.

(b) Height: No building shall exceed one hundred and fifty-five feet in height; provided that a part of a building not exceeding in area one-quarter that of the building at a height of one hundred and twenty-five feet may exceed such limit by three feet for every foot that the maximum height of the remainder of the building is less than one hundred and fifty-five feet, and provided further that no part of a building shall exceed in height twice the horizontal distance from the face of such part to the line of the street on the opposite side. Within one hundred feet of the intersection of two streets the height on the narrower street need not be less than that hereby permitted on the wider street. Where not more than one hundred feet of street frontage would otherwise be subjected to a height limit lower than that permitted immediately beyond both ends of such frontage the height limit on such frontage shall be equal to the lesser of such greater limits.

APARTMENT HOUSE ZONES

Section 5. In an apartment house zone —

(a) Use: No building shall be erected, altered or used, and no premises shall be used for any other than one or more of the following uses, and any use injurious, noxious or offensive to a neighborhood by reason of the emission of odor, fumes, dust, smoke, vibration or noise

is prohibited.

(1) Tenement house or any use permitted in a general residence zone.

(2) Hotel, provided it conforms to all the requirements of this ordinance and of the building code for a tenement house.

(3) Club, except clubs the chief activity of which is a service customarily carried on as a business:

(4) Church;

(4) Educational use;

(6) Hospital or sanitarium;

(7) Municipal recreational use;

(8) Telephone exchange office;

(9) Accessory use customarily incident to any of the above uses.

The term "accessory use" in this and the next two sections shall not include.

(a) Any use injurious or offensive to the neighborhood;

(b) Any use not on the same lot with the building to which it is accessory.

(c) Garage space for more than two automobiles or for more than one commercial automobile, provided that on a lot with a building for three families only one and on a lot with a building of four families only two additional non-commercial automobiles may be provided for. (for other garages, see Sect. 8, Par. f.)

(d) Any use (except one in the same building to which the use is accessory) located closer to a street line than any existing dwelling house on an adjoining lot; or located closer than three feet to any lot line if the proposed use is less than fifty feet from the nearest street line; or located closer to the nearest street line than fifteen feet in an Apartment House Zone, twenty feet in a General Residence Zone and twenty-five feet in a Single Residence Zone, the distance to be determined by the more restricted zone in which the proposed use of the nearest adjoining lot is located.

(e) Signs except those pertaining to the lease, sale or use of a lot or building on which placed, and not exceeding a total area of eight square feet; on a lot occupied by a dwelling house or tenement house there shall not be more than one sign bearing the name or occupation of an occupant for each family house and no such sign shall exceed two square feet in area.

(f) Rear yards: There shall be behind every building a rear yard having a minimum depth of twelve feet or twenty per cent of the depth of the lot whichever is the less.

(c) Side Yards: Where side yards are provided they shall have a minimum width of five feet, which shall be increased one foot for each additional story of the building above three stories and shall be further increased six inches for every ten feet or fraction thereof that the length of the side yard exceeds fifty feet.

(d) Front Yards: There shall be in front of every building a front yard having a minimum depth of five feet, provided that no front

yard need be deeper than the average of the depths 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 more than five feet depth being considered as having a front yard five feet deep.

(e) Corner Clearance: Between the lines of intersecting streets and a line joining points on such lines ten feet distant from their point of intersection or, in the case of a round corner, the point of intersection of their tangents, no building may be erected above a height three and one-half feet above the plane through their curb grades.

(f) Height: No building shall exceed sixty-five feet or five stories in height unless it sets back from each street and lot line ten feet in addition to the above requirements plus one foot for each foot of excess height. No building shall exceed eighty feet or six stories in height.

(g) Building Area: No building shall occupy more than seventy per cent of its lot, provided that on a corner lot an additional four hundred square feet may be occupied.

GENERAL RESIDENCE ZONES

Section 6. In a general residence zone —

(a) Use: No building shall be erected altered or used except for one or more of the following uses:

(1) Single-family or two family dwelling houses, or any use permitted in a single residence zone.

(2) Church or cemetery;

(3) Club, except clubs the chief activity of which is a service customarily carried on as a business and clubs with more than five sleeping rooms;

(4) Educational use;

(5) Farm, garden, nursery, or greenhouse;

(6) Hospital, sanitarium or institution;

(7) Municipal recreational use;

(8) Aviation, provided it will not be seriously injurious or detrimental to the neighborhood;

(9) Accessory use customarily incident to any of the above uses.

(b) Rear Yards: There shall be behind every building a rear yard having a minimum depth of twenty feet or twenty per cent of the depth of the lot, whichever is the less.

(c) Side Yards: There shall be on each side of each building or pair of semi-detached buildings a side yard having a minimum width of seven feet, provided that the width of one side yard may be reduced one foot for every foot that the other is increased in width but no such yard shall be less than five feet wide, and provided further that on no lot held under separate and distinct ownership from adjacent lots and of record at the time it is placed in a general residence zone shall the buildable width be reduced by this requirement to less than twenty-four feet.

(d) Front Yards: There shall be in front of every building a front yard having a minimum depth of fifteen feet, provided that no

front yard need be deeper than the average of the depths 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 more than fifteen feet deep being considered as having a front yard fifteen feet deep; and provided further that on a lot held under separate and distinct ownership from adjacent lots and of record and less than one hundred feet deep at the time it is placed in a general residence zone no front yard need be deeper than fifteen per cent or the depths of the lot.

(e) Corner Clearance: Between the lines of intersecting streets and a line joining points on such lines fifteen feet distant from their point of intersection, or, in the case of a rounded corner, the point of intersection of their tangents, no building may be erected above a height three and one-half feet above the plane through their curb grades.

(f) Height: No building shall exceed thirty-five feet or two and one-half stories in height unless it sets back from each street and lot line ten feet in addition to the above requirements plus one foot for each foot of excess height. No semi-detached or two-family dwelling house shall exceed thirty-five feet or two and one-half stories in height, provided that any dwelling house existing at the time of the adoption of this ordinance may be altered to accommodate not more than two families.

(g) Building Area: No dwelling house shall occupy more than forty per cent of its lot and no building other than a dwelling house shall occupy more than sixty per cent of its lot, provided that on a corner lot an additional area of four hundred square feet may be occupied. (For accessory buildings see Sect. 11, Par. e)

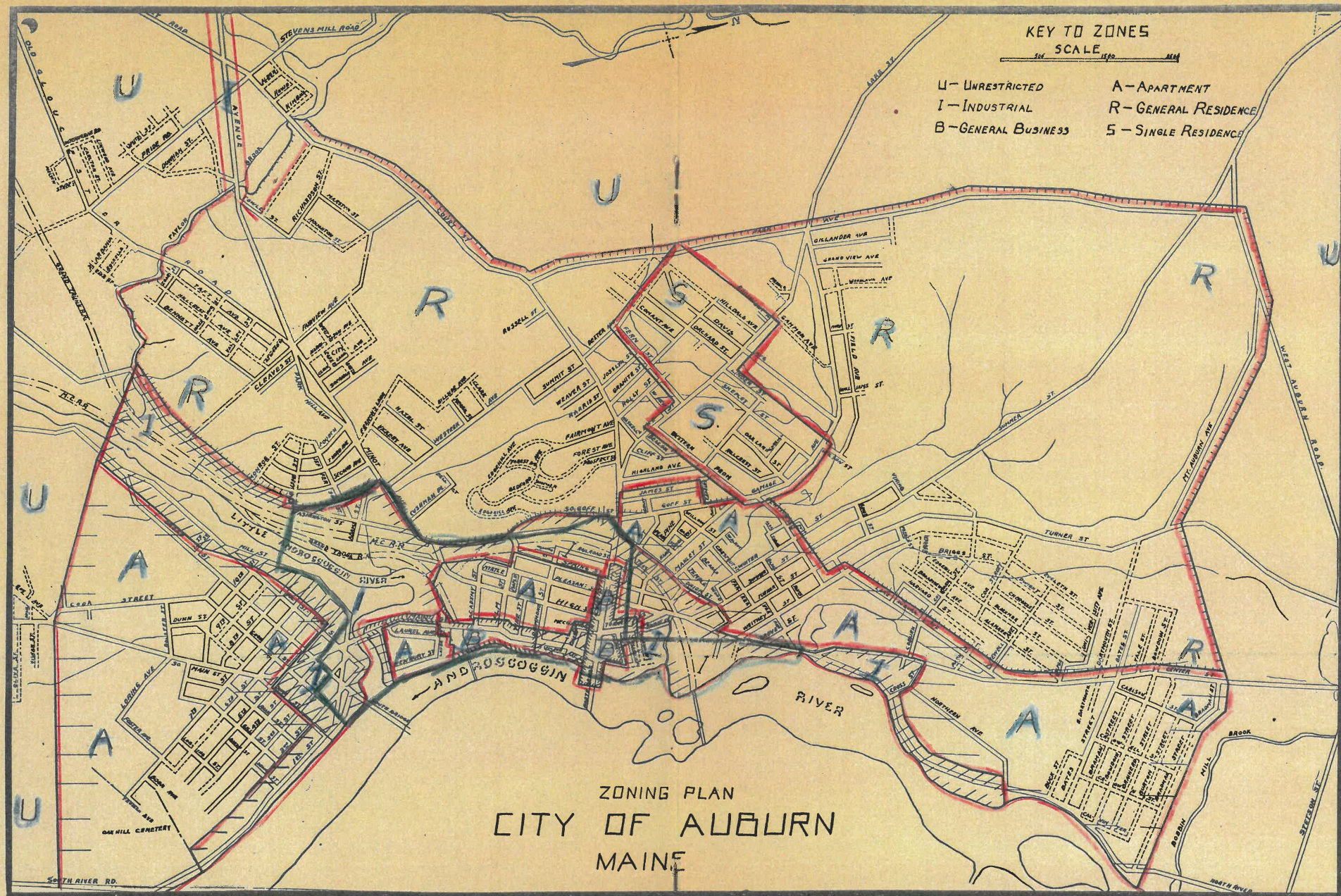
(h) Area of lot per Family: No dwelling house shall be erected or altered to accommodate or make provision for more than one family for each two thousand two hundred and fifty square feet of the area of the lot, provided that a single-family dwelling house may be erected on any lot of record at the time this ordinance is adopted.

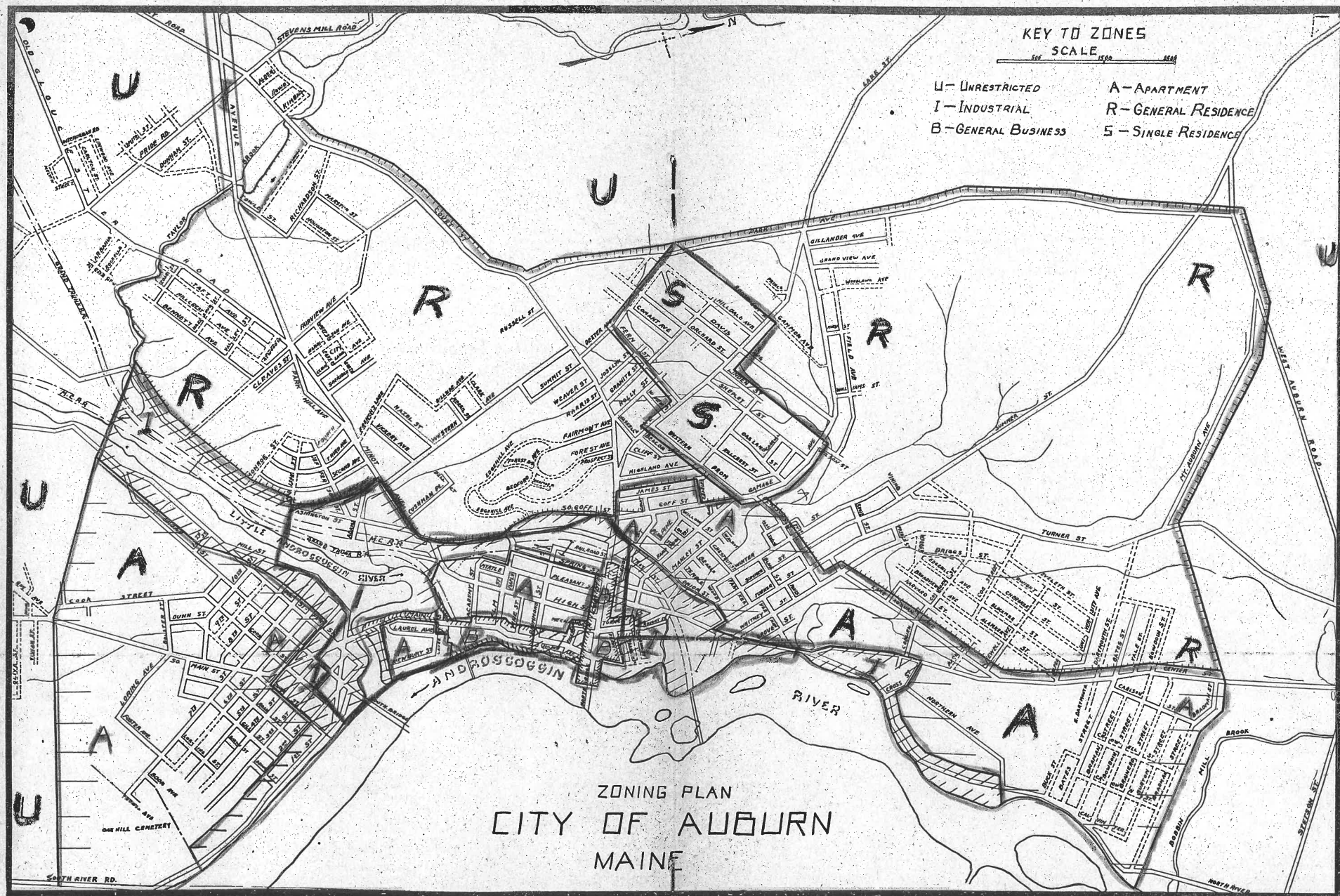
SINGLE RESIDENCE ZONES

Section 7. In a single residence zone —

(a) Use: No building shall be erected, altered or used or no premises shall be used for any other than one or more of the following uses, and any use injurious, noxious or offensive to a neighborhood by reason of the emission of odor, fumes, smoke, dust, vibration or noise is prohibited.

- (1) Single-family detached dwelling house;
- (2) Church;
- (3) Club, except clubs the chief activity of which is a service customarily carried on as a business and club with more than five sleeping rooms;
- (4) Educational use;
- (5) Farm;
- (6) Municipal recreational use;
- (7) Accessory use customarily incident to any of the above uses.





FIRE LIMITS

(b) Rear Yards: There shall be behind every building a rear yard having a minimum depth of twenty-five feet or twenty-five per cent of the depth of the lot, whichever is the less.

(c) Side Yards: There shall be on each side of each building a side yard having a minimum width of eight feet, provided that the width of one side yard may be reduced one foot for each foot that the other is increased in width but no such yard shall be less than five feet wide, and provided further that on no lot held under separate and distinct ownership from adjacent lots and of record at the time it is placed in a single residence zone shall the buildable width be reduced by this requirement to less than twenty-four feet.

(d) Front Yards: There shall be in front of every building a front yard having a minimum depth of twenty feet, provided that no front yard need be deeper than the average of the depths 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 more than twenty feet deep being considered as having a front yard twenty feet deep, and provided further that on a lot held under separate and distinct ownership from adjacent lots and of record and less than one hundred feet deep at the time it is placed in a single residence zone no front yard need be deeper than twenty per cent of the depth of the lot.

(e) Corner Clearance: Between the lines of intersecting streets and a line adjoining points on such lines twenty feet distant from their point of intersection, or, in the case of a rounded corner, the point of intersection of their tangents no building may be erected above the height three and one-half feet above the plane through their curb grades.

(f) Height: No building shall exceed thirty-five feet or two and one-half stories in height unless it sets back from each street and lot line ten feet in addition to the above requirements plus one foot for each foot of excess height. No building shall exceed fifty-five feet or four stories in height.

(g) Building Area: No dwelling house shall occupy more than thirty-five per cent of its lot and no building other than a dwelling house shall occupy more than fifty per cent of its lot, provided that on a corner lot an additional area of four hundred square feet may be occupied. (For accessory buildings see Sect. 11, Par. e.)

(h) Area of Lot per Family: No dwelling house shall be erected on a lot containing less than four thousand five hundred square feet unless such lot is of record at the time it is placed in a single residence zone.

NON-CONFORMING USES

Section 8. (a) Any lawful use of a building, premises, or part thereof existing at the time of the adoption of this ordinance may be continued, although such use does not conform with the above provisions hereof. In the case of an existing building or part thereof designed and intended for a non-conforming use, such use in a part there-

of may be extended throughout the building or part thereof so designed and intended or changed to any use permitted in a zone where such non-conforming use would be permitted and not more objectionable or detrimental to the neighborhood, provided no structural alterations are hereafter made therein, except those required by law, ordinance or regulation. Any use of premises injurious, noxious or offensive to a neighborhood by reason of the emission of odor, fumes, dust, smoke, vibration or noise is prohibited.

(b) A building of non-conforming use may be enlarged or altered or additional buildings may be erected on the same or an adjacent parcel of land in the same single or joint ownership of record at the time it is placed in a zone for an extension of such use, provided the aggregate volume of such additions does not exceed twenty per cent of the volume of the existing building provided the aggregate cost of such additions and alterations does not exceed fifty per cent of the fair value of the building, and provided such addition or alteration will not substantially increase any objectionable or detrimental effect of the building or use on the neighborhood.

(c) Nothing herein shall prevent the substantial restoration and continued use of a building which has been damaged by fire, explosion, flood, riot, act of the public enemy or accident of any kind, provided that in case of damage of a non-conforming building or building of non-conforming use to an extent that the estimated cost of such restoration exceeds three-quarters of its fair valuation immediately prior to such damage the City Council so authorizes.

(d) Nothing herein shall prevent the issuance of a permit for the erection and use of a non-conforming temporary building incidental to and reasonably required for the development of a neighborhood and not seriously injurious or detrimental to it, such permit to be issued for an initial period of not more than two years, and only upon application accompanied by a bond and bill of sale to the City effective in case the building is not removed prior to the expiration of the permit. Permits may be renewed under like conditions for successive periods of not more than one year each.

(e) Nothing herein shall prevent the restoration of a wall declared unsafe by the Inspector of Buildings nor the erection of iron fire escapes on the front or rear of any building existing at the time this ordinance is adopted.

(f) The City Council may permit a garage, filling station or stable otherwise excluded, provided there are on file with the City Council the written consents of the owners of seventy-five per cent of all the frontage of the following property, exclusive of the lot for which the permit is sought and exclusive of all lots used for such a garage, filling station or stable or on which such a building is permitted.

(1) All lots within one hundred and twenty feet of such a lot;

(2) All additional lots abutting on any street or alley to which such garage, filling station or stable is to have vehicular access, or on a street or alley in substantially direct continuation thereto, and within

three hundred feet of the site of the proposed building. Where a portion of a lot is within the above limits a length of frontage equal to the width of such portion only shall be included. On a corner lot with both sides within the above limits the longer side only shall be included. In the case of a garage in a single or general residence or apartment house zone the business of repairing shall not be conducted and not more than one commercial automobile shall be stored.

BULK REGULATIONS AND EXCEPTIONS

Section 9. The foregoing requirements shall be subject to the following exceptions and regulations:

(a) No part of a required yard or court shall be higher in level above the floor of the first story than one foot for each two feet of distance from the building, except as provided herein for buildings of accessory use and garages, and provided that a building of accessory use or garage in any zone and for a building other than a dwelling house or tenement house and not in a single or general residence or apartment house zone, no yard, except the yard on the street frontage, is required by this Ordinance for the first story.

(b) Where a lot containing ten thousand square feet or less is completely surrounded by streets or alleys, the building area may be increased twenty per cent.

(c) The limitation of building area herein prescribed shall apply in a single or general residence or apartment house zone at a level not more than two feet above the second story floor, and not more than twenty feet above the mean curb grade in any case.

(d) A front yard shall extend unoccupied for the full width of the lot between the extreme front line of the building and the front line, except that it may be occupied by a one-story entrance porch not enclosed with glass and with a roof area not exceeding fifty square feet.

(e) On a lot occupied by a dwelling house or a tenement house a one-story building of accessory use thereto and not more than twelve feet high may be located in and occupy not more than thirty percent of the rear yard of such dwelling or tenement house, provided that such a building of accessory use may be built as close as may be desired to any dwelling house, but shall never be located with its outside wall nearer than five feet to any part of a tenement house. Garages of accessory use to dwelling houses and attached to or less than five feet from the same, or portions of dwelling houses for such garage use only, and in either case not more than twelve feet in height, shall be considered encroachments upon rear and side yards, and shall be permitted in required rear yards not to exceed thirty per cent of the area of the required rear yard, and shall be permitted in the rear twenty percent of length of the required side yard. The area occupied by such a building of accessory use or garage shall be included as occupied area in computing the percentage of lot occupancy.

(f) Chimneys, elevators, tanks, spires and towers not used for

human occupation may extend above the height of limitations herein fixed, and parapet walls may so extend not more than five feet.

(g) Where any business zone abuts upon a residential or apartment house zone in such a manner that the dividing lines between the zones are 100 feet or less from the main business street of such business zone, no building of non-conforming use in such residential or apartment house zone shall be built nor such existing building altered so as to have its front facing upon any other street than said main business street or as to have any entrance doors or any windows other than those for light and air only more than 30 feet from said main business street.

(h) Any open porch, on the passage of this ordinance, existing with a roof over the same and encroaching upon any yard required by this Ordinance, may be enclosed if the major portion of the enclosure is of glass.

(i) On a corner lot in any zone, a dwelling house may face either street, and the front yard shall be required upon the street on which the house is to be numbered. In case a dwelling house has its front yard upon the long side of the lot, the rear yard may be reduced to a minimum depth of five feet, provided the aggregate of the widths of both side yards and depths of front and rear yards is not less than the similar aggregate of required dimensions of all yards required if the front yard were faced on the short side of the lot.

BOUNDARIES OF ZONES

Section 10. (a) Unless otherwise shown, the zone boundary lines are the center lines of streets, alleys or railroad rights-of-way or such lines extended. Unless otherwise shown, lines within blocks less than two hundred feet wide are median lines between their sides and lines within blocks two hundred feet or more wide are one hundred feet distant from the less restricted side of the block.

(b) Where a zone boundary line divides a lot in a single or joint ownership of record at the time such line is adopted, the regulations for the less restricted portion of such lot shall extend not more than thirty feet into the more restricted portion, provided the lot has frontage on a street in the less restricted zone.

ENFORCEMENT

Section 11. (a) It shall be the duty of the Building Inspector to enforce the provisions of this ordinance in manner and form, and with the same powers practised or provided under the Building Code of the City of Auburn. No permit shall be issued for the construction, alteration or moving of any building or part thereof unless the plans and intended use indicate that the building is to conform in all respects to the provisions of this ordinance.

(b) It shall be unlawful to use or permit the use of any building or part thereof hereafter erected or altered wholly or partly in its use or structure, or the yards, courts or other open spaces of which are in any way reduced, until the Building Inspector shall have certified on

the building permit, or in case none is issued shall have issued a certificate of occupancy, specifying the use to which the building, upon being sufficiently completed to comply with the provisions and regulations thereto, may be put.

(c) Appeal shall lie from decision of the Building Inspector to the Municipal Officers and from said Municipal Officers to the Supreme Judicial Courts. The Municipal Officers may affirm or reverse the decision of the Building Inspector in accordance with the terms of this ordinance; or may, by four-fifths of their entire membership, change such decision in specific cases wherein its enforcement would involve practical difficulty or unnecessary hardship and wherein desirable relief may be granted without substantially derogating from the intent and purpose of this ordinance, but not otherwise.

(d) Upon any well founded information in writing from any person aggrieved that the provisions of this ordinance are being violated or upon his own initiative, the Building Inspector shall inform the City Solicitor, who shall take immediate steps to enforce the provisions of this ordinance by applying for an injunction in the Supreme Judicial Court, or by any other appropriate legal action.

(e) The penalty for violation of any of the provisions of this ordinance shall be as set forth in the aforesaid Building Code for violations thereof.

APPLICATION AND VALIDITY

Section 12. (a) This ordinance shall not interfere with, abrogate, annul or repeal any ordinance, rule, regulation or permit previously or hereafter enacted, adopted or issued, pursuant to law, relating to the location, construction or use of buildings, provided however that, unless specifically excepted, where this ordinance imposes greater restrictions, its provisions shall control.

(b) The invalidity of any section or provision of this ordinance shall not invalidate any other section or provision hereof.