



**City Council Workshop & Meeting
February 1, 2021
Agenda**

This City Council workshop and meeting will be conducted in Council Chambers. The meeting will be broadcast as usual on Great Falls TV (cable channel 11) and on the City of Auburn [YouTube](#) channel.

Members of the public may watch in the Community Room, across from Council Chambers. If you attend and wish to offer public comment during the meeting, you may do so by speaking at the podium that will be located in the Community Room.

We will continue taking public comment in writing for those who are not comfortable attending a public meeting at this time, please send your remarks via email to: comments@auburnmaine.gov. Your comments will be included in the meeting minutes.

5:30 P.M. City Council Workshop

- A. City Owned Properties – Jay Brenchick (15 minutes)
- B. Update on the Recommendations of the Ad hoc Committee on Boards & Committees – Brian Wood (20 minutes)
- C. City Ordinance Review – Phil Crowell (50 minutes)

7:00 P.M. City Council Meeting - Roll call votes will begin with Councilor Walker

Pledge of Allegiance

- I. **Consent Items** - All items with an asterisk (*) are considered routine and will be enacted by one motion. There will be no separate discussion of these items unless a Council member or a citizen so requests, in which event, the item will be removed from the Consent Agenda and considered in its normal sequence on the Agenda.
 - 1. **Order 09-02012021***
Confirming Chief Moen's appointment of Logan Rossignol as a Constable with firearm for the Auburn Police Department.
 - 2. **Order 10-02012021***
Setting the date for the second council meeting in February to be held on Tuesday, February 16, 2021.

II. Minutes

- January 19, 2021 Regular Council Meeting

III. Communications, Presentations and Recognitions

- Continuation of Council Workshop on Ordinance Review
- Council Communications (about and to the community)

IV. Open Session – *Members of the public are invited to speak to the Council about any issue directly related to City business or any item that does not appear on the agenda.*

V. Unfinished Business - None

VI. New Business

1. Ordinance 01-02012021

Amending the zoning map adjusting the boundary to remove the parcel at 186 Main Street from the T.4.2 Form Based District and include the parcel in the T.5.1 Form Based Code District. First Reading.

2. Ordinance 02-02012021

Expanding the T-4.2 Traditional Downtown Neighborhood to replace current zoning in the Multi-family Urban District in the New Auburn neighborhood. First Reading.

3. Order 11-02012021

Appointing Glen Holmes to the Auburn Lewiston Airport Board as the City Manager Representative.

4. Order 12-02012021

Appointing Eric Cousens to the Androscoggin Transportation Resource Center (ATRC) Policy Committee, replacing the City Manager.

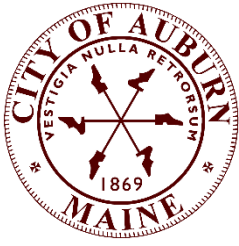
VII. Open Session – *Members of the public are invited to speak to the Council about any issue directly related to City business or any item that does not appear on the agenda.*

VIII. Reports (from sub-committees to Council)

- a. Mayor's Report
- b. City Councilors' Reports
- c. City Manager Report

IX. Executive Session – Economic development, pursuant to 1 M.R.S.A. Sec. 405 (6)(C).

X. Adjournment



**City of Auburn
City Council Information Sheet**

Council Workshop for Meeting Date: February 1, 2021

Author: Jay Brenchick, Director of Economic Development

Subject: Workshop on City-Owned Properties

Information:

| Address | Description |
|-------------------------------|----------------------------------|
| 131 Main Street Auburn, ME | Parcel ID: 241-025 Acres 0.7 |
| Mechanics Row Lot | Parcel ID: 241-004 Acres: 0.4 |
| 261 Main Street | Parcel ID: 231-004 Acres: 0.2 |
| 15 Academy Street | Parcel ID: 230-132 Acres: 1.1 |
| 7 Fern Street | Parcel ID: 239-113 Acres: 0.1 |
| 9 Fern Street | Parcel ID: 239-112 Acres: 0.1 |

The economic development team, in conjunction with our broker, proposes the sale of the above properties.

City Budgetary Impacts: TBD

Staff Recommended Action: Issue RFPs for the sale of the above properties.

Previous Meetings and History: N/A

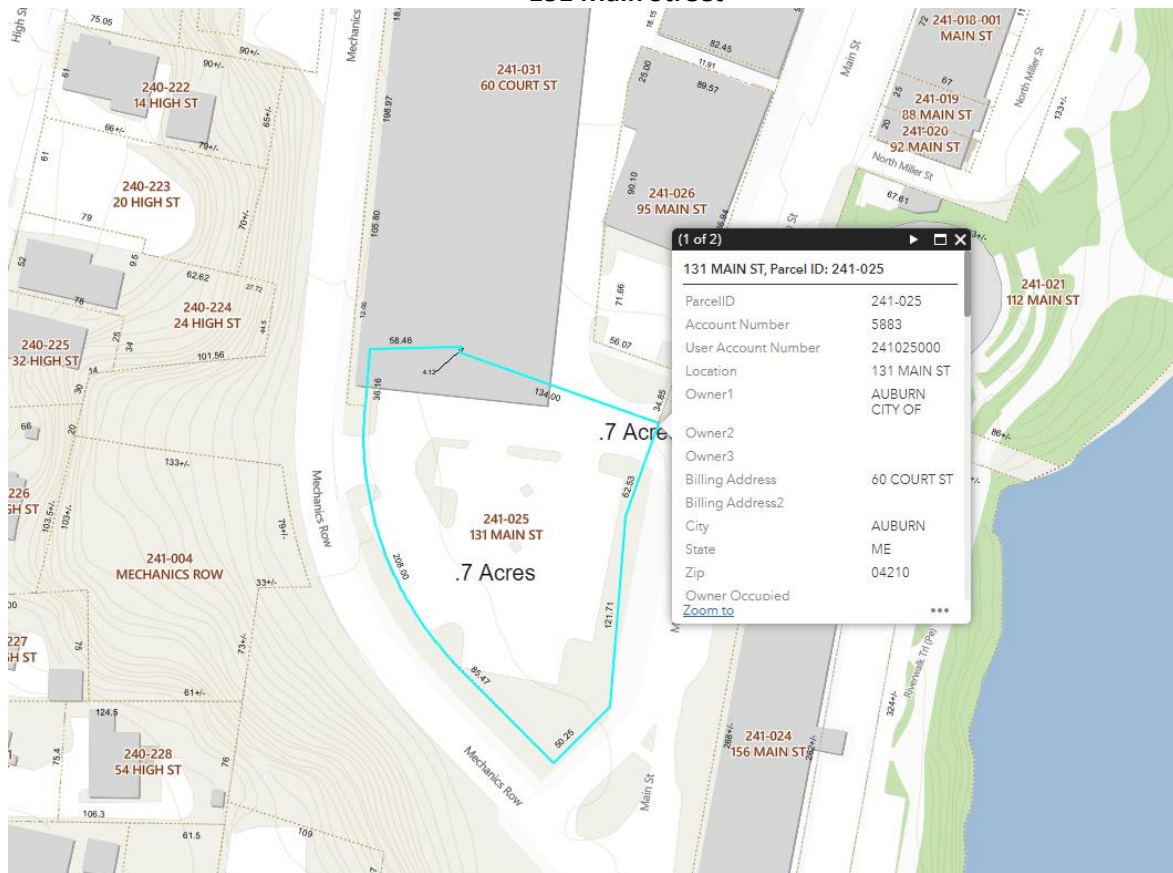
City Manager Comments:

Phillip Crowell Jr.

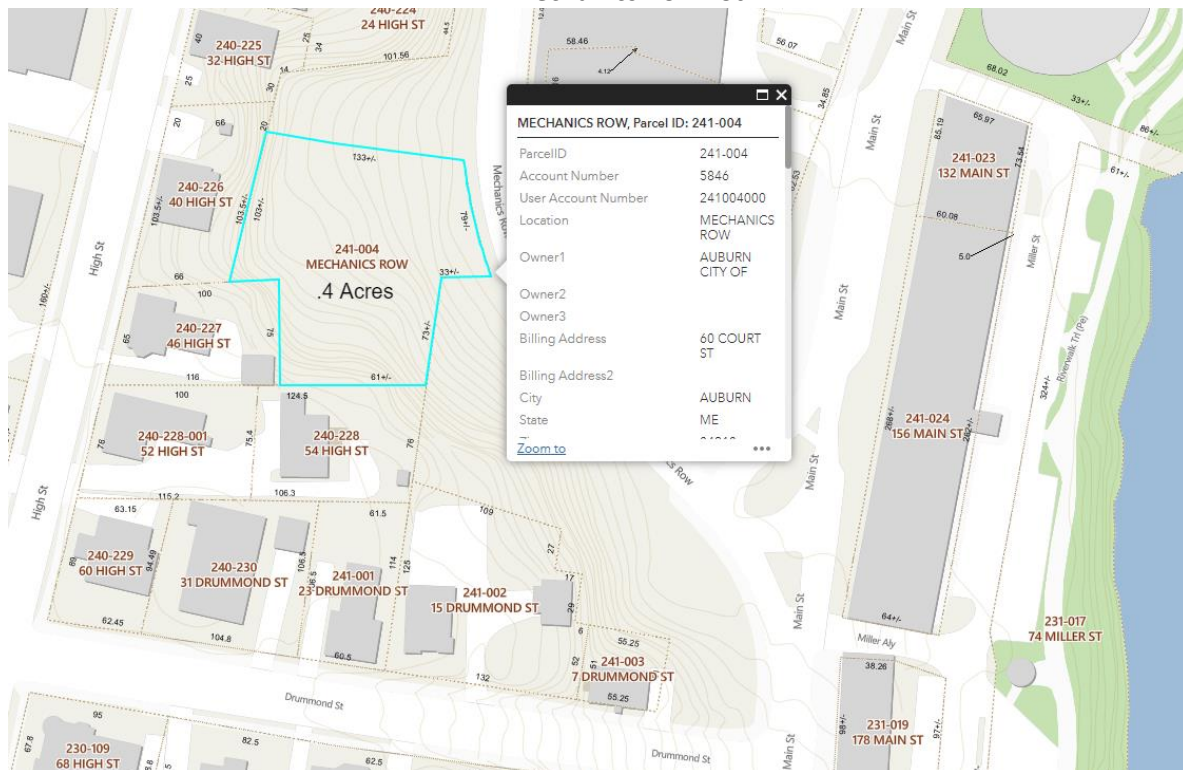
I concur with the recommendation. Signature:

Attachments: See following pages

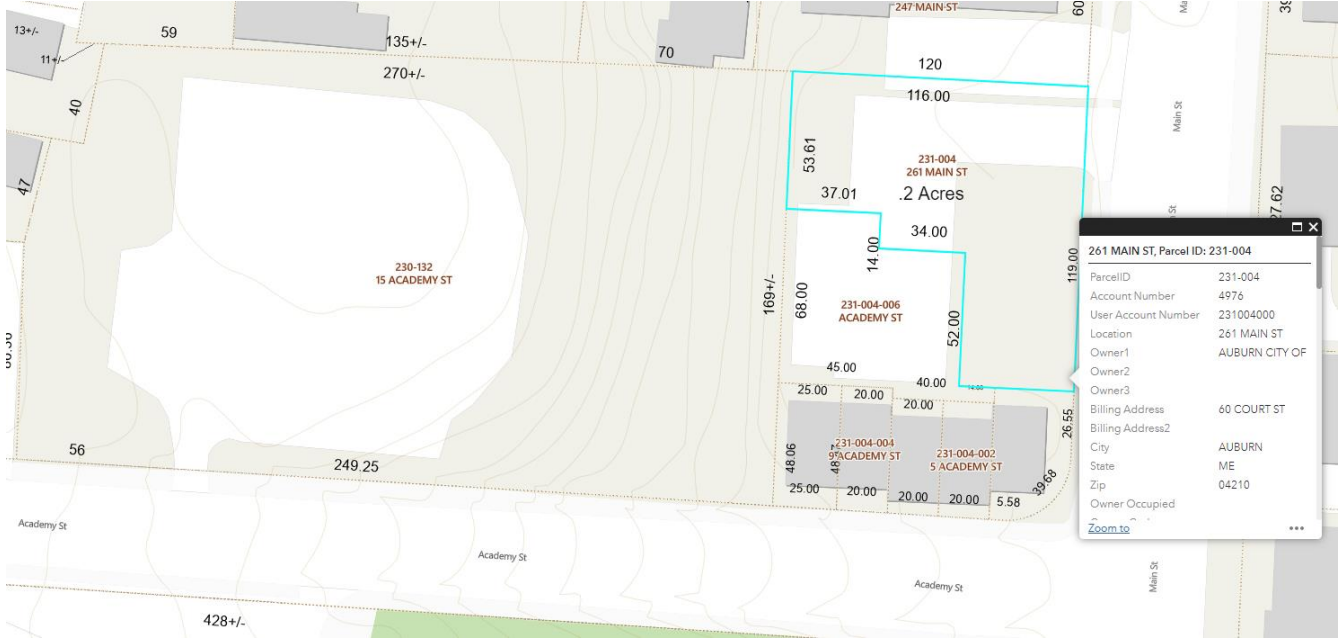
131 Main Street



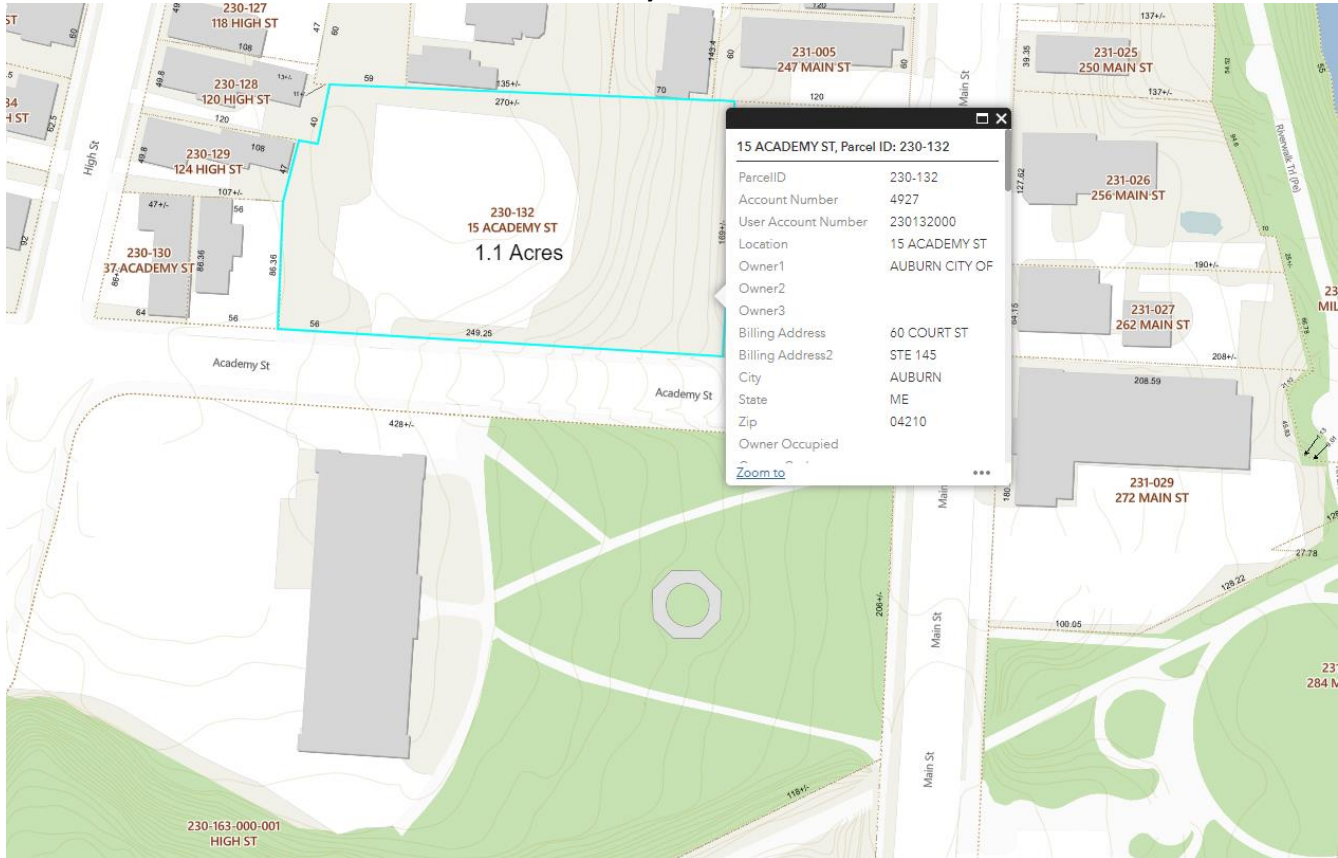
Mechanics Row Lot



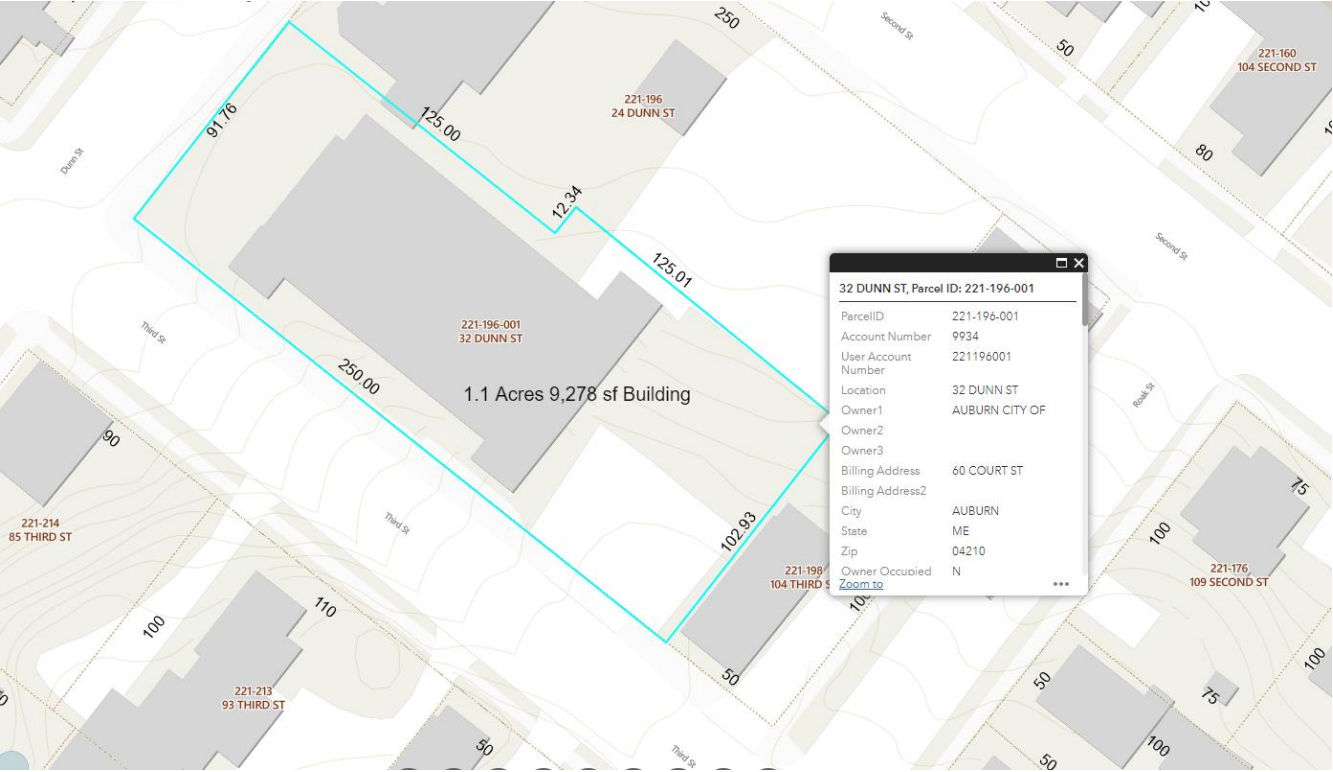
261 Main Street



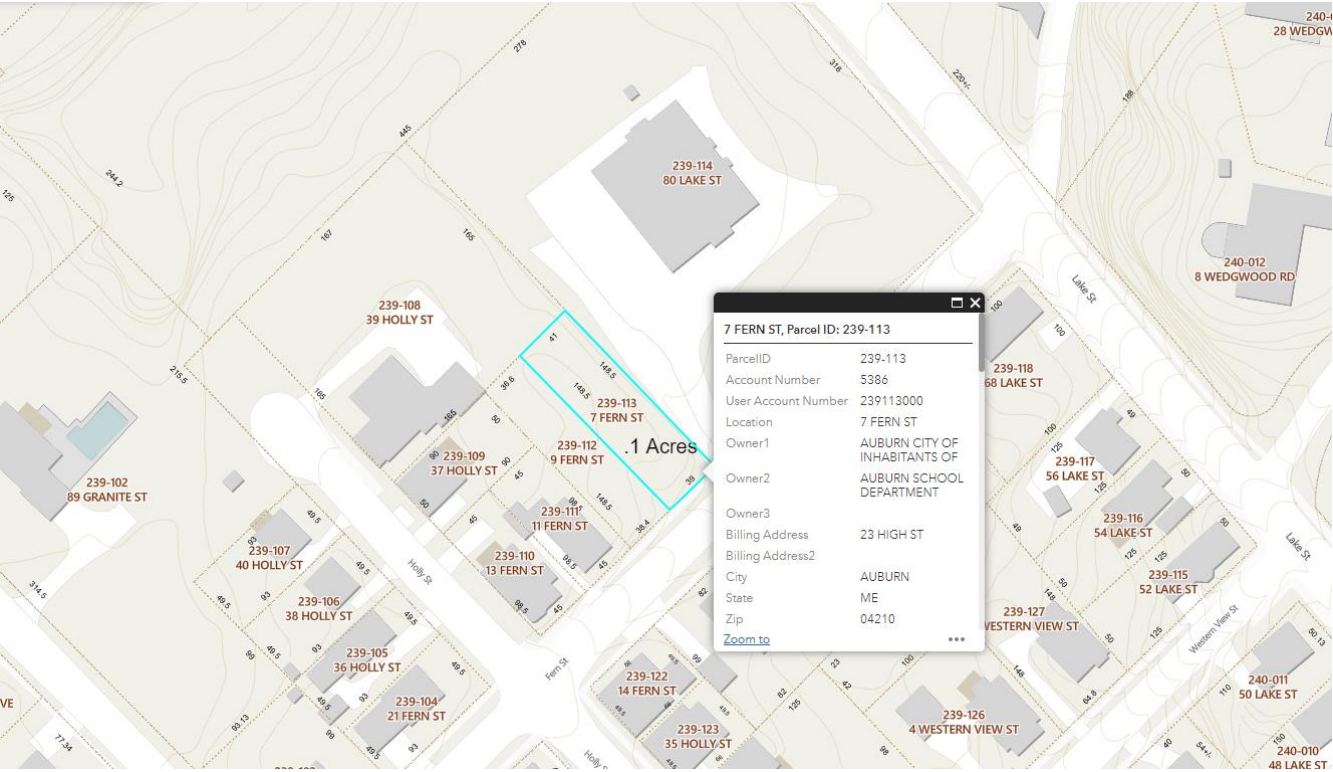
15 Academy Street



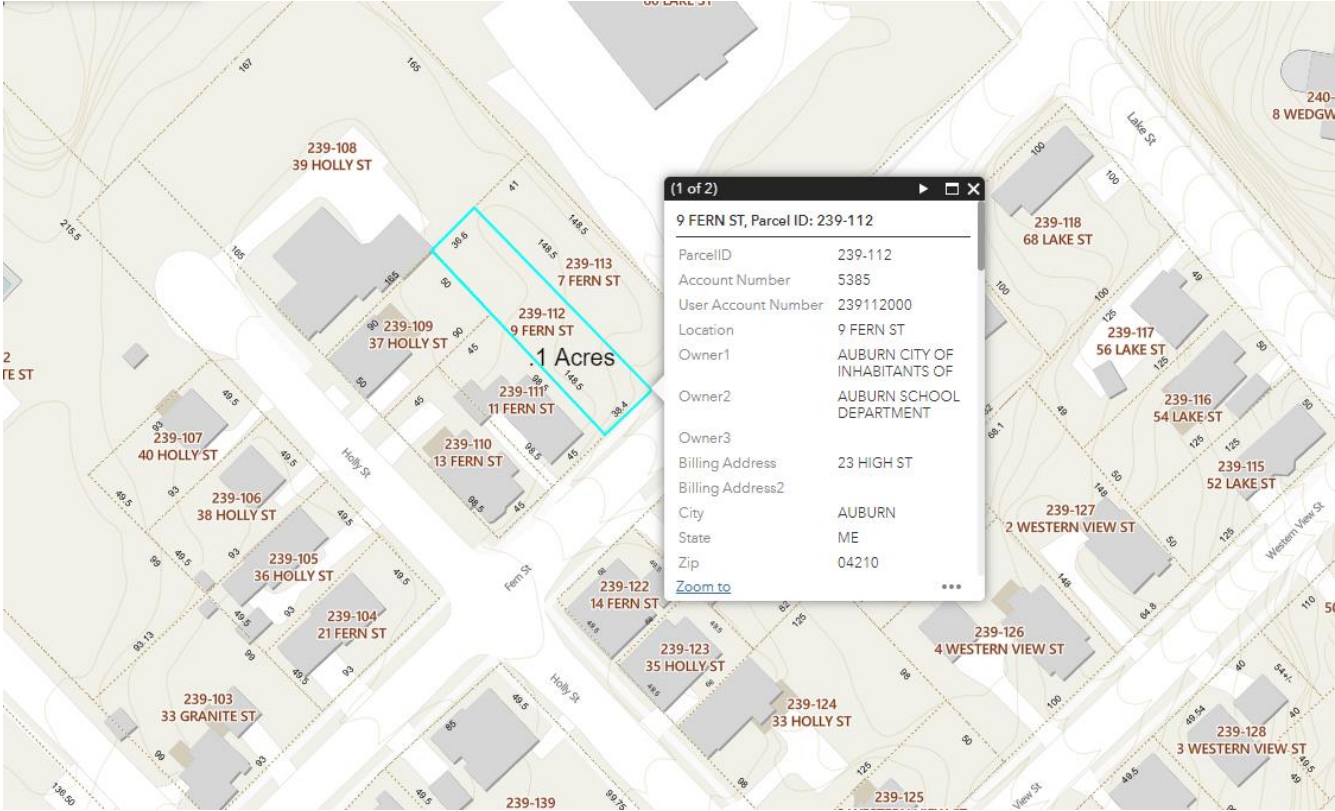
32 Dunn Street (Former Church)

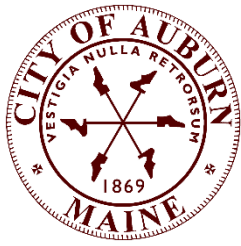


7 Fern Street



9 Fern Street





**City of Auburn
City Council Information Sheet**

Council Workshop or Meeting Date: 2/1/2021

Author: Brian Wood, Assistant City Manager

Subject: Boards and Commissions Restructure

Information: In an effort to create greater communication, transparency and accountability between City Council and identified Committees, Commissions and Boards and revised structure has been proposed. This structure was designed with the intent of creating free flowing communications, clarity of expectations and maximum opportunity to exercise input and recommendations between City Council and Committees.

The restructuring requires modifications to current ordinances. These ordinance changes will be presented as part of the ordinance review completed during the required Charter Review.

City Budgetary Impacts: Minimal. Approximately \$6,500.00

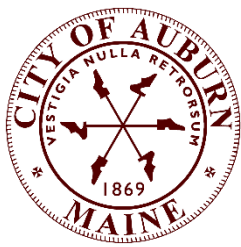
Staff Recommended Action: Support

Previous Meetings and History: Significant portions of this restructure were presented before City Council in October 2020 during a Council workshop. Modifications have been made after speaking with committee chairs and additional stakeholders.

City Manager Comments: N/A

I concur with the recommendation. Signature:

Attachments:



**City of Auburn
City Council Information Sheet**

Council Workshop or Meeting Date: February 1, 2021

Author: Sue Clements-Dallaire, City Clerk

Subject: Ordinance Review Process

Information: The Auburn Charter sec. 2.8 states “the city council shall provide for the review of the city’s charter and ordinances in their entirety at least once every 15 years”. Council recently completed the review of the City Charter and will now begin to review the City Ordinances.

Chapter 2 – Boards, Commissions, and Committees
Chapter 60 – Board of Appeals

Chapter 34 – Parks Recreation and Cultural Affairs

- **Sec. 34-1 Definitions –**

Chapter 44 – Solid Waste

- **Sec. 44-25 Standards for waste containers**

Chapter 61 – Moratoria

- **Sec. 61-1 Moratorium on social clubs and retail medical marijuana caregiver**

Chapter 60 – Zoning

Chapter 52 – Traffic and Vehicles

Chapter 14 – Business Licenses & Permits

City Budgetary Impacts: None

Staff Recommended Action: Review and recommend changes.

Previous Meetings and History: Charter review discussions October 5, October 26, November 9, November 30. Ordinance review began at the 1/19/2021 Council meeting. Appendix A – Fees was discussed at the 1/25/2021 Council Workshop.

City Manager Comments:

Phillip Crowell Jr.

I concur with the recommendation. Signature:



Ordinance Review Form – Charter

Review 2020

Current Ordinance

Ordinance Section: Article V – Boards, Commissions and Committees

- **Sec. 2-381. - Established.**

The city has such boards, commissions, committees, agencies, and other subunits of its governing authority as are established from time to time by the city Charter or the city council. The school committee is established in the city Charter, and information regarding other city boards, commissions, committees, agencies, and similar bodies is available in this article and on the city's official website.

- **Sec. 2-382. - Salaries of school committee members.**

Elected school committee members shall receive a salary at the rate of \$25.00 per meeting for up to [26](#) meetings per year. The mayor or his designee is a full member of the school committee and, therefore, entitled to compensation in the same manner as all other school committee members.

(Ord. 04-04162013, § 2-382, 5-6-2013)

Proposed Ordinance

Ordinance Section:



Ordinance Review Form – Charter

Review 2020

New Language:

ARTICLE V. - BOARDS, COMMISSIONS AND COMMITTEES

DIVISION 1. - GENERALLY

Sec. 2-381. - Established.

The city has such boards, commissions, committees, agencies, and other subunits of its governing authority as are established from time to time by the city Charter or the city council. The school committee is established in the city Charter, and information regarding other city boards, commissions, committees, agencies, and similar bodies is available in this article and on the city's official website. The council has created advisory boards to provide oversight and communication between the various boards, commissions, and committees as well as the elected officials.

Sec. 2-382. - Salaries of school committee members.

Elected school committee members shall receive a salary at the rate of \$25.00 per meeting for up to 26 meetings per year. The mayor or his designee is a full member of the school committee and, therefore, entitled to compensation in the same manner as all other school committee members.

Sec. 2-383 – Salaries of planning board members.

Appointed planning board members shall receive a salary at the rate of \$25.00 per meeting for up to 26 meetings per year. The planning board chair shall receive a salary at the rate of \$30.00 per meeting for up to 26 meetings per year. Associate members shall receive a salary at the rate of \$25.00 per meeting for up to 26 meetings per year.

(Ord. 04-04162013, § 2-382, 5-6-2013)

Secs. 2-383—2-429. - Reserved.

Reason for proposed change

- The council has created advisory boards to provide oversight and communication between the various boards, commissions, and committees as well as the elected officials.
- Appointed planning board members shall receive a salary at the rate of \$25.00 per meeting for up to 26 meetings per year. The planning board chair shall receive a salary at the rate of \$30.00 per meeting for up to 26 meetings per year. Associate members shall receive a salary at the rate of \$25.00 per meeting for up to 26 meetings per year

Current Ordinance

Ordinance Section: Sec. 2-482.2. - Purpose and mission

Current Language:

The purpose of the complete streets committee is to:

- (a) Promote and advise the development of public infrastructure which supports a multi-modal transportation system for all users, not strictly motor vehicles, and includes the best design practices for enhancing safety as well as community and economic development;
- (b) Develop and recommend policies to the respective governing bodies and planning agencies that address and support all modes of transportation in Lewiston and Auburn;
- (c) Advise the respective public works and engineering departments on how all modes of travel can be accommodated in street, highway, trail, and open space projects.

(Ord. No. 02-03062017, 3-20-2017)

- **Sec. 2-482.3. - Appointment and membership.**

- (a) The committee shall consist of nine members as follows: four residents of the City of Auburn, four residents of the City of Lewiston, and one representative of an organization directly involved in issues of public health and wellness. A city councilor may be appointed as a resident.
- (b) The residents of each community shall be appointed in accordance with the standard procedures employed by each community for such appointments. The representative of an organization directly involved in issues of public health shall be appointed by majority vote of the members of the full committee.
- (c) The initial term for resident members shall be three years, as shall the term of the representative of a public health organization. These terms shall run from the first day of January of the year in which the appointment is made. At the time the initial appointments are made, the appointing authority shall assign each resident member to a term with one member appointed to a one year term; one to a two-year term; and one to a three-year term. Members shall remain in office until their successors are appointed.
- (d) Vacancies shall be filled following the same process employed for the initial appointment of members.
- (e) A vacancy shall be declared if any member of the committee fails to attend three consecutive regular meetings of the committee without being excused by the committee chair.

(Ord. No. 02-03062017, 3-20-2017)

- **Sec. 2-482.4. - Duties and responsibilities.**

The complete streets committee shall:

- (a) Follow the city's complete streets policy, oversee its implementation, and review the policy every two years to recommend changes as appropriate;
- (b) Serve as the primary resource representing Lewiston and Auburn in the update of Regional and Statewide plans dealing with transportation issues involving motorized vehicles, bicycles, pedestrians, public transportation, and other non-automobile related transportation issues;
- (c) Develop and recommend policies and ordinances for passage by the city councils in support of alternative modes of transportation;
- (d) Review and comment on existing transportation projects including regionally approved projects, municipally initiated projects, and improvements originating from traffic movement permits associated with development projects; and
- (e) Participate with appropriate city and state departments, committees, and metropolitan planning organizations in planning coordinated multi-modal transportation systems in L-A and the surrounding region, such as rail, bus, and air.

(Ord. No. 02-03062017, 3-20-2017)

- **Sec. 2-482.5. - Organization.**

- (a) The committee shall have the following officers: chair, vice-chair, and secretary, each of whom shall be selected by a majority of the members of the committee at its first meeting in January of each year. The chair shall preside over all meetings of the board, shall supervise the affairs of the board, and shall perform such other duties as may be assigned to the office by the committee. The vice-chair shall assist the chair in carrying out the latter's duties and shall preside at meetings in the chair's absence. The secretary shall be responsible for preparing and distributing committee agendas and minutes and ensuring that the legal posting requirements are met.
- (b) A quorum necessary to conduct an official meeting shall consist of at least six members and at least six concurring votes shall be necessary to constitute an action on any matter.
- (c) The committee shall meet at least quarterly and may meet more frequently at the call of the chair.
- (d) Unless otherwise prescribed by this division or by bylaws established by the committee, the committee shall operate in accordance with Robert's Rules of Order.

(Ord. No. 02-03062017, 3-20-2017)

- **Sec. 2-482.6. - Staff support.**

The city manager/administrator of each community shall designate a planning or public works staff member to serve as a liaison to the committee.

(Ord. No. 02-03062017, 3-20-2017)

DIVISION 4D. - COMPLETE STREETS COMMITTEE^[15]

Footnotes:

--- (15) ---

Cross reference— Complete streets policy, § 46-3.

Sec. 2-482.2. - Purpose and mission.

The purpose of the complete streets committee is to:

- (a) Promote and advise the development of public infrastructure which supports a multi-modal transportation system for all users, not strictly motor vehicles, and includes the best design practices for enhancing safety as well as community and economic development;
- (b) Develop and recommend policies to the respective governing bodies and planning agencies that address and support all modes of transportation in Lewiston and Auburn;
- (c) Advise the respective public works and engineering departments on how all modes of travel can be accommodated in street, highway, trail, and open space projects.

(Ord. No. 02-03062017, 3-20-2017)

Sec. 2-482.3. - Appointment and membership.

- (a) The committee shall consist of nine members as follows: four residents of the City of Auburn (one of which will be a member of the Planning Board), four residents of the City of Lewiston, and one representative of an organization directly involved in issues of public health and wellness. A city councilor may be appointed as a resident.
- (b) The residents of each community shall be appointed in accordance with the standard procedures employed by each community for such appointments. The representative of an organization directly involved in issues of public health shall be appointed by majority vote of the members of the full committee.
- (c) The initial term for resident members shall be three years, as shall the term of the representative of a public health organization. These terms shall run from the first day of January of the year in which the appointment is made. At the time the initial appointments are made, the appointing authority shall assign each resident member to a term with one member appointed to a one year term; one to a two-year term; and one to a three-year term. Members shall remain in office until their successors are appointed.
- (d) Vacancies shall be filled following the same process employed for the initial appointment of members.
- (e) A vacancy shall be declared if any member of the committee fails to attend three consecutive regular meetings of the committee without being excused by the committee chair.

(Ord. No. 02-03062017, 3-20-2017)

Sec. 2-482.4. - Duties and responsibilities.

The complete streets committee shall:

- (a) Follow the city's complete streets policy, oversee its implementation, and review the policy every two years to recommend changes as appropriate;
- (b) Serve as the primary resource representing Lewiston and Auburn in the update of Regional and Statewide plans dealing with transportation issues involving motorized vehicles, bicycles, pedestrians, public transportation, and other non-automobile related transportation issues;
- (c) Develop and recommend policies and ordinances for passage by the city councils in support of alternative modes of transportation;
- (d) Review and comment on existing transportation projects including regionally approved projects, municipally initiated projects, and improvements originating from traffic movement permits associated with development projects; and
- (e) Participate with appropriate city and state departments, committees, and metropolitan planning organizations in planning coordinated multi-modal transportation systems in L-A and the surrounding region, such as rail, bus, and air.

(Ord. No. 02-03062017, 3-20-2017)

Sec. 2-482.5. - Organization.

- (a) The committee shall have the following officers: chair, vice-chair, and secretary, each of whom shall be selected by a majority of the members of the committee at its first meeting in January of each year. The chair shall preside over all meetings of the board, shall supervise the affairs of the board, and shall perform such other duties as may be assigned to the office by the committee. The vice-chair shall assist the chair in carrying out the latter's duties and shall preside at meetings in the chair's absence. The secretary shall be responsible for preparing and distributing committee agendas and minutes and ensuring that the legal posting requirements are met.
- (b) A quorum necessary to conduct an official meeting shall consist of at least six members and at least six concurring votes shall be necessary to constitute an action on any matter.
- (c) The committee shall meet at least quarterly and may meet more frequently at the call of the chair.
- (d) Unless otherwise prescribed by this division or by bylaws established by the committee, the committee shall operate in accordance with Robert's Rules of Order.

(Ord. No. 02-03062017, 3-20-2017)

Sec. 2-482.6. - Staff support.

The city manager/administrator of each community shall designate a planning or public works staff member to serve as a liaison to the committee.

(Ord. No. 02-03062017, 3-20-2017)



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Review 2020

Sec. 2-111. - Ethics panel established; membership; powers and duties.

(a) Established; membership. There shall be established an ethics panel consisting of three regular voting members and two alternate members. Two regular voting members and one alternate member of the ethics panel shall be appointed by the mayor with approval of a majority of the members of the city council, and one regular voting member and one alternate member of the ethics panel shall be appointed by the chair of the school committee with approval of a majority of the members of the school committee. A regular voting member or alternate member of the ethics panel may not hold any other city or school department office or position or be a member of any board or commission to which the city council or school committee has appointing authority.

(b) Term of members; chair. The regular voting members of the ethics panel shall be appointed to staggered three-year terms. When the first appointments are made, one member shall be appointed by the mayor to a three-year term, one member shall be appointed by the chair of the school committee to a two-year term, and one member shall be appointed by the mayor to a one-year term. The mayor annually shall appoint one of the regular voting members to serve as chair of the ethics panel. Alternate members shall be appointed to three-year terms.

(c) Role of alternate members. Alternate members of the ethics panel may participate and vote in ethics panel proceedings if a regular voting member is incapable or unavailable to serve in regard to a particular referral or is disqualified from participation because of a conflict of interest. The alternate member designated shall be selected by the chair of the ethics panel.

(b) Powers and duties. The ethics panel shall have the authority to issue advisory opinions on questions relating to conflicts of interest and the incompatibility of employment positions.

(Code 1967, § 1-4.3)



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Review 2020

Current Ordinance

Ordinance Section:

- **Current Language: DIVISION 7. - AGE FRIENDLY COMMUNITY COMMITTEE**
- **Sec. 2-482.7. - Established; membership.**

1. (a) There shall be an age friendly community committee, which shall be composed of 13 members. All except the ex officio member of the board shall be appointed by the city council.
2. (b) Serving as the ex officio member shall be the director of recreation and sports tourism or designee.
3. (c) Nothing in this article shall preclude the creation of standing subcommittees.

(Ord. No. 02-03042019, 3-18-2019)

- **Sec. 2-482.8. - Term of members.**

All appointed members of the age friendly committee shall serve staggered three-year terms from the date of their appointment and thereafter until their successors are appointed beginning with the effective date of this Code.

(Ord. No. 02-03042019, 3-18-2019)

- **Sec. 2-482.9. - Officers; rules of procedure; vacancies.**

The age friendly committee shall elect a chair, a vice-chair, secretary, and such other officers as it may require. The board shall develop such rules to govern its meetings and operations as it deems advisable. Upon the death, incapacity or removal from the city of any member, or if any member shall be absent without excuse for three consecutive meetings, the secretary of the board shall advise the city council that a vacancy exists and request the appointment of a replacement.

(Ord. No. 02-03042019, 3-18-2019)

- **Sec. 2-482.10. - Duties.**

The purpose of the age friendly committee shall be:

- (1) To facilitate communication between leaders, consumers and providers that identify key issues for healthy aging communities;
- (2) To conduct impact evaluations and analyze the effectiveness of age-friendly programs; and



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(3) To make policy recommendations to the city council and advance initiatives that promote the health and social well-being of older adults.

(Ord. No. 02-03042019, 3-18-2019)

Proposed Ordinance



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Review 2020

DIVISION 3-B

AGE FRIENDLY COMMUNITY COMMITTEE

Sec. 2-459.1. - Established; membership.

- (a) There shall be an age friendly community committee, which shall be composed of seven members. All except the ex officio member of the board shall be appointed by the city council.
- (b) Serving as the ex officio member shall be the director of recreation and sports tourism or designee.
- (c)

(Ord. No. 02-03042019, 3-18-2019)

Sec. 2-459.2. - Term of members.

All appointed members of the age friendly committee shall serve staggered three-year terms from the date of their appointment and thereafter until their successors are appointed beginning with the effective date of this Code.

(Ord. No. 02-03042019, 3-18-2019)

Sec. 2-459.3. - Officers; rules of procedure; vacancies.

The age friendly committee shall elect a chair, a vice-chair, secretary, and such other officers as it may require. The chair of the committee shall serve as the committee representative on the Recreation Advisory Board. The committee shall develop such rules to govern its meetings and operations as it deems advisable. Upon the death, incapacity or removal from the city of any member, or if any member shall be absent without excuse for three consecutive meetings, the secretary of the committee shall advise the city council that a vacancy exists and request the appointment of a replacement.

(Ord. No. 02-03042019, 3-18-2019)

Sec. 2-459.4. - Duties.

The purpose of the age friendly committee shall be:

- (1) To facilitate communication between leaders, consumers and providers that identify key issues for healthy aging communities;
- (2) To conduct impact evaluations and analyze the effectiveness of age-friendly programs; and
- (3) To make policy recommendations to the city council and advance initiatives that promote the health and social well-being of older adults.

(Ord. No. 02-03042019, 3-18-2019)

Secs. 2-458—2-465. - Reserved.



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Key Changes

- He ability to create working groups in place of subcommittees.
- Staggard 3 year terms
- The committee shall be comprised of 7 members

Current Ordinance

Ordinance Section: Division 3 – Parks and Recreation Advisory Board – Sec, 2 – 454 Established, membership

Current Language

1. (a) There shall be a parks and recreation advisory board, which shall be composed of eight members. All except the ex officio member of the board shall be appointed by the city council.

Serving as the ex officio member shall be the director of parks and recreation, who shall also serve as secretary to the board.

2. (d) Nothing in this article shall preclude the creation of standing subcommittees.

(Code 1967, § 18-3.1; Ord. No. 05-07162018, 8-6-2018)

- **Sec. 2-455. - Term of members.**

All appointed members of the parks and recreation advisory board shall serve staggered two-year terms from the date of their appointment and thereafter until their successors are appointed beginning with the effective date of this Code. Members of the board may be appointed to succeed themselves.

(Code 1967, § 18-3.3)

- **Sec. 2-456. - Officers; rules of procedure; vacancies.**

The parks and recreation advisory board shall elect a chair, a vice-chair and such other officers as it may require. The board shall develop such rules to govern its meetings and operations as it deems advisable. Upon the death, incapacity or removal from the city of any member, or if any member shall be absent without excuse for three consecutive meetings, the secretary of the board shall advise the city council that a vacancy exists and request the appointment of a replacement.

(Code 1967, § 18-3.4)

- **Sec. 2-457. - Duties.**

The purpose of the parks and recreation advisory board shall be:

(1) The review of existing programs of the parks and recreation department and the planning of revised, supplementary or new programs to meet the present and future needs of the city.

(2) The coordination of existing programs and facilities of the recreation department with those of volunteer and charitable organizations and those of other governmental units.

(3) Developing recommendations for more efficient use of present facilities and personnel.

(4) Improving communication regarding the recreational needs of the city between the people and the recreation department, the city council, and other city departments.

(5) The investigation of federal, state and private programs for financial assistance and the development of recommendations regarding participation in such programs by the city.

(Code 1967, § 18-3.2)

Proposed Ordinance

DIVISION 3. - COMMUNITY ADVISORY BOARD

Sec. 2-454. - Established; membership.

- (a) There shall be a community advisory board, which shall be composed of the chairs of the following committees: Parks and Recreation Committee, Age Friendly Committee and two city councilors shall serve as co-chairs of the board appointed by the mayor.
- (b) Reserved.

(Code 1967, § 18-3.1; Ord. No. 05-07162018, 8-6-2018)

Sec. 2-455. - Term of members.

All chairs and council members shall serve from the date of their appointment and thereafter until their appointment to their committees expires or until their term as city council is vacated.

(Code 1967, § 18-3.3)

Sec. 2-456. - Rules of procedure;.

The board shall develop such rules to govern its meetings (to include meeting dates and times) and operations as it deems advisable.

(Code 1967, § 18-3.4)

Sec. 2-457. - Duties.

The purpose of the advisory board shall be:

- (1) The review of existing programs and the planning of revised, supplementary or new programs to meet the present and future needs of the city, as it pertains to quality of life.
- (4) Improving communication regarding the quality of life in the city between the people and the committees, the city council, and city departments.
- (5)

(Code 1967, § 18-3.2)

DIVISION 3-A

PARKS AND RECREATION COMMITTEE

Sec. 2-458.1. - Established, membership.

- (a) There shall be a recreation committee, which shall be composed of seven members. All except the ex officio member of the committee shall be appointed by the city council.
- (b) Reserved.
- (c) Serving as the ex officio member shall be the director of recreation, who shall also serve as secretary to the committee.

(Code 1967, § 18-3.1; Ord. No. 05-07162018, 8-6-2018)

Sec. 2-458.2. - Term of members.

All appointed members of the recreation committee shall serve staggered three-year terms from the date of their appointment and thereafter until their successors are appointed beginning with the effective date of this Code. Members of the committee may be appointed to succeed themselves.

(Code 1967, § 18-3.3)

Sec. 2-458.3. - Officers; rules of procedure; vacancies.

The parks and recreation committee shall elect a chair, a vice-chair and such other officers as it may require. The chair of the committee shall serve as the committee representative on the Community Advisory Board. The committee shall develop such rules to govern its meetings and operations as it deems advisable. Upon the death, incapacity or removal from the city of any member, or if any member shall be absent without excuse for three consecutive meetings, the secretary of the committee shall advise the city council that a vacancy exists and request the appointment of a replacement.

(Code 1967, § 18-3.4)

Reason for Change

- Aligning staggered 3-year terms with other terms amongst most boards and committees.



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Sec. 2-458.4. - Duties.

The purpose of the recreation committee shall be:

- (1) The review of existing programs of the recreation department and the planning of revised, supplementary, or new programs to meet the present and future needs of the city.
- (2) The coordination of existing programs and facilities of the recreation department with those of volunteer and charitable organizations and those of other governmental units.
- (3) Developing recommendations for more efficient use of present facilities and personnel.
- (4) Improving communication regarding the recreational needs of the city between the people and the recreation department, the city council, and other city departments.
- (5) The investigation of federal, state and private programs for financial assistance and the development of recommendations regarding participation in such programs by the city.

(Code 1967, § 18-3.2)

Current Ordinance

Ordinance Section: Conservation Commission Sec. 2- 477 – commission established

Current Language:

1. A conservation commission is hereby established pursuant to 30-A M.R.S.A. §§ 3261—3263 to consist of seven members appointed by the city council, all of whom shall be residents of the city. The terms of office shall be three years except that initial appointments after the date of adoption of the ordinance from which this division derives shall be such that the terms of no more than three members shall expire in any single year. For that purpose, the city council shall initially appoint three members for terms of one year, two members for terms of two years, and two members for terms of three years, such that the terms of approximately one-third of the members shall expire each year. There shall be one ex-officio member of the board consisting of the city manager or his/her designee.

(Ord. No. 07-02022015, § 1, 2-17-2015)

- **Sec. 2-478. - Purpose.**

2. The purpose of the conservation commission shall be to serve as a research, advisory and advocacy group on environmental and conservation issues relating to the city.

(Ord. No. 07-02022015, § 2, 2-17-2015)

- **Sec. 2-479. - Qualifications.**

3. All members of the commission shall be selected upon the basis of their knowledge of or interest in conservation, environmental science or related fields.

(Ord. No. 07-02022015, § 3, 2-17-2015)

- **Sec. 2-480. - Powers and duties.**

4. The commission:

- (1) Shall keep records of its meetings and activities and make an annual report to the city council;
- (2) Shall conduct research, in conjunction with the planning board, into local land areas, which shall be initiated by majority votes of both the commission and the planning board;
- (3) Shall seek to coordinate the activities of conservation bodies organized for similar purposes;

Shall keep an index of all open areas within the city, whether publicly or privately owned, including open marshlands, swamps and other wetlands, for the purpose of obtaining information relating to the proper protection, development or use of those open areas. The commission may recommend to the city council or to any board of the city or to any body politic or public agency of the state a program for the better protection, development or use of such open areas, which may include the acquisition of conservation easements;

(5)

May advertise, prepare, print and distribute books, maps, charts, plans and pamphlets which it considers necessary, if municipal appropriations provide financial resources to do so;

(6) Shall assist staff in the preparation of park and trail plans, the identification of new sites to be added to the park system, recommendations on designation of open space areas, and grant assistance

(7) Shall coordinate applications for grants from the federal or state governments, or private sources, to improve conservation assets for the city including parks, trail and the community forest.

(8) Shall undertake any other conservation or environmental activity referred to it by the city council.

(9) May recommend to the city council the acceptance of gifts in the municipality's name for any of the commission's purposes.

(10) Shall develop a plan for and provide advice to city staff and agencies regarding the management of the community forest including the anticipated impact of proposed development;

(11) Shall raise community awareness regarding the importance of the community forest;

(12) May raise funds to establish a community forest trust fund;

(13) Shall adopt by-laws to govern the internal affairs of the commission; and

(14) May perform such other functions as are permitted by this Code.

(Ord. No. 07-02022015, § 4, 2-17-2015)

- **Sec. 2-481. - Officers, meetings and records.**

(a) The members shall elect from their membership a chairperson, treasurer, a vice-chairperson and a secretary. Officers shall serve two-year terms.

(b) All meetings of the commission shall be open to the public, and notice, if required by law, should be provided to the public about such meetings.

(c) Minutes shall be kept of all meetings.

(Ord. No. 07-02022015, § 5, 2-17-2015)

- **Sec. 2-482. - Committees.**

(a) *Establishment*: The chairperson may appoint special committees for purposes and terms approved by the conservation commission.

(b) *Lewiston-Auburn Community Forest Board*: The Lewiston-Auburn Community Forest Board will be a standing subcommittee of the Auburn Conservation Commission. The purpose of the community forest board is to plan for and provide advice to city staff and the conservation commission regarding the management of the community forest. The conservation commission shall designate two members to serve on the Lewiston-Auburn Community Forest Board. The Lewiston-Auburn Community Forest Board shall develop and implement a community forest program that enhances, preserves, protects, and maintains the community forest. Primary activities are to:

(1) Advocate for the community forest;

(2) Develop a plan for and provide advice on the management of the public sector portion of the community forest;

(3) Educate the communities about the community forest and how to care for it;

(4) Raise funds, including grants, and establish a community forest trust;

(5) Develop and advise on policy changes for approval by the city councils;

(6) Advise and consult on community forest issues and projects;

(7) Communicate and coordinate with city staff, planning boards, and other community programs to avoid duplications of efforts and to combine resources to meet goals.

(Ord. No. 07-02022015, § 6, 2-17-2015)

- **Sec. 2-482.1. - Limits of authority.**

5. Nothing contained within this section shall supersede the provisions of the Charter or contrary provisions of the Code. No powers and duties which may be exercised by conservation commissions under state statute which are not explicitly provided in this article may be exercised by the commission created herein.

(Ord. No. 07-02022015, § 7, 2-17-2015)

Proposed Ordinance

DIVISION 4C. - CONSERVATION COMMISSION

Sec. 2-478.1. - Commission established.

1. A conservation commission is hereby established pursuant to 30-A M.R.S.A. §§ 3261—3263 to

consist of seven members appointed by the city council, all of whom shall be residents of the city. The terms of office shall be three years except that initial appointments after the date of adoption of the ordinance from which this division derives shall be such that the terms of no more than three members shall expire in any single year. For that purpose, the city council shall initially appoint three members for terms of one year, two members for terms of two years, and two members for terms of three years, such that the terms of approximately one-third of the members shall expire each year. There shall be one ex-officio member of the board consisting of the city manager or his/her designee.

(Ord. No. 07-02022015, § 1, 2-17-2015)

Sec. 2-478.2 - Purpose.

2. The purpose of the conservation commission shall be to serve as a research, advisory and advocacy group on environmental and conservation issues relating to the city.

(Ord. No. 07-02022015, § 2, 2-17-2015)

Sec. 2-478.3. - Qualifications.

3. All members of the commission shall be selected upon the basis of their knowledge of or interest in conservation, environmental science or related fields.

(Ord. No. 07-02022015, § 3, 2-17-2015)

Sec. 2-478.4. - Powers and duties.

4. The commission:

(1) Shall keep records of its meetings and activities and make an annual report to the city council;

(2) Shall conduct research, in conjunction with the planning board, into local land areas, which shall be initiated by majority votes of both the commission and the planning board;

Shall seek to coordinate the activities of conservation bodies organized for similar purposes;

(4) Shall keep an index of all open areas within the city, whether publicly or privately owned, including open marshlands, swamps and other wetlands, for the purpose of obtaining information relating to the proper protection, development or use of those open areas. The commission may recommend to the city council or to any board of the city or to any body politic or public agency of the state a program for the better protection, development or use of such open areas, which may include the acquisition of conservation easements;

(5) May advertise, prepare, print and distribute books, maps, charts, plans and pamphlets which it considers necessary, if municipal appropriations provide financial resources to do so;

(6) Shall assist staff in the preparation of park and trail plans, the identification of new sites to be added to the park system, recommendations on designation of open space areas, and grant assistance;

(7) Shall coordinate applications for grants from the federal or state governments, or private sources, to improve conservation assets for the city including parks, trail and the community forest.

(8) Shall undertake any other conservation or environmental activity referred to it by the city council.

(9) May recommend to the city council the acceptance of gifts in the municipality's name for any of the commission's purposes.

(10) Shall develop a plan for and provide advice to city staff and agencies regarding the management of the community forest including the anticipated impact of proposed development;

(11) Shall raise community awareness regarding the importance of the community forest;

(12) May raise funds to establish a community forest trust fund;

(13) Shall adopt by-laws to govern the internal affairs of the commission; and

(14) May perform such other functions as are permitted by this Code.

(Ord. No. 07-02022015, § 4, 2-17-2015)

Sec. 2-478.5. - Officers, meetings and records.

(a) The members shall elect from their membership a chairperson, treasurer, a vice-chairperson and a secretary. Officers shall serve two-year terms.

(b) All meetings of the commission shall be open to the public, and notice, if required by law, should be provided to the public about such meetings.

(c) Minutes shall be kept of all meetings.

(Ord. No. 07-02022015, § 5, 2-17-2015)

Sec. 2-478.6. - Committees.

(a) *Establishment*: The chairperson may appoint special committees for purposes and terms approved by the conservation commission.

(b) *Lewiston-Auburn Community Forest Board*: The Lewiston-Auburn Community Forest Board will be a standing subcommittee of the Auburn Conservation Commission. The purpose of the community forest board is to plan for and provide advice to city staff and the conservation commission regarding the management of the community forest. The conservation commission shall designate two members to serve on the Lewiston-Auburn Community Forest Board. The Lewiston-Auburn Community Forest Board shall develop and implement a community forest program that enhances, preserves, protects, and maintains the community forest. Primary activities are to:

(1) Advocate for the community forest;

(2) Develop a plan for and provide advice on the management of the public sector portion of the community forest;

(3) Educate the communities about the community forest and how to care for it;

(4) Raise funds, including grants, and establish a community forest trust;

(5) Develop and advise on policy changes for approval by the city councils;

(6) Advise and consult on community forest issues and projects;

(7) Communicate and coordinate with city staff, planning boards, and other community programs to avoid duplications of efforts and to combine resources to meet goals.

(Ord. No. 07-02022015, § 6, 2-17-2015)

Sec. 2-478.7. - Limits of authority.

5. Nothing contained within this section shall supersede the provisions of the Charter or contrary provisions of the Code. No powers and duties which may be exercised by conservation commissions under state statute which are not explicitly provided in this article may be exercised by the commission created herein.

(Ord. No. 07-02022015, § 7, 2-17-2015)



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Current Ordinance

Ordinance Section: Sec. 2.465.1 - Established; membership.

Curent Language: Does not exist

Proposed Ordinance

DIVISION 4 – GROWTH AND DEVELOPMENT ADVISORY BOARD

Sec. 2.465.1 - Established; membership.

(a) There shall be a growth advisory board, which shall be composed of the chairs of the following boards, committees, and commissions: Planning Board, Agriculture Committee, Conservation Commission, Complete Streets Committee, CDBG Citizen Advisory Committee and two city councilors shall service as co-chairs of the board appointed by the mayor.

(b) Reserved.

Sec. 2-465.2. - Term of members.

1. All chairs and council members shall serve from the date of their appointment and thereafter until their appointment to their committees expires or until their term as city council is vacated.

Sec. 2-465.3. - Rules of procedure.

The board shall develop such rules to govern its meetings (to include meetings dates and times) and operations as it deems advisable.



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Current Ordinance

Ordinance Section: Planning Board Sec 2-466 Membership: Appointment, removals, terms, vacancies

Current Language:

1. (a) There shall be a planning board of seven regular and two associate members. Members of the planning board shall be residents of the city. Persons appointed by the city council to serve on other boards, agencies, panels, and or commissions shall not serve concurrently on the planning board. Members shall serve without compensation.

2. (b) Regular members of the planning board shall be appointed by the city council for terms of three years. Such terms shall be staggered so that the term of not more than three members shall expire in any calendar year. Incumbent members of the planning board shall serve for the balance of their terms and thereafter until their successors are appointed.

3. (c) The city council shall appoint two associate members for a term of three years each. Such terms shall be staggered so that the terms of not more than one associate member, expires in any calendar year. Associate members may participate in deliberations of the planning board but shall not vote unless temporarily acting on behalf of a regular member who is absent or has been recused.

4. (d)

Permanent vacancies on the planning board shall be filled by the city council for the unexpired term of the former member.

5. (e)

Any member of the planning board may be removed for cause by the city council at any time; provided, however, that before removal such members shall be given an opportunity to be heard in his own defense at a public hearing before the city council.

6. (f)

The planning board may appoint a high school student advisory representative who is a high school student residing in Auburn for a one year term. The student advisory representative may participate in deliberations of the planning board but shall not be entitled to vote.

(Ord. of 5-7-1979; Ord. No. 02-04012013, att. A, 4-16-2013; Ord. No. 01-01202015, att., 2-9-2015; Ord. No. 07-10152018, 11-5-2018)

- **Sec. 2-467. - Chairperson and vice-chairperson.**

The members of the planning board shall annually elect one of the board members as chairperson to preside at all meetings and hearings, and another of their number as vice-



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chairperson. In the absence of the chairperson, the vice-chairperson shall act as chairperson and shall have all the powers of the chairperson. If no chairperson or vice-chairperson is present or able to preside over an agenda item, the attending members may elect an acting chairperson.

(Ord. of 5-7-1979; Ord. No. 02-04012013, att. A, 4-16-2013; Ord. No. 01-01202015, att., 2-9-2015)

- **Sec. 2-468. - Staff secretary: minutes, public records.**

7. (a) The director of planning and development shall designate a member of their staff who shall serve as staff secretary of the planning board and attend all of its proceedings.

8. (b) The staff secretary shall provide for the keeping of minutes of the proceedings of the planning board, noting the vote of each member on every question, or the member's absence or failure to vote, and shall maintain the permanent records and decisions of all planning board meetings, hearings, and proceedings and all correspondence of the planning board.

(Ord. of 5-7-1979; Ord. No. 02-04012013, att. A, 4-16-2013; Ord. No. 01-01202015, att., 2-9-2015)

- **Sec. 2-469. - Quorum and necessary vote.**

9. (a) As to any matter requiring a public hearing, no business shall be transacted by the planning board without a quorum, consisting of four members, being present. The concurring vote of at least four members shall be necessary to authorize any action by the board.

10. (b) If less than a quorum is present, the hearing shall be rescheduled. The staff secretary shall notify in writing all members of the date of the reschedule hearing and shall notify such other interested parties as may be directed in the vote to reschedule.

(Ord. of 5-7-1979; Ord. No. 02-04012013, att. A, 4-16-2013; Ord. No. 01-01202015, att., 2-9-2015)

- **Sec. 2-470. - Meetings, hearings and procedures.**

11. (a) Regular meetings of the planning board shall be held at the call of the chairperson or as provided by rule of the board. Special meetings may be called by any four members of the planning board, or at the request of the city council. Testimony at any hearing may be required by the planning board to be given under oath.

12. (b) The planning board shall adopt its own rules for the conduct of its business not inconsistent with this chapter and with state law. Such rules shall be filed with the staff secretary of the planning board and with the city clerk. Any rule so adopted that relates solely to the conduct of hearings, and that is not required by the city council, this chapter or state law, may be waived by the chairperson upon good cause being shown.



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(Ord. of 5-7-1979; Ord. No. 02-04012013, att. A, 4-16-2013; Ord. No. 01-01202015, att., 2-9-2015)

- **Sec. 2-471. - Workshop or informational meetings.**

Informal meetings or workshops of the planning board or any of its committees may be held at the call of any of its members or the director of planning and development, as the case may be, for the presentation of information.

(Ord. of 5-7-1979; Ord. No. 02-04012013, att. A, 4-16-2013; Ord. No. 01-01202015, att., 2-9-2015)

- **Sec. 2-472. - Record and decisions.**

13. (a) The minutes of the staff secretary, and any transcript of the proceedings, and all exhibits, papers, applications and requests filed in any proceeding before the planning board and the decision of the board shall constitute the record.

14. (b) Every final decision of the planning board and every recommendation of the planning board to the city council shall include written findings of fact, and shall specify the reason or reasons for such decision or recommendation.

15. (c) The staff secretary shall mail notice of any decision of the board to the applicant or any designated interested parties within five business days of such decision.

(Ord. of 5-7-1979; Ord. No. 02-04012013, att. A, 4-16-2013; Ord. No. 01-01202015, att., 2-9-2015)

- **Sec. 2-473. - Conflicts.**

No member of the planning board shall participate in the hearing or disposition of any matter in which he or she has an interest. Any question of whether a member has a conflict of interest sufficient to disqualify the member shall be decided by a majority vote of the members present, except the member whose possible conflict is being examined. Where such vote results in a tie, the subject member shall be disqualified.

(Ord. of 5-7-1979; Ord. No. 02-04012013, att. A, 4-16-2013; Ord. No. 01-01202015, att., 2-9-2015)

- **Sec. 2-474. - Appeals.**

An appeal from any final decision of the planning board as to any matter over which it has final authority may be taken by any party or by any authorized officer or agent of the city to the superior court.

(Ord. of 5-7-1979; Ord. No. 02-04012013, att. A, 4-16-2013; Ord. No. 01-01202015, att., 2-9-2015)



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- **Sec. 2-475. - Jurisdiction and authority.**

In addition to the jurisdiction conferred on it by other provisions of state law and the ordinances of the city and in accordance therewith, the planning board shall have the following jurisdiction and authority:

- (1) To prepare and recommend to the city council a comprehensive plan.
- (2) To prepare and recommend to the city council changes in and amendments to the comprehensive plan as necessary.
- (3) To aid and assist the city council and departments and agencies of the city in implementing general plans and in planning, developing and completing specific planning related projects.
- (4) To hear, review, and approve or deny applications for subdivision approval as provided in this Code.
- (5) To hear, review, and offer its recommendations to the city council on applications for zoning changes and amendments to, or revisions of, the city's zoning regulations, and to initiate recommendations for zoning changes and amendments to or revisions of the city's zoning regulations as necessary.
- (6) To review and offer its recommendations to the city council on public planning related projects.
- (7) To offer its recommendations to the city council with regard to the compatibility of the city manager's proposed capital improvements program with the comprehensive plan.
- (8) To make such investigations and compile maps and reports, and recommendations in connection therewith, relating to the planning and development of the city as it deems desirable.

(Ord. of 5-7-1979; Ord. No. 02-04012013, att. A, 4-16-2013; Ord. No. 01-01202015, att., 2-9-2015)

- **Sec. 2-476. - Committees.**

The chairperson of the planning board may from time to time assign the members of the board to such regular and special committees as may be established by the board. Such committees shall have no final authority but shall assist the board in the conduct of its business by making recommendations to it concerning such specific items as may be assigned to them for study and report.

(Ord. of 5-7-1979; Ord. No. 02-04012013, att. A, 4-16-2013; Ord. No. 01-01202015, att., 2-9-2015)



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Proposed Ordinance



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DIVISION 4-A. - PLANNING BOARD

Sec. 2-466. - Membership: appointment, removal, terms, vacancies.

- (a) There shall be a planning board of seven regular and two associate members. Members of the planning board shall be residents of the city. Persons appointed by the city council to serve on other boards, agencies, panels, and or commissions shall not serve concurrently on the planning board, with the exception of the boards or committees assigned by ordinance.
- (b) Regular members of the planning board shall be appointed by the city council for terms of three years. Such terms shall be staggered so that the term of not more than three members shall expire in any calendar year. Incumbent members of the planning board shall serve for the balance of their terms and thereafter until their successors are appointed.
- (c) The city council shall appoint two associate members for a term of three years each. Such terms shall be staggered so that the terms of not more than one associate member, expires in any calendar year. Associate members may participate in deliberations of the planning board but shall not vote unless temporarily acting on behalf of a regular member who is absent or has been recused.
- (d) Permanent vacancies on the planning board shall be filled by the city council for the unexpired term of the former member.
- (e) Any member of the planning board may be removed for cause by the city council at any time; provided, however, that before removal such members shall be given an opportunity to be heard in his own defense at a public hearing before the city council.
- (f) The planning board may appoint a high school student advisory representative who is a high school student residing in Auburn for a one year term. The student advisory representative may participate in deliberations of the planning board but shall not be entitled to vote.
- (g) One member of the planning board will be appointed to the Complete Streets Committee. The selection will be determined by the Planning Board Chair.

(Ord. of 5-7-1979; Ord. No. 02-04012013, att. A, 4-16-2013; Ord. No. 01-01202015, att., 2-9-2015; Ord. No. 07-10152018, 11-5-2018)

Sec. 2-467. - Chairperson and vice-chairperson.

The members of the planning board shall annually elect one of the board members as chairperson to preside at all meetings and hearings, and another of their number as vice-chairperson. In the absence of the chairperson, the vice-chairperson shall act as chairperson and shall have all the powers of the chairperson. If no chairperson or vice-chairperson is present or able to preside over an agenda item, the attending members may elect an acting chairperson.

The chairperson will serve on the Growth and Development Advisory Board.

(Ord. of 5-7-1979; Ord. No. 02-04012013, att. A, 4-16-2013; Ord. No. 01-01202015, att., 2-9-2015)

Sec. 2-468. - Staff secretary: minutes, public records.

- (a) The director of planning and development shall designate a member of their staff who shall serve as staff secretary of the planning board and attend all of its proceedings.
- (b) The staff secretary shall provide for the keeping of minutes of the proceedings of the planning board, noting the vote of each member on every question, or the member's absence or failure to vote, and



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Review 2020

Current Ordinance

Ordinance Section: [ARTICLE XVI. - ADMINISTRATION AND ENFORCEMENT](#)

Current Language

Sec. 60-1130. - Membership.

There shall be a board of appeals consisting of seven members and two associate members appointed by the city council. Each member shall be at all times a resident of the city.

(Ord. of 9-21-2009, § 6.1A)

- **Sec. 60-1131. - Term of office.**

The members and associate members of the board shall serve no more than three consecutive three-year terms.

(Ord. of 9-21-2009, § 6.1B)

- **Sec. 60-1132. - Associate members.**

An associate member shall have a vote only in the event that one or more regular members of the board are absent or are disqualified from serving on a particular matter because of a conflict of interest.

(Ord. of 9-21-2009, § 6.1C)

- **Sec. 60-1133. - Jurisdiction.**

The board of appeals shall have jurisdiction over:

Interpretation of provisions of the zoning chapter called into question;

(2) Administrative appeals from decisions or lack thereof of the building inspector or code enforcement officer in regard to an application for a permit under the zoning chapter;

(3) The granting of variances from the requirements of the zoning chapter would cause undue hardship.

(Ord. of 9-21-2009, § 6.1D)



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- **Sec. 60-1134. - Board rules.**

The board shall adopt, and may from time to time amend, rules and regulations to govern the conduct of its business. The tape recording of the board's proceedings, the transcript of testimony, if any, and exhibits, together with all papers and requests filed in the proceedings, shall constitute the record. All decisions shall become a part of the record and shall include a statement of findings and conclusion and the appropriate order, relief or denial thereof.

(Ord. of 9-21-2009, § 6.1E)

- **Sec. 60-1135. - Quorum.**

Five members shall constitute a quorum at any meeting.

Proposed Ordinance

New Language:

Sec. 60-1130. - Membership.

There shall be a board of appeals consisting of seven members ~~and two associate members~~ **3 appointed by the Appointment Committee, 2 appointed by the School Board and 2 appointed by the Mayor.** ~~appointed by the city council.~~ Each member shall be at all times a resident of the city.

(Ord. of 9-21-2009, § 6.1A)

- **Sec. 60-1131. - Term of office.**

The members and associate members of the board shall serve no more than three consecutive three-year terms.

(Ord. of 9-21-2009, § 6.1B)

- **Sec. 60-1132. - Associate members.**

~~An associate member shall have a vote only in the event that one or more regular members of the board are absent or are disqualified from serving on a particular matter because of a conflict of interest.~~



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(Ord. of 9-21-2009, § 6.1C)

- **Sec. 60-1133. - Jurisdiction.**

The board of appeals shall have jurisdiction over:

- (1) Interpretation of provisions of the zoning chapter called into question;
- (2) Administrative appeals from decisions or lack thereof of the building inspector or code enforcement officer in regard to an application for a permit under the zoning chapter;
- (3) The granting of variances from the requirements of the zoning chapter would cause undue hardship.

(Ord. of 9-21-2009, § 6.1D)

- **Sec. 60-1134. - Board rules.**

The board shall adopt, and may from time to time amend, rules and regulations to govern the conduct of its business. The tape recording of the board's proceedings, the transcript of testimony, if any, and exhibits, together with all papers and requests filed in the proceedings, shall constitute the record. All decisions shall become a part of the record and shall include a statement of findings and conclusion and the appropriate order, relief or denial thereof.

Reason for proposed change

Current Ordinance

Ordinance Section: Board of Assessment Review [Secs. 2-362—2-380. - Reserved.](#)

Current Language:

- **Sec. 2-430. - Membership; compensation of members.**

1. A board of assessment review shall be appointed by the city council, consisting of five members, to serve without compensation. The city council shall also appoint three alternate members.

- **Sec. 2-431. - Term of members.**

2. The initial terms of office of the members of the board of assessment review shall be staggered terms. The city council shall annually appoint one member to serve on the board for a five-year term. The initial terms of the alternate members of the board shall be staggered. Their successors shall be appointed for five-year terms.

(Code 1967, § 5-2.2)

- **Sec. 2-432. - Appeals procedure.**

3. When written application is made by a taxpayer for a review of a refusal by the tax assessor to grant a request for an abatement, the board of assessment review shall, within 14 days of the receipt of such request, set a date for hearing, of which the applicant shall receive at least seven days' written notice. In its conduct of the hearing the board shall act as an impartial panel to receive evidence from the appellant and the assessor, advocating for neither party in rendering a decision. The board shall conform that decision to all applicable statutes. At such hearing, the applicant shall have the right to be heard in person, to present witnesses, to examine the tax assessor and any witnesses presented by him, and to be represented by counsel. Upon the evidence presented, the board shall determine whether or not the applicant was over-assessed and may grant such reasonable abatement of his assessment as it determines to be proper. The board shall give notice to the applicant of its decision and of the reasons therefor at the hearing or within a reasonable time thereafter.

(Code 1967, § 5-2.3)

- **Sec. 2-433. - Quorum.**

4. The board of assessment review shall take no official action unless at least three members are present; provided, however, that a lesser number may adjourn the proceedings to a later time. When a regular member of the board is unable to participate in an appeal, the chair shall designate one of the alternate members to replace him.

(Code 1967, § 5-2.4)

- **Sec. 2-434. - Rules and regulations for conduct of hearings.**

5. The board of assessment review may establish such rules and regulations governing the conduct of hearings before it as it may deem necessary consistent with this Code and with state law.

(Code 1967, § 5-2.5)

- **Sec. 2-435. - Legal counsel.**

6. The board of assessment review may have legal counsel present during any appeal hearing to advise on points of law and to assist the board in drafting its final decision.

(Code 1967, § 5-2.6)

- **Secs. 2-436—2-453. - Reserved.**

Proposed Ordinance

DIVISION 2. – REGULATORY ADVISORY BOARD [\[14\]](#)

State Law reference— Board of assessment review, 36 M.R.S.A. § 471-A.

Sec. 2-430. - Membership; responsibility.

1. A board of regulatory advisory shall be appointed by the city council, consisting of seven members, to serve without compensation.

The purpose of the regulatory advisory board is to perform the responsibilities of the Board of Assessment Review, Board of Appeals, and all other regulatory review functions as directed by the city council. The board shall develop such rules to govern its meetings (to include meetings dates and times) and operations as it deems advisable.

(Code 1967, § 5-2.1)

Sec. 2-431. - Term of members.

2. The initial terms of office of the members of the regulatory advisory board shall be staggered terms. The city council shall annually appoint one member to serve on the board for a three-year term. Their successors shall be appointed for three-year terms.

(Code 1967, § 5-2.2)

Sec. 2-432. – Assessment Review Appeals procedure.

3. When written application is made by a taxpayer for a review of a refusal by the tax assessor to grant a request for an abatement, the board of assessment review shall, within 14 days of the receipt of such request, set a date for hearing, of which the applicant shall receive at least seven days' written notice. In its conduct of the hearing the board shall act as an impartial panel to receive evidence from the appellant and the assessor, advocating for neither party in rendering a decision. The board shall conform that decision to all applicable statutes. At such hearing, the applicant shall have the right to be heard in person, to present witnesses, to examine the tax assessor and any witnesses presented by him, and to be represented by counsel. Upon the evidence presented, the board shall determine whether or not the applicant was over-assessed and may grant such reasonable abatement of his assessment as it determines to be proper. The board shall give notice to the applicant of its decision and of the reasons therefor at the hearing or within a reasonable time thereafter.

(Code 1967, § 5-2.3)

Sec. 2-433. - Quorum.

4. The regulatory board shall take no official action unless at least three members are present; provided, however, that a lesser number may adjourn the proceedings to a later time. When a regular member of the board is unable to participate in an appeal, the chair shall designate one of the alternate members to replace him.

(Code 1967, § 5-2.4)

Sec. 2-434. - Rules and regulations for conduct of hearings.

5. The regulatory board may establish such rules and regulations governing the conduct of hearings before it as it may deem necessary consistent with this Code and with state law.

(Code 1967, § 5-2.5)



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Sec. 2-435. - Legal counsel.

6. The regulatory board may have legal counsel present during any appeal hearing to advise on points of law and to assist the board in drafting its final decision.

(Code 1967, § 5-2.6)

Key Changes

- The assessment review function will now be performed by the Regulatory Advisory Board that will consist of seven members appointed by the City Council.



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Current Ordinance

Ordinance Section: Sec. 44-25. - Standards for waste containers.

Current Language:

No person shall put out waste, including garbage, for collection by the city except in suitable, durable containers covered by a tight fitting cover or securely closed plastic bags designed for trash disposal, which are:

- (1) Watertight and flytight;
- (2) Free from sharp edges and not exceeding 30 pounds in weight, including contents; and
- (3) No larger than 33 gallons in capacity.

Proposed Ordinance

Chapter 44 Solid Waste

Sec. 44-25. - Standards for waste containers.

No person shall put out waste, including garbage, for collection by the city except in suitable, durable containers covered by a tight fitting cover or securely closed plastic bags designed for trash disposal, which are:

- (1) Watertight and flytight;
- (2) Free from sharp edges and not exceeding 30 pounds in weight, including contents; and
- (3) No larger than 33 gallons in capacity.

(Code 1967, § 22-3.3)

Reason for change

- Should the city consider removing the plastic bag option and only have containers?
- Equipment on the collection truck now allows for larger containers.



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Current Ordinance

Ordinance Section: Sec. 61-1. - Moratorium on social clubs and retail medical marijuana caregiver storefronts.

Current Language:

WHEREAS, the Maine Medical Use of Marijuana Act, codified at 22 M.R.S. §§ 2421 to 2430-B, (the "Medical Act") authorizes the possession, cultivation, and furnishing of medical marijuana to qualifying patients by caregivers, as those terms are defined in 22 M.R.S. § 2422; and

WHEREAS, section 401 of the Marijuana Legalization Act, codified at 28-B M.R.S. [ch. 1](#) (the "Adult Use Act") authorizes municipalities pursuant to home rule authority to regulate adult use marijuana establishments, including cultivation facilities, products manufacturing facilities, testing facilities, and marijuana stores, as those terms are defined in 28-B M.R.S. § 102; and

WHEREAS, neither the Medical Act nor the Adult Use Act nor any state agency rules promulgated thereunder expressly authorize the operation of retail stores by registered caregivers for the purpose of selling medical marijuana or medical marijuana products to qualifying patients (hereafter, "Retail Medical Marijuana Caregiver Storefronts") or the furnishing or sale of marijuana or marijuana products to consumers for on-premises consumption (hereafter, "Social Clubs"); and

WHEREAS, during the first regular session, the 128th Maine Legislature considered LD 1539, "An Act to Amend Maine's Medical Marijuana Law," which, if enacted, would amend the Medical Act to expressly authorize the operation of Retail Medical Marijuana Caregiver Storefronts, and LD 238, "An Act to Amend the Maine Medical Use of Marijuana Act," which, if enacted, would expressly authorize municipalities to regulate registered caregiver operations; however, the ultimate disposition of LD 1539 and LD 238 is unknown at this time; and

WHEREAS, no specific regulations governing Social Clubs or Retail Medical Marijuana Caregiver Storefronts exist under the City's Code of Ordinances; and

WHEREAS, the City's Code of Ordinances is insufficient to prevent serious public harm that could result from the unregulated siting and operation of Social Clubs or Retail Medical Marijuana Caregiver Storefronts within the City; and

WHEREAS, the unregulated siting and operation of Social Clubs or Retail Medical Marijuana Caregiver Storefronts within the City raises legitimate and substantial questions about the impact of such facilities and related uses and activities on the City, including questions as to compatibility of such facilities with existing and permitted land uses in the City; potential adverse health and safety effects on the



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community; the adequacy of the City's infrastructure to accommodate such facilities; and the possibility of unlawful sale of marijuana and marijuana products; and

WHEREAS, as a result of the foregoing issues, the siting and operation of Social Clubs or Retail Medical Marijuana Caregiver Storefronts and related uses and activities within the City has potentially serious implications for the health, safety, and welfare of the City and its residents and visitors; and

WHEREAS, an overburdening of public facilities and resources, including public safety resources, is a reasonably foreseeable result of unregulated Social Clubs or Retail Medical Marijuana Caregiver Storefronts and related uses and activities located and operated in the City; and

WHEREAS, the City has established a working group charged with studying, reviewing, and making recommendations to the City Council regarding the regulation of adult and medical marijuana facilities, uses and activities, including Social Clubs and Retail Medical Marijuana Caregiver Storefronts; and

WHEREAS, the City and the working group needs time to understand the disposition of LD 1539, LD 238, and any State department rules promulgated pursuant to the Adult Use Act or the Medical Act in relation to its own Code of Ordinances and to evaluate the effects of Social Clubs and Retail Medical Marijuana Caregiver Storefronts and related uses and activities in order to prepare reasonable ordinance provisions governing the siting, licensing, and operation of such facilities, uses, and activities; and

WHEREAS, 30-A M.R.S. § 4356 authorizes the City to establish a moratorium on the processing or issuance of development permits or licenses; and

WHEREAS, in the judgment of the City Council, the foregoing findings constitute a necessity within the meaning of 30-A M.R.S. § 4356.

NOW, THEREFORE, be it ordained by the City Council of the City of Auburn, Maine, as follows:

1. Moratorium. The City does hereby declare a moratorium on the siting, operation, or licensing of any Social Club or Retail Medical Marijuana Caregiver Storefront within the City. For purposes of this Moratorium Ordinance, these terms shall have the following meanings:

a. "Social Club" shall mean any premises where marijuana or marijuana products are furnished or sold to consumers for on-premises consumption, excluding the personal adult consumption of marijuana or marijuana products pursuant to 28-B M.R.S. § 1501(2) or the consumption of medical marijuana or medical marijuana products pursuant to 22 M.R.S. § 2422 et seq.

b. "Retail Medical Marijuana Caregiver Storefront" shall mean a retail store, a retail business, or an establishment that resembles a retail storefront in terms of signage, hours of operation, and accessibility to patrons (including without limitation retail use or retail space, as those terms are defined in Article I, [Sec. 60-2](#) of the City's Code of Ordinances) where a licensed caregiver furnishes or sells marijuana or marijuana products to qualifying patients, as those terms are defined in 22 M.R.S. § 2422.

2. Date of Applicability. Notwithstanding 1 M.R.S. § 302 or any other law to the contrary, and regardless of the Effective Date, this Moratorium Ordinance shall govern and apply to all proceedings,



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licenses, and applications for a Social Club or Medical Marijuana Caregiver Storefront that were or are pending before the City Clerk, Code Enforcement Officer, or the Planning Board on or any time after May 31, 2018 and, to the extent allowed by 30-A M.R.S. § 3007(6), shall nullify the issuance of any final approval of the City Clerk, Code Enforcement Officer, or the Planning Board made on or at any time after May 31, 2018 that authorizes the operation of a Social Club or Medical Marijuana Caregiver Storefront (the "Date of Applicability").

3. Effective Date. This Ordinance shall become effective immediately upon its final passage by the City Council (the "Effective Date") and shall remain in full force and effect for a period of 180 days, unless extended, repealed, or modified in accordance with applicable law.

4. Conflicts; Savings Clause. Any provisions of the City's Code of Ordinances that are inconsistent with or conflict with the provisions of this Moratorium Ordinance are hereby repealed to the extent applicable for the duration of this moratorium. If any section or provision of this Moratorium Ordinance is declared by a court of competent jurisdiction to be invalid, such a declaration shall not invalidate any other section or provision.

5. Violations. If any Social Club or Medical Marijuana Caregiver Storefront is located or operates in the City, in violation of this Moratorium Ordinance, each day of any continuing violation shall constitute a separate violation of this Moratorium Ordinance and the City shall be entitled to all rights available to it pursuant to 30-A M.R.S. § 4452, including, but not limited to, fines and penalties, injunctive relief, and its reasonable attorney's fees and costs in prosecuting any such violations.

(Ord. No. 03-06182018, 6-18-2018)

Proposed Ordinance

~~Sec. 61-1. – Moratorium on social clubs and retail medical marijuana caregiver storefronts.~~

~~WHEREAS, the Maine Medical Use of Marijuana Act, codified at 22 M.R.S. §§ 2421 to 2430-B, (the "Medical Act") authorizes the possession, cultivation, and furnishing of medical marijuana to qualifying patients by caregivers, as those terms are defined in 22 M.R.S. § 2422; and~~

~~WHEREAS, section 401 of the Marijuana Legalization Act, codified at 28-B M.R.S. ch. 1 (the "Adult Use Act") authorizes municipalities pursuant to home rule authority to regulate adult use marijuana establishments, including cultivation facilities, products manufacturing facilities, testing facilities, and marijuana stores, as those terms are defined in 28-B M.R.S. § 102; and~~

~~WHEREAS, neither the Medical Act nor the Adult Use Act nor any state agency rules promulgated thereunder expressly authorize the operation of retail stores by registered caregivers for the purpose of selling medical marijuana or medical marijuana products to qualifying patients (hereafter, "Retail Medical Marijuana Caregiver Storefronts") or the furnishing or sale of marijuana or marijuana products to consumers for on-premises consumption (hereafter, "Social Clubs"); and~~



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WHEREAS, during the first regular session, the 128th Maine Legislature considered LD 1539, "An Act to Amend Maine's Medical Marijuana Law," which, if enacted, would amend the Medical Act to expressly authorize the operation of Retail Medical Marijuana Caregiver Storefronts, and LD 238, "An Act to Amend the Maine Medical Use of Marijuana Act," which, if enacted, would expressly authorize municipalities to regulate registered caregiver operations; however, the ultimate disposition of LD 1539 and LD 238 is unknown at this time; and

WHEREAS, no specific regulations governing Social Clubs or Retail Medical Marijuana Caregiver Storefronts exist under the City's Code of Ordinances; and

WHEREAS, the City's Code of Ordinances is insufficient to prevent serious public harm that could result from the unregulated siting and operation of Social Clubs or Retail Medical Marijuana Caregiver Storefronts within the City; and

WHEREAS, the unregulated siting and operation of Social Clubs or Retail Medical Marijuana Caregiver Storefronts within the City raises legitimate and substantial questions about the impact of such facilities and related uses and activities on the City, including questions as to compatibility of such facilities with existing and permitted land uses in the City; potential adverse health and safety effects on the community; the adequacy of the City's infrastructure to accommodate such facilities; and the possibility of unlawful sale of marijuana and marijuana products; and

WHEREAS, as a result of the foregoing issues, the siting and operation of Social Clubs or Retail Medical Marijuana Caregiver Storefronts and related uses and activities within the City has potentially serious implications for the health, safety, and welfare of the City and its residents and visitors; and

WHEREAS, an overburdening of public facilities and resources, including public safety resources, is a reasonably foreseeable result of unregulated Social Clubs or Retail Medical Marijuana Caregiver Storefronts and related uses and activities located and operated in the City; and

WHEREAS, the City has established a working group charged with studying, reviewing, and making recommendations to the City Council regarding the regulation of adult and medical marijuana facilities, uses and activities, including Social Clubs and Retail Medical Marijuana Caregiver Storefronts; and WHEREAS, the City and the working group needs time to understand the disposition of LD 1539, LD 238, and any State department rules promulgated pursuant to the Adult Use Act or the Medical Act in relation to its own Code of Ordinances and to evaluate the effects of Social Clubs and Retail Medical Marijuana Caregiver Storefronts and related uses and activities in order to prepare reasonable ordinance provisions governing the siting, licensing, and operation of such facilities, uses, and activities; and

WHEREAS, 30-A M.R.S. § 4356 authorizes the City to establish a moratorium on the processing or issuance of development permits or licenses; and

WHEREAS, in the judgment of the City Council, the foregoing findings constitute a necessity within the meaning of 30-A M.R.S. § 4356.

NOW, THEREFORE, be it ordained by the City Council of the City of Auburn, Maine, as follows:

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a. "Social Club" shall mean any premises where marijuana or marijuana products are furnished or sold to consumers for on-premises consumption, excluding the personal adult consumption of marijuana or marijuana products pursuant to 28-B M.R.S. § 1501(2) or the consumption of medical marijuana or



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medical marijuana products pursuant to 22 M.R.S. § 2422 et seq.

b. "Retail Medical Marijuana Caregiver Storefront" shall mean a retail store, a retail business, or an establishment that resembles a retail storefront in terms of signage, hours of operation, and accessibility to patrons (including without limitation retail use or retail space, as those terms are defined in Article I, Sec. 60-2 of the City's Code of Ordinances) where a licensed caregiver furnishes or sells marijuana or marijuana products to qualifying patients, as those terms are defined in 22 M.R.S. § 2422.

2. ~~Date of Applicability. Notwithstanding 1 M.R.S. § 302 or any other law to the contrary, and regardless of the Effective Date, this Moratorium Ordinance shall govern and apply to all proceedings, licenses, and applications for a Social Club or Medical Marijuana Caregiver Storefront that were or are pending before the City Clerk, Code Enforcement Officer, or the Planning Board on or any time after May 31, 2018 and, to the extent allowed by 30-A M.R.S. § 3007(6), shall nullify the issuance of any final approval of the City Clerk, Code Enforcement Officer, or the Planning Board made on or at any time after May 31, 2018 that authorizes the operation of a Social Club or Medical Marijuana Caregiver Storefront (the "Date of Applicability").~~

3. ~~Effective Date. This Ordinance shall become effective immediately upon its final passage by the City Council (the "Effective Date") and shall remain in full force and effect for a period of 180 days, unless extended, repealed, or modified in accordance with applicable law.~~

4. ~~Conflicts; Savings Clause. Any provisions of the City's Code of Ordinances that are inconsistent with or conflict with the provisions of this Moratorium Ordinance are hereby repealed to the extent applicable for the duration of this moratorium. If any section or provision of this Moratorium Ordinance is declared by a court of competent jurisdiction to be invalid, such a declaration shall not invalidate any other section or provision.~~

5. ~~Violations. If any Social Club or Medical Marijuana Caregiver Storefront is located or operates in the City, in violation of this Moratorium Ordinance, each day of any continuing violation shall constitute a separate violation of this Moratorium Ordinance and the City shall be entitled to all rights available to it pursuant to 30-A M.R.S. § 4452, including, but not limited to, fines and penalties, injunctive relief, and its reasonable attorney's fees and costs in prosecuting any such violations. (Ord. No. 03-06182018, 6-18-2018)~~

Reason for change

- Moratorium has expired.



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Current Ordinance

Ordinance Section:

Current Language:

Sec. 34-1. - Definitions.

1. The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:
2. *Park* means any publicly owned area maintained by the city parks and recreation department for the pursuit and enjoyment of leisure and recreational activities, in addition to any one of the following areas within the boundaries shown on the records at the assessor's office: Middle School Park, Mount Apatite Park, Central Park, Moulton Park, Pulsifer Park, Auburn Municipal Beach, Pettengill Park, Union Street Gully, Raymond Park, Camp Exchange Day Camp, Riverfront Park and Bonney Park, West Pitch Park, Lakeview Park and Cleveland Field, Chestnut Street Park, Garfield Road Park, North River Road Boat Launch, Drummond Street Playground, Lake Street Playground, and Festival Plaza.

Proposed Ordinance

34 – 54. Tobacco.

Rationale:

The City of Auburn, Maine is dedicated to providing everyone with a safe and healthy environment at all City of Auburn, Maine's recreational area properties, effective (DATE).

(a) No person shall use tobacco or marijuana products in or on city-owned athletic fields, city-owned parks, city-owned playgrounds, city-owned trails, city-owned beaches; including but not limited to Festival Plaza, Auburn Riverwalk, Ingersoll Turf Facility, Norway Savings Bank Arena, Hasty Community Center, Auburn Community Senior Center, Pettengill Park Baseball and Softball Fields, Lakeview Fields, Chestnut Field, PAL Center and Mount Apatite.

- i. The City of Auburn specifically restricts the use of any tobacco and marijuana products, including, but not limited to cigarettes, cigars, dip, chew, dabs, electronic nicotine delivery devices, Juuls. (see Definitions)

(b) Tobacco and Marijuana use on all school grounds is prohibited by state law at all times.



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Definitions

Smoking means inhaling, exhaling, burning or carrying any lighted or heated cigar, cigarette, pipe or joint, or any other lighted or heated tobacco or plant product intended for inhalation, including hookahs and marijuana, whether natural or synthetic in any manner or in any form. “Smoking” also includes the use of an electronic smoking device which creates an aerosol or vapor, in any manner or in any form, or the use of any oral smoking device for the purpose of circumventing the prohibition of smoking in this policy. Non-smoking marijuana products including, but not limited to, edibles and dabs are also included in this policy.

Tobacco is defined as all tobacco-derived or containing products, including but not limited to, cigarettes, cigars, little cigars, cigarillos, bidis, kreteks; all smokeless and dissolvable tobacco products, including but not limited to, dip, spit/spit-less, chew, snuff, snus, and nasal tobacco; and any product intended to mimic tobacco, containing tobacco flavoring or delivering nicotine, including but not limited to, electronic nicotine delivery systems, e-cigarettes, e-cigars, e-hookahs, vape pen or any other product name or descriptor. Or the use of any other type of tobacco or nicotine product for the purpose of circumventing the prohibition of tobacco in this policy. This does not include products specifically approved by the US Food and Drug Administration (FDA) for the purpose of cessation or nicotine replacement therapy.

Marijuana means the leaves, stems, flowers and seeds of a marijuana plant, whether growing or not.

Notifications:

The parks and recreation staff or their representatives will have the authority to notify offenders about the policy and have the authority to ask persons to leave if uncooperative. Notifications will follow the norms and procedures of other ordinances. The parks and recreation department shall place signs at the beginning and end point of any city trail as well as in such other locations that the parks and recreation department deem necessary to notify the public of this ordinance. There will be a three-month educational period before the ordinance is put into effect.

Enforcement/Penalties:

Persons who violate any provision of this article shall be guilty of an infraction, punishable by a fine of \$200.00 and said fines shall be recovered for use by the City:

Reason for change

- Addition of the Rational Section.
- Addition of the definitions for Smoking, Tobacco and Marijuana.



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Current Ordinance

1. Section 60-34: Should reference Division 9 (PUDs) not Downtown Enterprise.
2. Section 60-45(d): The reference to 60-525(b)(13) is Outpatient Addiction Treatment Clinics. It should be referencing new buildings over 5,000 square feet for Special Exception, which is 50-525(b)(14). This section also references 60-547(b)(4) which does not exist; it should reference 60-556(b)(3) which applies to projects over 12,000SF in the Form-Based Code subject to Special Exception. Lastly, it also references 60-578(b)(33) which are Child Day Care Centers; this section should reference 60-578(b)(35) which are Special Exception uses.
3. Section 60-51 references Article II of Chapter 6. Chapter 6 doesn't exist. It should be Chapter 14, Article IX – mass gatherings.
4. Section 60-78 references Article V, Division 10 is Downtown Enterprise. It should reference Division 9, which are the PUD standards.
5. Section 60-145(a)(1) references Sec. 60-173 which doesn't exist. It meant to reference 60-1010, which are the boundaries for manufactured housing and include the siting requirements. Also added division 6, after article XII which are the requirements pertaining specifically to the manufactured housing overlay district.
6. Section 60-145(b)(18) also references 60-174 which doesn't exist. It should reference 60-1010.
7. Section 60-146(1)(b) – Animal farm doesn't exist as a definition, the animal units are defined under farm, livestock.
8. Section 60-146(5) references Articles V-IX which include: Off-street parking and loading, signs, manufactured housing and mobile homes, excavation permit regulations and home occupation regulations. Since it is referring to off-street parking space requirements, it should just reference article V.
9. Section 60-201(b)(1) references special exception uses in the Ag-Zone only but includes LDCR in the division references - division 3 of article IV. LDCR references the Ag-Zone, why should it reference its own Zone in here? This is confusing and should be cleaned up by saying division 2, which is the Ag-Zone.
10. Section 60-202(1) – Animal farm doesn't exist as a definition, the animal units are defined under farm, livestock.
11. Section 60-202(5) references Articles V-IX which include: Off-street parking and loading, signs, manufactured housing and mobile homes, excavation permit regulations and home occupation regulations. Since it is referring to off-street parking space requirements, it should just reference article V.
12. Section 60-229(a)(4) references PUDs as division 10 again but they are under division 9. Also references division 4 of article XVII which is PB recommendations – should reference subdivision which is division 4 of article XVI. Someone accidentally added an extra I but makes a big difference when interpreting!



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13. Section 60-230(1) Animal farm doesn't exist as a definition, the animal units are defined under farm, livestock.
14. Section 60-230(5) references Articles V-IX which include: Off-street parking and loading, signs, manufactured housing and mobile homes, excavation permit regulations and home occupation regulations. Since it is referring to off-street parking space requirements, it should just reference article V.
15. Section 60-255(a)(3) references PUDs again, which are in division 9.
16. Section 60-255(a)(8) Animal farm doesn't exist as a definition, the animal units are defined under farm, livestock.
17. Section 60-255(b)(2)(c) references Articles V-IX which include: Off-street parking and loading, signs, manufactured housing and mobile homes, excavation permit regulations and home occupation regulations. Since it is referring to off-street parking space requirements, it should just reference article V.
18. Section 60-256(5) references Articles V-IX which include: Off-street parking and loading, signs, manufactured housing and mobile homes, excavation permit regulations and home occupation regulations. Since it is referring to off-street parking space requirements, it should just reference article V.
19. Section 60-277(a)(3) references PUDs again as division 10 but they are under division 9.
20. Section 60-277(b) references division 6 as being the suburban residential district but it is division 5.
21. Section 60-278(5) references Articles V-IX which include: Off-street parking and loading, signs, manufactured housing and mobile homes, excavation permit regulations and home occupation regulations. Since it is referring to off-street parking space requirements, it should just reference article V.
22. Section 60-306(a)(4) The PUD reference should be division 9.
23. Section 60-306(b)(1) references UR district as division 7 but its division 6.
24. Section 60-307(5) references Articles V-IX which include: Off-street parking and loading, signs, manufactured housing and mobile homes, excavation permit regulations and home occupation regulations. Since it is referring to off-street parking space requirements, it should just reference article V.
25. Section 60-334(b)(1) MFS is division 7 not 8.
26. Section 60-335(5) references Articles V-IX which include: Off-street parking and loading, signs, manufactured housing and mobile homes, excavation permit regulations and home occupation regulations. Since it is referring to off-street parking space requirements, it should just reference article V.
27. Section 60-360(b) reference to signs should be article VI not V which is off-street parking and loading.
28. Section 60-382(3) change CB to GBII because we don't call it commercial business in the ordinance its referred to as Minot Ave (GBII).
29. Section 60-385(2)(b) references division 10, which is downtown enterprise. Should



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reference division 11 which are the neighborhood business standards.

30. Section 60-499(a)(1) MFS is division 7 not 9.
31. Section 60-499(a)(31) marijuana references chapter 11 article 14. Ch. 11 doesn't exist should be chapter 14, article XVIII.
32. Section 60-500(5) references Articles V-IX which include: Off-street parking and loading, signs, manufactured housing and mobile homes, excavation permit regulations and home occupation regulations. Since it is referring to off-street parking space requirements, it should just reference article V.
33. Section 60-525(a)(1) MFS reference should be division 7 not 9.
34. Section 60-525(a)(29) marijuana reference should be chapter 14, article XVIII.
35. Section 60-578(a)(27)(28) wrong reference update to say Chapter 14, article XVIII in both.
36. Section 60-579(5) references Articles V-IX which include: Off-street parking and loading, signs, manufactured housing and mobile homes, excavation permit regulations and home occupation regulations. Since it is referring to off-street parking space requirements, it should just reference article V.
37. Section 60-669(4) references Articles V-IX which include: Off-street parking and loading, signs, manufactured housing and mobile homes, excavation permit regulations and home occupation regulations. Since it is referring to off-street parking space requirements, it should just reference article V.
38. Section 60-739(b) change reference to 60-1475 which is notice to abutters. 1476 is reserved, doesn't exist.
39. Section 60-607 (18) remove ADAPT reference and add in FBC.
40. Section 60-526(5) references Articles V-IX which include: Off-street parking and loading, signs, manufactured housing and mobile homes, excavation permit regulations and home occupation regulations. Since it is referring to off-street parking space requirements, it should just reference article V.
41. Section 60-558(c)(1) waiver requests remove law and review in brackets and just say site plan review.
42. Section 60-843(a) should reference division 3 because division 4 is subdivision.
43. Section 60-923(b)(4) the end references section 60-985(a) which doesn't exist. It means to reference 60-992(a), which lists setbacks for principal and accessory structures.
44. Section 60-923(d) references subsection (c)(2) for converting building, should just reference subsection c.
45. Section 60-990(c)(1)(a): Change reference from 30-990(c)(3) to 60-990.
46. Section 60-990(c)(3) remove I which doesn't reference anything where it says I(3)(b) above.
47. Section 60-991(c)(5) references Articles V-IX which include: Off-street parking and loading, signs, manufactured housing and mobile homes, excavation permit regulations and home occupation regulations. Since it is referring to off-street parking space



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requirements, it should just reference article V.

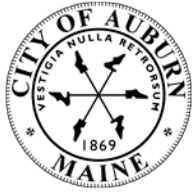
- 48. Section 60-992(a) central business I, II and III don't exist.
- 49. Section 60-1004(b) remove reference to 60-1003 – old timber harvesting standards
- 50. Section 60-1004(b)(2) remove timber harvesting reference
- 51. Section 60-1004(b)(3) remove timber harvesting reference
- 52. Section 60-1004(b)(5) remove timber harvesting reference
- 53. Section 60-1004(e) remove timber harvesting reference
- 54. Section 60-1039(b)(4) remove article 11 after chapter 14 because it references tattoo licensing, it just meant to reference business licenses in general
- 55. Section 60-1475 – Definition of abutters should reference 1473 not 1476.
- 56. Update all references to the various "department director" standards to state "Director of Planning and Permitting OR its Designee."

Proposed Ordinance

****See above** **See attached ordinance for track changes****

Reason for proposed change

Correction of items that are not referenced properly.



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Current Ordinance

1. Chapter 60, Article I – In General, Section 60-4(b)

Correct spelling of “classification” to “classification” in zoning district table.

2. Chapter 60, Article II – General Provisions, Section 60-47

Capitalize “a” at the beginning of “all other yards...” after first sentence.

3. Chapter 60, Article IV – District Regulations, Section 60-146(4)

Under height, change language from “two and one-half stories of 35 feet in height” to “two and one-half stories OR 35 feet in height.”

4. Chapter 60, Article IV – District Regulations, Section 60-307(4)

Under height, change language from “2½ stories of 35 feet” to “2½ stories OR 35 feet.”

5. Chapter 60, Article IV – District Regulations, Section 60-335(1)(e)

Capitalize “m” at the beginning of “more than one principal” after the second sentence.

6. Chapter 60, Article IV – District Regulations, Section 60-386(8)

Correct spelling of “distrct” to “district” in the sentence beginning with “the requirements of this chapter applicable to the underlying distrct...”

7. Chapter 60, Article IV – District Regulations, Section 60-420(e)

The first sentence says “the planning board may require adequate assurance in a form consistent in a form acceptable to the planning board...” should be corrected to say “in a form consistent and acceptable...”

8. Chapter 60, Article IV – District Regulations, Section 420(g)(3)(d)

Remove period after “a” and “b” where it says “...under subsection (g)(3)a. and b...” to be consistent with the paragraph above.

9. Chapter 60, Article IV – District Regulations, Section 60-500(4)

Correct “commis-sion” in the second sentence starting with “Religious buildings, municipal buildings or buildings...” to remove the dash.

10. Chapter 60, Article IV – District Regulations, Section 60-548.3

In the “External Elements T-4.1” table under residential parking, update “ONLV” to “ONLY.”

11. Chapter 60, Article IV – District Regulations, Section 60-549.2

In the “Building Frontages” table under “ground story finished floor elevation” for both



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residential and commercial, change "STORV" to "STORY."

12. Chapter 60, Article IV – District Regulations, Section 60-550.3

In the "External Elements T-5.1" table under front yard fence (residential) update "VARD" to "YARD." Under "building projections" remove "stoop" as it is discussed below under encroachments. Under parking (residential) update "STORV" TO "STORY."

13. Chapter 60, Article IV – District Regulations, Section 60-551.2

In the "Building Frontages T-5.2" table under ground story finished floor elevation (residential) update "STORV" to "STORY."

14. Chapter 60, Article IV – District Regulations, Section 60-552

In the "Key Features" bullet list fix "*,enStreetscape elements" to remove the "*,en" from in front of Streetscape.

15. Chapter 60, Article IV – District Regulations, Section 60-552.2

In the "Building Frontages T-6" table under Building Envelope Articulation fix "Upper story building frontage "fagade" to "façade"

16. Chapter 60, Article V – Off-Street Parking and Loading, Section 60-607(6)

In the sentence starting with "no required parking area or driveways servicing same" add a "the" before "same" for clarification purposes.

17. Chapter 60, Article V – Off-Street Parking and Loading, Section 60-609

In the off-street loading space requirements table, under "land use" update the "retail trade, manufacturing and hospital establishment with over 5,000 square feet of gross" to add "floor area" after gross. Under "minimum number of off-street loading spaces" bump the word requirements up onto the same line as loading in the table.

18. Chapter 60, Article VI – Signs, Section 60-638(a)(10)(d)

Remove the word sign after "designee" in the sentence "if such a hazard is created the director of planning and permitting or his designee sign may..."

19. Chapter 60, Article VIII – Excavation Permit Regulations, Section 60-703(f)

Added an "in" in the first sentence "the Lake Auburn Watershed Protection Commission and gravel pits grandfathered this article..." to say "...grandfathered IN this article..."

20. Chapter 60, Article X – Access Management Standards, Section 60-772(3)(c)

Remove the capital "S" in the sentence "uses with a drive-through facility which generateS..."



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21. Chapter 60, Article X – Access Management Standards, Section 60-799, 60-799(1)

Update "site" under "safe site distance" to "sight"

22. Chapter 60, Article X – Access Management Standards, Section 60-800(a)

Capitalize the "t" in "the" at the start of the second sentence.

23. Chapter 60, Article XI – Wireless Communications Facilities, Section 60-839(b)

Add an "of" in the first sentence to read "unless subject to the provisions OF subsection (a)..."

24. Chapter 60, Article XII – Environmental Regulations, Section 60-892(c)

Capitalize the "t" at the beginning of the second sentence starting with "This division."

25. Chapter 60, Article XII – Environmental Regulations, Section 60-921(a)

In the last sentence where it says it is the policy of the to guide growth, add "city" after the.

26. Chapter 60, Article XIII – Environmental Performance Standards, Section 60-1070(1)(d)

Remove the second "and" at the end of the sentence where it says "March 1991, and and all building..."

27. Chapter 60, Article XVI – Administration and Enforcement, Section 60-1365(2)(a)

Replace "lost" with "lots" to correct the spelling error.

Proposed Ordinance

****See above** **See attached ordinance for track changes****

Reason for proposed change

Correction of spelling and capitalization errors and word placement.



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Current Ordinance

1. Section 60-307(1)(e) (Multifamily Suburban) recommend reconsidering the 200 feet in depth for multifamily when it isn't required for a three-family or four-family. Three or more families is our definition for multifamily. Suggest removing 3 and 4-family references entirely and keep the minimum depth of 100 feet and utilize the minimum lot area to dictate the depth.
2. Section 60-34. - Buildings per lot. Change requirement for two-family homes in a single structure to allow two structures when 2 units are already permitted on the parcel. Common example is a dwelling unit or additional living space over a detached garage.
3. Section 60-307(2) recommend updating the density table reflecting the suggested change above to remove 3 and 4 family.
4. Section 60-335(1)(d) (Multifamily Urban) similar to above, recommend reconsidering the 100 feet in width when it is 50 feet for 1-3 family. Three or more families is our definition for multifamily. Suggest removing 3 and 4-family references entirely, keep the minimum width of 200 feet and utilize the minimum lot area to dictate width.
5. Section 6-335(2) recommend updating the density table reflecting the suggested change above to remove 3 and 4 family.
6. Recommend removing Division 10 entirely, Downtown Enterprise, as it does not exist anymore with the change to FBC. As part of this change, recommend placing Division 10 in "reserved" so as not to affect the numbering/references of other districts.
7. Section 60-525(b)(14) references permitted uses under the General Business section of the ordinance when this section is General Business II. To follow the other ordinances, it should reference section 60-525(a) instead of 60-499(a).
8. Section 60-553 currently reserved, recommend adding a conservation/open space FBC purpose because it is a small district but is not explained anywhere in the ordinance for Staff or Developers to interpret its meaning/purpose.
9. Section 60-668(b)(1) should require the lowest floor to be elevated 1 foot above the BFE (FEMA Guidelines).
10. Section 60-992(a) recommend changing the lot depth from 120 feet to 150 feet to allow some more flexibility with permitting. We run into this issue a lot where property owners have, say 121 feet in lot depth and aren't able to take advantage of the 50% of the lot depth measurement. Replace reference from Multi-Family Urban, Central Business 1,2 and 3 to Form Based Code to match updated zoning map. Staff would have to notify the State on this change as it is to the Shoreland Zone ordinance.
11. Section 60-1300 recommend changing 20 copies to 15 copies as we never use the 20 copies. We distribute copies as follows: 9 Planning Board members, 3 Planning Staff members, and remaining Staff that would like paper copies, most review electronically.
12. Section 60-1363(a)(1) recommend removing computer aided drafting disk and replace



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with "electronic copy." Mylar copies are no longer required at the Registry of Deeds, recommend removing references to Mylar and update to only require 15 copies instead of 20.

13. Section 60-1363(b)(1) under filing, remove references to Mylars.
14. Section 60-1363(b)(2) with the update to remove Mylar, recommend updating text to require 6 sets of plans.
15. Section 60-1367 pertains to recreation/open space standards, updated to specify that it applies to single-family residential subdivision.
16. Sec. 60-1070. - Submission requirements-Update references to current State of Maine Phosphorus and Erosion Control Best Management Practices. Makes the standards consistent with industry standards and adds simplified option for Single Family homes.
17. Electronic signs allowed in T5 and T6 Commercial Districts. This reference was an oversight when we changed zoning from General Business and Commercial Business I, II and III and created existing nonconformities for some banks and businesses.

Proposed Ordinance

****See above** **See attached ordinance for track changes****

Reason for proposed change

Suggested ordinance changes based on items that have come up through project reviews and needed clarification.

Chapter 60 - ZONING^[1]

Footnotes:

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State Law reference— Municipal planning and land use regulation generally, 30-A M.R.S.A. § 4301 et seq.; land use regulation, 30-A M.R.S.A. § 4351 et seq.; zoning ordinances, 30-A M.R.S.A. § 4352; regulation of manufactured housing, 30-A M.R.S.A. § 4358; enforcement of land use regulations generally, 30-A M.R.S.A. § 4451 et seq.; subdivisions, 30-A M.R.S.A. § 4401 et seq.; fences and fence viewers generally, 30-A M.R.S.A. § 2951 et seq.; local growth management programs, 30-A M.R.S.A. § 4321 et seq.; Airport Zoning Act, 6 M.R.S.A. § 241 et seq.

ARTICLE I. - IN GENERAL

Sec. 60-1. - Terms.

For the purpose of this chapter, certain terms or words used herein shall be interpreted as follows:

Lot. The term "lot" includes the words plot or parcel.

Person. The term "person" includes a firm, association, organization, partnership, trust, company or corporation, as well as an individual.

Shall/may. The term "shall" is mandatory, the term "may" is permissive.

Tense. The present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular.

Used or occupied. The term "used" or "occupied" includes the words intended, designed, or arranged, to be used or occupied.

(Ord. of 9-21-2009, § 2.1)

Sec. 60-2. - Definitions.

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:

Accessory structure or building means an uninhabited building, at least five feet in distance from the principal building, used for a purpose which is customarily subordinate and 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 use. The term "accessory buildings," in residential districts, includes tool sheds, wood sheds, detached garages and swimming pools. No accessory building shall house a home occupation or professional office or be used as a sales outlet in a residential district.

Accessory use means a subordinate use of land or building which is customarily incidental and subordinate 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.

Adaptive reuse means a special exception permitting a structure of community significance to be used for one or more purposes, not otherwise permitted in the district in which the building is located, but which the planning board has determined will contribute to the preservation of a structure of community significance, including without limitation, the following uses:

- (1) Bed and breakfast homes or inns;
- (2) Restaurants, diners or cafes;
- (3) Art studios and galleries;

- (4) Performing arts centers;
- (5) Medical and dental clinics;
- (6) Office space;
- (7) Municipal and government uses; and
- (8) Retail sales as an accessory use.

Adult day center means a supervised facility providing a program of education, crafts or recreation for adults over the age of 55 years.

Animal unit means one living animal of any species.

Antique shop means a building, or portion of building, where artifacts from generally recognized previous eras are sold or traded as the primary commercial activity.

Apartment. See the term *Dwelling unit*.

Architectural features means exterior building elements intended to provide ornamentation to the building massing, including but not limited to, eaves, cornices, bay windows, window and door surrounds, light fixtures, canopies, and balconies.

Art galleries means a building or place where works of art or other objects of value are kept, displayed, produced and offered for sale to the general public.

Artist studio, residential means a dwelling where up to 50 percent of the total floor space can be used for the production of art and/or craft products. The term "residential artist studio" shall not include galleries or studios open to the public for display or sales. All artist studios shall be designed to meet all residential safety and occupancy requirements and shall be considered to be accessory to the residential use.

Automobile means a passenger vehicle propelled by a self-contained motor. The term "automobile" also includes motorcycles, all-terrain vehicles, trucks and recreation vehicles (RVs).

Automobile and marine paint and body shops means a building in which the business of automobile and marine paint and bodywork is conducted. Such use may also include as an accessory use a facility for the orderly display and sale of vehicles which have undergone substantial body repair on the premises. No such facility shall display, outdoors or indoors, or offer for sale more than ten vehicles at any one time.

Automobile and marine repair and service station means a building, lot or both in or upon which the business of general motor repair and vehicle service is conducted, but excluding junk and/or wrecking businesses.

Automobile, commercial, means a vehicle the primary use of which is commercial in character.

Automobile filling station means a building or lot having pumps and storage tanks at which fuel, oil or accessories for the use of motor vehicles are dispensed, sold or offered for sale at retail, where repair service is incidental and no vehicle storage or parking space is offered for rent.

Automobile garage, private, means an accessory building or portion of a main building designed, arranged or used for housing of private motor vehicles, only one of which may be a commercial vehicle. Not more than 50 percent of the space in such a garage shall be used for housing vehicles other than those owned by occupants of the premises.

Automobile parking lot, private, means a parcel of land, lot or portion thereof required, in accordance with these regulations, for off-street automobile parking.

Automobile repair and service station means a building, lot or both in or upon which the business of general motor vehicle repair and service is conducted, but excluding junk and/or wrecking business.

Automobile sales lot means a lot arranged, designed or used for the storage and display of motor vehicles or any unoccupied trailer for sale.

Automobile scrap yard means any land or building used for the dismantling, storage and salvaging for reuse of automobiles or other vehicles not in running condition.

Automotive towing and storage means a business engaged in/or offering the services of a towtruck or towing service whereby motor vehicles are towed or otherwise removed from one place to another by the use of a motor vehicle specifically designed for that purpose. Storage of towed vehicles is considered to be the keeping of vehicles in a secured yard for not more than 120 days until claimed or disposed of in accordance with the laws of the state.

Basement means that portion of a building below the first floor joists having at least one-half of its clear ceiling height above the main level of the adjacent ground.

Bed and breakfast home means an accessory use to a single-family dwelling involving the renting of four or fewer guestrooms to transient guests who are staying for a limited duration (seven consecutive days and/or 60 accumulated days in a calendar year) and the serving of breakfast only to house guests. Such establishment shall be owned and operated by the resident of the dwelling. The term "bed and breakfast home" also includes a tourist home.

Bed and breakfast inn means a dwelling involving the renting of more than four but fewer than ten guestrooms to transient guests who are staying for a limited duration (seven consecutive days and/or 60 accumulated days in a calendar year) and the serving of breakfast to house guests only. Such use may provide a restaurant, function rooms and places of public assembly.

Boardinghouse or lodginghouse means a dwelling which, for compensation, lodging, or lodging and meals are provided to more than four persons and where a proprietor or owner may reside in the building. No provisions for cooking in individual rooms other than a main kitchen is allowed.

Building means a structure having one or more stories and a roof, designed primarily for the shelter, support or enclosure of persons, animals or property of any kind. (See the term *Structure*.)

Building envelope means the ground area on a lot and the space above it on which a building may be constructed.

Building form means the overall shape and dimensions of a building.

Building height means the vertical distance from the grade of the top of the highest roof beams of a flat roof, or to the mean level of the highest gable or slope of a hip roof. When a building faces on more than one street, the height shall be measured from the averages of the grades at the center of each street front.

Building inspector means the building inspector of the City of Auburn, Maine, or their duly authorized agent.

Building line means a line beyond which the foundation wall and/or any enclosed porch, vestibule of other enclosed portion of a building shall not project.

Building, principal, means a building in which is conducted the principal use of the lot on which it is situated.

Care home means a rest, nursing, or convalescent home established to render domiciliary nursing care and board for chronically ill or convalescent patients, or persons who are infirm because of mental or physical conditions, but excluding a child care home or one for the care of mentally retarded patients, alcoholics, psychotics or drug addicts.

Cellar means that portion of a building below the first floor joists having at least one-half of its clear ceiling height below the mean level of the adjacent ground. A cellar shall not be used for habitation.

Cemetery means a place used for the permanent interment of dead bodies or cremated remains thereof. A cemetery may be a burial park of earth interments, a mausoleum for vault or crypt interments, a columbarium for cinerary interments, or a combination of one or more thereof.

Child care home means a child boarding home, summer camp, foster family home or other place providing domiciliary arrangements for compensation, of three or more children, unrelated to the operator by blood, marriage or adoption, under 18 years of age. A facility providing child day care less than 24

hours per day, per child, to more than five children shall not be considered a child care home. The term "child care home" includes any family-type facility which provides child care to children placed by order of any court of competent jurisdiction, or by any public welfare department, or other governmental agency having responsibility for placing children for care, or placed by child-placing agency licensed under state law.

Child day care center means a facility conducted or maintained by anyone who provides, for consideration, care and protection for more than 12 children under 16 years of age, unrelated to the day care center operator, who are unattended by parents or guardians, for any part of the day. Any facility, the chief purpose of which is to provide education, shall not be considered to be a day care center, but is classified as a nursery school.

Child day care home means an accessory use of a residence by a person residing on a premises to provide on a regular basis, and for consideration, care and protection for up to 12 children under 16 years of age, unrelated to the day care home operator, who are unattended by parents or guardians, for any part of the day. Any facility, the chief purpose of which is to provide education, shall not be considered to be a day care home, but is classified as a nursery school. A child day care home shall not be located closer to another child day care home than 500 feet measured along the street frontage. Child day care homes shall be reviewed under the city's home occupation regulations (article IX of this chapter) and shall meet the following:

- (1) All outdoor play areas, used in conjunction with the day care operation, shall be fully enclosed by a fence, a minimum of four feet in height.
- (2) If the property utilizes a private sewerage disposal/septic system a written verification from a site evaluator, stating that the current system can handle the change of use to include the children in the proposed day care, shall be submitted.

Church means a building, together with its accessory buildings and uses, where persons regularly assemble for religious worship, and which buildings, accessory buildings and uses are maintained and controlled by a religious body organized to sustain public worship.

Clinic means an establishment where patients are accepted for treatment by a group of physicians practicing medicine together, but shall not offer domiciliary arrangements; medical and dental.

Club, private, means any building or rooms, which serve as a meeting place for an incorporated or unincorporated association for civic, social, cultural, religious, literary, political, recreational or like activities, operated for the benefit of its members and not open to the general public.

Community based residential facilities (CRF) means dwelling units providing communal domiciliary arrangements for a group of unrelated persons under supervision of the state government human service agencies, for the transition of formerly institutionalized persons back into the mainstream community living and participation, a halfway house, or a group home.

Comprehensive plan means the master development plan of the City of Auburn, Maine, any amendments or additions thereto, part or portion thereof adopted by the city council upon recommendations of the planning board of Auburn, Maine, pursuant to 30-A M.R.S.A. § 4323.

Convenience store means a business establishment having an interior selling space of less than 3,000 square feet where general food supplies for the table, other articles of household use and gasoline pump service is offered for sale. Such a use may include the sale of food vended in disposable containers for consumption on or off the premises.

Court means an open, unoccupied space, other than a yard, on the same lot with a building or group of buildings which is bounded on two or more sides by such building or buildings and every part of which is clear and unobstructed from its lowest point to the sky.

Dental clinic means an establishment where patients are accepted for treatment by a group of dentists practicing dentistry together.

Development standard(s) means building standards that establish basic parameters governing building form, including the envelope for building placement in three dimensions and certain permitted

and required building elements such as storefronts, balconies, street walls, etc. The development standards establish both boundaries within which development may take place and what requirements apply.

Director means the director of planning and any successor or other official designated from time to time by the city council to enforce the provisions of this chapter.

District or zone means an area within which certain uses of land and buildings are permitted or denied pursuant to municipal review, and certain others are prohibited.

District, overlay, means a special district or zone which addresses special land use circumstances and environmental safeguards and is superimposed over the underlying existing zoning districts. Permitted uses in the underlying zoning district shall continue subject to compliance with the regulations of the overlay zone or district.

Dormitory means a building or portion thereof used for sleeping purposes in connection with a school, college or other educational institution.

Driveway means private ways intended for internal vehicular circulation on a lot or within an automobile parking lot.

Dump means any premises used primarily for disposal by abandonment, discarding, dumping, reduction, burial, incineration or any other means and for whatever purpose of garbage, trash, refuse, dead animals, waste materials of any kind, junk; but not untreated sewage, animal waste, discarded machinery, or vehicles or parts thereof. The establishment of any dump shall be approved by the city council of the City of Auburn.

Dwelling means a building or portion thereof arranged or designed to provide living facilities for one or more families.

Dwelling, multifamily, means a residence designed for or occupied by three or more families with separate housekeeping and cooking facilities for each.

Dwelling, one-family attached, means a residential structure designed to house a single-family unit from lowest level to roof, with private outside entrance, but not necessarily occupying a private lot, and sharing a common wall or walls with an adjoining dwelling unit or units. Each one-family attached dwelling shall contain not less than 700 square feet of net floor area of habitable space.

Dwelling, one-family detached, means 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 only, excluding those forms of temporary housing permitted by section 60-666. Each one-family detached dwelling shall contain not less than 700 square feet of net floor area of habitable space.

Dwelling, seasonal, means a dwelling occupied for not more than six months of any year.

Dwelling, two-family, means a freestanding building intended and designed to be occupied and used exclusively for residential purposes by two families only, with separate housekeeping and cooking facilities for each.

Dwelling unit means a room or group of rooms located within a building and forming a single habitable unit, physically separated from any other rooms or dwelling units which may be in the same structure, with facilities which are used for or intended to be used for independent living, sleeping, cooking and eating purposes. Dwelling units available for rental or occupancy for periods of less than one week shall be considered boarding/lodging units.

Eave means the edge of a roof which projects beyond the exterior wall.

Encroachment means any architectural feature, structure or structural element, such as a gallery, fence, garden wall, porch, stoop, balcony, bay window, terrace, or deck that breaks the plane of a vertical or horizontal regulatory limit exceeding into a setback, the public frontage, or above a height limit.

Erected includes the terms "built," "constructed," "reconstructed," "enlarged" and/or "retained on."

Facade means the vertical surface of a building.

Family means one or more persons occupying a single housekeeping unit and using common cooking facilities, provided that unless all members are related by blood or marriage, no such family shall contain over four persons.

Farm means any parcel of land which is used in the raising of agricultural products, livestock or poultry, or for dairying.

Farm, livestock, means any parcel of land that contains at least the following land area used for the keeping of horses, mules, donkeys, cattle, goats, sheep, swine and similar sized animals for the agricultural use of the residents of the lot, provided that there is a minimum of 1 acre of land as required by Chapter 8 Animals and adequate land area is provided for each animal unit, excluding water bodies of one-quarter acre surface area or larger:

- (1) Cattle: One bovine animal unit per acre of cleared hay-pasture land.
- (2) Horse: 1.5 animal units per acre of cleared hay/pasture land.
- (3) Sheep: Three animal units per acre of cleared hay/pasture land.
- (4) Swine: Two animal units per acre of cleared land.
- (5) Other livestock farms: The required lot size shall be determined by municipal officer charged with enforcement and shall conform to the lot size for similar sized animals.

Floodplain overlay means those areas of the city which are directly affected by flooding as shown on the flood insurance rate maps (FIRM) as established by the Federal Emergency Management Agency and that shall comply with the pertinent regulations found in division 2 of article XII of this chapter pertaining to the Floodplain Overlay District.

Floor area of building means the total number of square feet of floor area of all stories in a building, excluding cellars, uncovered steps and uncovered porches. All horizontal measurements shall be made between exterior faces of walls.

Form based code means a land development regulation that fosters predictable built results and a high-quality public realm by using physical form (rather than separation of uses) as the organizing principle for the code.

Form based code zoning district means one of the five areas on the regulating plan, including Transect 4.1 (T-4.1), Transect 4.2 (T-4.2), Transect 5.1 (T-5.1), Transect 5.2 (T-5.2), and Transect 6 (T-6).

Frontage means the length of a lot extending between the side lot lines of a lot which borders an accepted portion of a street. Maine Turnpike frontage does not apply to this definition.

Frontage line means the lot line(s) of a lot fronting a street or other public way.

Greenhouse means an enclosed structure where trees, shrubs, vines and plants are propagated, grown or maintained. Activities associated with a greenhouse include:

- (1) The sale of greenhouse products and related supplies; and
- (2) The storage of material used in the maintenance of plants and growing items sold.

Grocery store means a small retail establishment having an interior selling space of less than 3,000 square feet where general food supplies for the table and other articles of household use are offered for sale. Such a use may include the sale of food vended in disposable containers for consumption on or off the premises; a corner market, a mom and pop store.

Ground area of building means the total number of square feet of horizontal surface covered by a building, including covered porches and accessory buildings. All measurements shall be made between exterior faces of walls, foundation, piers or other means of support.

Group home. See the term *Community based residential facilities*.

Guesthouse means a detached dwelling that is intended, arranged or designed for occupancy by transient, nonpaying visitors.

Habitable space means that area within a dwelling which has headroom of not less than seven feet when measured vertically upward from the finished floor, provided that any such area next below the roof of a dwelling shall be counted only if it is connected with the story next below by a permanent inside stairway. The floor area of any porch, cellar room, garage or shed attached to such dwelling shall not be counted in any measure of habitable space.

Half-story means 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.

Historic site means a parcel of land, a particular building, or a group of buildings that have played a significant role in the history of the community, and identified as such by the state historic preservation committee.

Historic or archaeological resources means areas identified by a governmental agency such as the state historic preservation commission as having significant value as historic or archaeological resources and any areas identified in the municipality's comprehensive plan.

Hog farm means any land or building used for the purpose of keeping, feeding or raising 20 or more swine per piggery. Establishment of this use requires approval from the city health department.

Home occupation means the accessory use of a dwelling unit for a business or commercial venture engaged in, by the person residing in the dwelling unit, and which allows up to one person who does not reside on the premises to be employed by that home occupation.

Hospital means any institution receiving inpatients and rendering medical, surgical and/or obstetrical care. The term "hospital" includes general hospitals and institutions in which service is limited to special fields such as cardiac, eye, nose and throat, pediatric, orthopedic, skin, cancer, mental health, tuberculosis, chronic disease and obstetrics. The term "hospital" also includes sanitariums, including those wherein mentally retarded and mental patients, epileptics, alcoholics, senile psychotics or drug addicts are cared for or treated.

Hotel means a building in which the primary use is transient lodging accommodations offered to the public on a daily rate of compensation and where ingress and egress to the sleeping rooms is primarily through an inside lobby or office, supervised by a person in charge at all hours. Such facilities may include accessory uses such as restaurants, bars, nightclubs, function rooms, places of public assembly and/or recreational facilities.

Household pet means any animal kept as a pet and normally housed at night within the owner's dwelling or an accessory building on the same lot, including laying hens, but not including any animal normally raised as livestock or poultry or any animal raised for commercial gain. No household pet shall be kept that creates a public nuisance by reason of:

- (1) Objectionable effects perceptible outside the owner's property, such as excessive or untimely noise or offensive odors; or
- (2) Being a hazard to the health, safety and welfare of neighbors, invited guests or public servants visiting the property in the pursuit of their normal duties.

Illustrative plan means a plan or map that depicts (i.e. illustrates but does not regulate) the streets, lots, buildings and general landscaping of the proposed Downtown Auburn/New Auburn Form-Based Code District.

Industrial use, heavy, means the use of real estate, building or structure, or any portion thereof, for assembling, fabricating, manufacturing, packaging or processing operations.

Industrial use, light, means the use of real estate, building or structure, or any portion thereof, for manufacturing or fabrication which will not create a nuisance by noise, smoke, vibration, odor or appearance.

Institution means any building or open area used only by an educational, religious, medical, charitable, philanthropic, or nonprofit organization, either public or private.

Institution, philanthropic, means a private, nonprofit organization that is not organized or operated for the purpose of carrying on a trade or business, no part of the net earnings of which inures to the benefit of any member of said organization and which either:

- (1) Provides volunteer aid to the sick and wounded of the armed forces in time of war and relief services to victims of natural or manmade calamities; or
- (2) Provides all or any of the following: religious, social, physical, recreational and benevolent service.

Institution, private educational, means any private school or educational institution, however designated, which offers an academic curriculum of college, professional, preparatory, high school, middle school, elementary, kindergarten or nursery school instruction, or any combination thereof; but not a training program of trade, craft, technical or artistic instruction operated by a governmental entity. No private educational institution shall be deemed a home occupation. (See the terms *Training school* and *School*.)

Institution, research, means an agency for scientific research of technical development including offices, libraries, laboratories, testing facilities and equipment incidental to such research and development.

Junkyard or automobile graveyard means any land or building used for the abandonment, storage, keeping, collecting or bailing of paper, rags, scrap metal, other scrap or discarded material, or for the abandonment, demolition, dismantling, storage or salvaging of automobiles or other vehicles not in running condition, machinery or parts thereof. Establishment and operation of this use requires annual approval from the City Council of Auburn, Maine.

Kennel means any building and/or land used, designed or arranged for the boarding, breeding or care of dogs, cats, pets, fowl or domestic animals, kept for purposes of show, hunting or as pets, except horses.

Land use permit means a permit required for the use of property that is legally permitted under the provisions of this chapter.

Landscape services means the actual planting, bed preparation, installation of landscape materials and maintenance of the landscape, planting and materials. Activities associated with landscaping include: the storage of materials and equipment related to the performance of landscaping, the temporary storage of trees, shrubs and plants pending installation in an existing landscape plan and the application and storage of pesticides and fertilizers by a licensed person.

Lawn maintenance service means the care and upkeep of the landscape after its installation and consists of such activities as mowing of the lawn, pruning of trees and shrubs, application by hand of fertilizer and weed control, insect and disease control, planting and care of flower beds, replacement of dead plants, incidental repairing of walls and paved surfaces, cleaning of fountains and pool basins, irrigation of lawns, cultivation of soil around trees and shrubs, rolling and reseeding of lawns, raking of leaves, winterization of trees and shrubs and snow removal.

Library means a place containing books and other material for reading, study or reference, provided that no such material is offered for sale.

Livestock means, but may not be limited to, any horses, mules, donkeys, cattle, goats, sheep, or swine.

Lodge, private. See the term *Club, private*.

Lot means for zoning purposes, as covered by this chapter, a lot is a parcel of land under one ownership or joint ownership of at least sufficient size to meet minimum zoning requirements for use, coverage and area, and to provide such yards and other open spaces as are herein required. Such lot shall have frontage on an accepted public street and may consist of:

- (1) A single lot of record;
- (2) A portion of a lot of record;
- (3) A combination of complete lots of record;
- (4) A parcel of land described by metes and bounds; provided that in no case of division or combination shall any residential lot or parcel be created which does not meet the requirements of this chapter;
- (5) Lots shown on a plan approved by the planning board of the City of Auburn.

Lot frontage/width means the front of a lot shall be construed to be the portion nearest the street. For the purpose of determining yard requirements or corner lots and through lots, all sides of a lot adjacent to streets shall be considered frontage, and yards shall be provided as indicated under the definition of yards in this section.

Lot line, rear, means the lot line generally opposite or parallel to the front lot line, except in a through lot. If the rear lot line is less than ten feet long or the lot comes to a point at the rear, said rear lot line is assumed to be a line not less than 20 feet long, lying wholly within the lot, parallel to the front lot line, or in the case of a curved front lot line, parallel to the chord of the arc of said front lot line.

Lot measurements means the following measurements:

- (1) The depth of a lot shall be considered to be the uninterrupted distance between the midpoints of lot frontage and the midpoint of the rear lot line unless the lot meets the exception provided for by section 60-39.
- (2) The width of a lot shall be considered to be the distance between straight lines connecting front and rear lot lines at each side of the lot, measured across the rear of the required front yard, provided, however, that the width between the side lot lines at their foremost points (where they intersect the street line) shall not be less than 80 percent of the required lot width except in the case of a lot on the turning circle of a cul-de-sac, where the 80 percent requirement shall not apply.

Lot of record means a lawfully laid out lot which is part of a subdivision recorded in the proper office of the registry of deeds, or a lawfully laid out lot or parcel described by metes and bounds, the description of which has been so recorded.

Lot types means the diagram which follows illustrates terminology used in this chapter with reference to corner lots, interior lots, reversed frontage lots and through lots. In the diagram above, the lots designated by letters are defined as follows:

- (1) Corner lot, defined as a lot located at the intersection of two or more streets. A lot abutting on a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost points of the side lot lines to the foremost point of the lot meet at an interior angle of less than 135 degrees. (See lots marked A(1) in diagram)
- (2) Interior lot, defined as a lot other than a corner lot with only one frontage on a street other than an alley.
- (3) Through lot, defined as a lot other than a corner lot with frontage on more than one street other than an alley. Through lots with frontage on two streets may be referred to as double frontage lots.
- (4) Reversed frontage lot, defined as a lot in which the frontage is at right angles or approximately right angles to the general pattern in the area involved. A reversed frontage lot may also be a corner lot or an interior lot. (See A-D and B-D in diagram.)

Lot, undersized, means for zoning purposes, as covered by this chapter, an undersized lot is a parcel of land of insufficient size to meet minimum zoning requirements for area or width or depth.

Major or principal arterial highway means the highway that:

- (1) Serves the major traffic movements within urbanized areas such as between central business districts and outlying residential areas, between major intercity communities, or between major suburban centers;
- (2) Serves a major portion of the trips entering and leaving the urban area, as well as the majority of the through traffic desiring to bypass the central city;
- (3) Provides continuity for all rural arterials which intercept the urban area. The term "major or principal arterial highways" includes Washington Street (State Routes 4 and 100, U.S. 202), Minot Avenue (State Routes 11 and 121), Union Street/Center Street/Turner Road (State Route 4), Veterans Memorial Bridge and approaches (State Routes 11 and 100, U.S. Route 202), North Bridge/Court Street to in town Minot Avenue Intersection (Turner Street), Court to Center Street (State Route 4).

Major recreational use of land means permanent use of at least 100 acres of outdoor space limited to ski areas with at least two lifts and public and private golf courses with a minimum of 18 holes.

Major retail development means a single building in excess of 100,000 square feet of new ground floor retail space.

Manufactured housing means a structural unit designed for occupancy, and constructed in a manufacturing facility and then transported by the use of its own chassis, or placed on an independent chassis, to a building site. The term "manufactured housing" includes any type of building which is constructed at a manufacturing facility and then transported to a building site where it is utilized for housing and may be purchased or sold by a dealer in the interim. The term "manufactured housing" includes newer mobile homes and modular homes.

Mining, quarrying, or earth removing means the excavation of any earth materials.

Minor arterial highway means the highway that:

- (1) Serves trips of moderate length at a somewhat lower level of travel mobility than principal arterials;
- (2) Provides access to geographic areas smaller than those served by the major arterial highway system; and
- (3) Provides intra-community continuity but does not penetrate identifiable neighborhoods. Examples are Riverside Drive, Mill Street, South Bridge (Broad Street to Mill Street), Main Street, Mechanics Row, High Street (Minot Avenue to Academy Street), Academy Street (High Street to Main Street), Elm Street, Spring Street (Minot Avenue to Court Street), Turner Street (Union Street to Turner Road), Mount Auburn Avenue (Center Street to Turner Street), Lake Street, Court Street (Union Street to in town Minot Avenue Intersection), Hotel Road (Manley Road to Poland Spring Road).

Mobile home development, intended to be generic, includes mobile home parks, mobile home subdivisions, and mobile home condominiums.

Mobile home park means a parcel of land under single ownership in rural residence and suburban residence districts which has been planned and improved for the placement of not less than three mobile homes for nontransient use.

Mobile homes, newer, means those units constructed after June 15, 1976, commonly called "newer mobile homes," which the manufacturer certifies are constructed in compliance with the United States Department of Housing and Urban Development standards, meaning structures, transportable in one or more sections, which, in the traveling mode, are 14 body feet or more in width and are 700 or more square feet, and which are built on a permanent chassis and designed to be used as dwellings on foundations when connected to the required utilities, including the plumbing, heating, air conditioning and electrical system contained therein; except that the term "newer mobile homes" includes any structure which meets all the requirements of this definition, except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of the United States Department of Housing and Urban development and complies with the standard established under the National

Manufactured Housing Construction and Safety Standards Act of 1974, United States Code, 42 USC 5401 et seq.

Mobile homes, older, means any factory-built home which fails to meet the definition of manufactured housing and more specifically, the term "older mobile homes" means any mobile home constructed prior to June 15, 1976. These units shall be restricted to approved mobile home parks.

Modular homes means those units which the manufacturer certifies are constructed in compliance with the state's Manufactured Housing Act and regulations, meaning structures, transportable in one or more sections, which are not constructed on a permanent chassis and are designed to be used as dwellings on foundations when connected to required utilities, including the plumbing, heating, air conditioning or electrical systems contained therein.

Motel means a building or group of detached buildings intended primarily to provide sleeping accommodations to the public on a daily rate of compensation and having a parking space generally located adjacent to a sleeping room. Such facilities may include a main kitchen or snack bar for the use of motel guests only.

Municipal sanitary landfill means a disposal site for household, commercial and industrial wastes, sludge or incinerator ash operated or controlled for operation by the city in a controlled manner involving the covering of deposited wastes with layers of earth so as to reduce health hazards and public nuisances from vermin, insects, odors and wind-borne debris. The location and design of sanitary landfills also require precautions against ground and surface water contamination through clay lining, water impoundment, aquifer avoidance and similar techniques.

Municipal uses means any lawful use of a building or of land carried on by the city sanitary landfill shall not be deemed a municipal use.

Museum means a building or place where works of art or other objects of permanent value are kept and displayed, provided such objects are not offered for sale.

Nonconforming building means a building lawfully existing at the time this or any previous zoning ordinance became effective and which does not conform to the dimensional regulations of the district in which it is located.

Nonconforming lot means a lot lawfully existing at the time this or any previous zoning ordinance became effective and which does not conform to the dimensional regulations of the district in which it is located.

Nonconforming use means a use of a building or of land lawfully existing at the time this or any previous zoning ordinance became effective and which does not conform with the use regulations of the district in which it is located.

Nursery means an outdoor place where live trees, shrubs, vines and plants are propagated, grown or maintained before permanent planting. Activities associated with nursery a business include: the sale of nursery products and related gardening supplies, the storage of material used in the maintenance of plants and growing items sold and the use of power-motorized equipment required by the nursery.

Nursery, child, means a facility providing a program less than 24 hours per day per child for the care of infants up to the age of 2½ years.

Nursery, wholesale, means a nursery where plants, trees, shrubs and vines are propagated and/or grown and sold only at wholesale to industry related buyers such as retail nurseries, greenhouses and landscape contractors. A wholesale nursery may also provide landscape services accessory to the nursery use provided.

- (1) At least one-half of the area of the lot (up to a maximum of three acres) is in active nursery production in a husband type manner; and
- (2) The plants and trees propagated, grown and nurtured in the nursery are used as the primary products by the owner/operator of the landscape service.

Office means a building, or portion of a building wherein services are preformed involving predominantly administrative, professional or clerical operations.

Office trailer means a movable vehicle or structure designed for yearround or temporary occupancy for purposed of supervising construction; for business actually engaged in the business of selling manufactured housing, mobile homes and trailers; and as temporary office space for a business during the period in which permanent office space is being constructed.

Open space, common means land within or related to a development which is not individually owned and is designed and intended for the common use or enjoyment of the residents of a development and may include such complementary structures and improvements as are necessary and appropriate.

Outpatient addiction treatment clinic means a program or facility operated for the purpose of and specializing in the care, treatment and/or rehabilitation of persons suffering with addictions, including but not limited to gambling addition, alcohol or controlled substance addictions. The term "outpatient addiction treatment clinic" includes, but is not limited to, substance abuse treatment programs licensed by the State of Maine Department of Behavioral and Developmental Services Office of Substance Abuse. An outpatient addiction treatment clinic shall not be located within 2,000 feet of any property that is occupied by a church, school, family day care home, small day care facility, day care center, or public park or playground on the date of application for a license for such a facility. The term "outpatient addiction treatment clinic" does not include an inpatient or residential addiction treatment program, or a program consisting solely of support group activities without treatment by licensed health practitioners, such as Alcoholics Anonymous, Narcotics Anonymous, and similar programs.

Parapet means a low wall along the edge of a roof or the other portion of a wall that extends above the roof line.

Parking space, off-street, means a rectangular area, not less than nine feet by 18 feet, forming a parking stall within or without a structure, not located in any public right-of-way.

Performing arts center means a public or private space used to create and present various performing and visual arts. For the purposes of this definition, the term "performing arts center" also includes educational and training uses associated with the various performing and visual arts.

Personal services means the furnishing of labor, time and effort by a person as an independent contractor not involving the delivery of a specific end product.

Place of worship see definition of church.

Planning board means the planning board of the City of Auburn, Maine.

Primary entrance means a section of building elevation which contains the street level principal entrance of the business, including the businesses on upper floors or in a basement.

Principal use means the principal use for which a lot or main building thereon is designed, arranged or intended and for which it is or may be used, occupied or maintained.

Professional office means rooms and/or buildings used for office purposes as the principal use by members of any recognized profession, including doctors, dentists, lawyers, accountants, engineers, architects, veterinarians, etc.

Realm, private means the physical and social domain that is considered private by their physical location and visual association being away from public view. This is considered areas behind the front building facade along with side and rear yard areas.

Realm, public means the physical and social domain of the public that is held in common either by their physical presence or visual association. This includes but is not limited to sidewalks, plazas, squares, parks, streets, front yards, civic buildings and civic spaces.

Recreational uses of land means permanent uses of outdoor space which are intended or designed for public use and include but are not limited to ski areas, golf courses (both public and private), driving ranges, horse boarding and riding facilities, miniature golf, paintball, horse and dog racing, snowmobile

races, motorhome or recreational vehicle parks or commercial campgrounds and facilities for mass gatherings when used for two or more events during a calendar year.

Regulating plan means the adopted map that shows the Form Based Code zoning districts, which correspond to the special requirements of the form based code.

Restaurant means an eating place in which food is prepared and vended for immediate consumption on the premises without further preparation by the customer. The takeout of food on an infrequent basis is not prohibited.

Restaurant, carry-out, means an eating place in which all food is vended in disposable containers for consumption on or off premises at the customer's choice; a fast-food restaurant.

Restaurant, drive-in, means an eating place in which the business transacted is conducted by a customer from within his automobile or in which consumption of goods sold normally takes place within the customer's automobile on the establishment's premises.

Retail means a principal use encompassing the sale of commodities or goods in small quantities directly to the consumer. The term "retail" sales does not include sales of professional, financial and governmental services and personal services, including but not limited to a hotel and its accessory uses (restaurants, salons, gift shops, recreational facilities, convention space, etc.).

Retail space means the areas of a building, within a climate controlled environment, devoted to the display of commodities or goods for sale directly to the consumer and including customer sales transaction areas and areas associated with customer access.

Rifle, pistol, skeet or trap shooting range means a rifle, pistol, skeet or trap shooting range operated by an individual or club. Such a range may be opened to the general public or developed for the exclusive use of the individual, or club and invited guests.

Road means any public or private traveled way or any portion thereof.

Roof means the covering for a building which is an integral part of the structure for the purpose primarily of protecting the interior of the building or covering a porch or other similar permanent portion thereof, excluding awnings, stoop coverings, or similar additions which are removable without substantially impairing the original structure.

Sawmill means a unit designed to saw logs into lumber, firewood or other processed wood products.

School means an educational institution offering an academic curriculum; not the teaching of the crafts or a training school offering a program of trade, technical instruction or physical education. (See the term *Training school*.)

Shared housing means housing consisting of two or more families occupying a single dwelling and using common cooking facilities. Shared housing shall permit the same number of families at the same density as allowed in the zoning district where the property is located subject to all applicable codes relating to building, housing, life safety, health and zoning as would be applied to independent living units located in the same structure. Approval for shared housing shall be secured from the department of community development and planning subject to the codes and ordinances indicated in this definition, prior to establishing a shared housing arrangement in any building.

Shelter for abused persons means dwelling facilities complying with the laws administered by the state government human services agencies, providing temporary domiciliary arrangements for children and adults unable to protect their own interest and welfare because of critical family circumstances.

Shopping center or office mall means a planned integrated complex of three or more retail stores and/or offices sharing a common structure and developed according to a unified plan. Such uses may include a common pedestrian circulation system and off-street automobile parking facilities.

Sign means any device, display surface, structure or object in public intended for visual communications.

Sign, mobile mounted, means a temporary sign which is mounted or for mounting on wheels or a mobile platform or which is portable.

Sign, official business directional, means any off-premise sign permitted to be erected pursuant to article II of chapter 42.

Sign, on-premises, means any sign that advertises, calls attention to, or indicates the person occupying the premises on which the sign is erected or maintained or the business transacted thereon, or advertises the property itself or any part thereof as for sale or rent, and which contains no other matter.

Sign, standing, means any sign that is not attached to a building.

Sign, temporary, means any movable sign, including its supporting structure, intended to be maintained for not more than 90 days in any calendar year.

Site-built home means a building constructed on-site which is designed to be used as a dwelling on foundations, when connected to the required utilities.

Slaughterhouse (abattoir, dressing plant) means any building, place or establishment in which is conducted the slaughtering of livestock and/or poultry for commercial purposes.

Special exception means a use that would not be appropriate generally or without restriction throughout the district, but which, if controlled as to number, area, location or relation to the neighborhood, would promote the public health, safety, welfare, order, comfort, convenience, appearance, prosperity, or general welfare. Such a use may be permitted in such district as a special exception, if specific provision for such special exception is made in this zoning chapter and reasonable restrictions imposed by the planning board are complied with.

Specialty shop means a retail business offering products of a similar kind and nature designed for a particular use, purpose or occasion and distinguished from a store offering the same type of product together with other products of a nonhomogeneous quality.

Stable, riding, means any building or structure used or designed for boarding, breeding or care of horses, other than horses used for farming or agricultural purposes.

Standing means a person who holds title, right or interest in a property which may include a written option, contract to purchase the property or a leasehold interest or may be a person who can show how his actual use or enjoyment of property will be adversely affected by the proposed decision as an abutter as defined in section 60-1473.

Story means that portion of a building between the surface of any floor and the surface of the other 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 unless such space is used for business or as habitable space, in which case it shall count as a story.

Story, half, means a story under the gable, hip or gambrel roof, the plates of which on at least two opposite exterior walls are more than two feet above the floor of such story.

Street means the following:

- (1) A public way laid out and established by the state, county commissioners of the County of Androscoggin;
- (2) A way accepted by the municipal officers of the city;
- (3) A way as to which a petition for improvements has been allowed under the provisions of this chapter for which the cost of the improvements has been provided for by the developer in either a cash amount or as provided for in this chapter; or
- (4) A way on a plan of a subdivision duly approved by the planning board.

Street frontage. See the term *Frontage*.

Street line means a line defining the edge of a street right-of-way separating the street from abutting property or lots.

Street, primary means the street that is considered to be more intensely used than the other on a corner or double sided lot.

Street, secondary means the street that is considered to be less intense to the other on a corner or double sided lot.

Structure of community significance means a building that by virtue of its historic, social, cultural or economic contribution to the community, as determined by the planning board, is entitled to a special exception allowing its adaptive reuse. The planning board may consider a building's age, as well as any evidence of its role in the historic, social cultural, or economic history of the community, in determining whether a building qualifies for this designation.

Structure or building means a combination of materials to form a construction that is safe and stable including, among other things: stadia, reviewing stands, platforms, automobile parking garages, stagings, windmills, observation towers, trestles, sheds, coal bins, shelters and display signs, but not fences of any kind.

Subdivision means a division of land as defined in 30-A M.R.S.A. § 4401.

Summer camps means seasonal dwelling units intended for and actually used for single-family dwellings only during the months of May, June, July, August, September and October or weekends or other periods of vacations not exceeding 30 days.

Supermarket means a retail establishment having an interior selling space of 3,000 square feet or more where general food supplies for the table and other articles of household use are offered for sale.

Swimming pool means any manmade receptacle or excavation housing 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.

Theater, indoor, means a building designed and/or used primarily for the commercial exhibition of motion pictures or plays to the general public.

Theater, outdoor, includes only those areas, buildings or structures designed and used for the commercial outdoor exhibition of motion pictures to passengers in parked motor vehicles.

Tourist home. See the term *Bed and breakfast home*.

Townhouse means a single-family dwelling unit that is one of two or more residential buildings having a common or party wall separating the units.

Trailer or RV means any vehicle or structure, except a device exclusively used upon stationary rails or tracks, mounted on wheels for use on highways and streets; propelled or drawn by its own or other motor power; and designed and constructed to provide living and/or sleeping quarters for one or more persons or for the conduct of a business, profession, trade or occupation for use as a selling or advertising device. If the wheels of a trailer are removed, except for repairs, it is deemed a building subject to all the regulations thereof. A trailer shall not be considered an accessory building.

Trailer home means 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. A trailer home shall not be considered an accessory building.

Training school means a public or private school or training institution which offers a training program of trade, technical instruction, or physical education. A training school shall not be deemed a home occupation.

Transect (rural-to-urban) means a cross-section of the environment showing a range of different building development zones. The rural-to-urban transect of the human environment is divided into multiple transect zones that describe the physical form and character of a place according to the intensity of its land use and building development pattern.

Transmission towers means a structure that has the sole purpose of transmitting radio, television, cellular telephone or telephone waves from one location to another.

Useable open space means open or green space that is accessible for the use and enjoyment of residents, shall not be steep sloped (over ten percent slope), shall not include wetlands, parking or required buffer areas, and may include any required yard area or open areas for play.

Variance means a relaxation of the terms of the zoning ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the ordinance would result in unnecessary and undue hardship. The term "variance" is authorized for only dimensional and supplemental regulations. Establishment of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconformities in the district or adjoining districts.

Wayside stand means a structure designed, arranged or used for the display and sale of agricultural products primarily grown or produced on the premises upon which such stand is located. A wayside stand may be located on premises that the products are not grown upon provided such premises is owned by the grower.

Wholesale means sales chiefly to retailers, other merchants, industrial and/or commercial users mainly for resale or business use.

Yard means a required open space on a lot unoccupied and unobstructed by any principal structure or portion of a principal structure.

Yard, front, means the open space extending across the full width of lot between the front lot line and nearest line of the principal building or any enclosed portion thereof. The depth of such yard shall be the shortest horizontal distance between the front lot line and the nearest point of the building or any enclosed portion thereof.

Yard, rear, means the open space extending across the full width of lot between the rear line of the lot and the nearest line of the building or any enclosed portion thereof. The depth of such yard is the shortest horizontal distance between the rear lot line and the nearest point of the building. When the rear lot line is less than ten feet long or if the lot comes to a point at the rear, the depth of the rear yard is measured to an assumed rear lot line as follows, the lot line generally opposite or parallel to the front lot line, except in a through lot. If the rear lot line is less than ten feet long or the lot comes to a point at the rear, said rear lot line is assumed to be a line not less than 20 feet long, lying wholly within the lot, parallel to the front lot line, or in the case of a curved front lot line, parallel to the chord of the arc of said lot line.

Yard, side, means the open space between the side lot line, the side street line, or the proposed side street line and the principal buildings, or any portion thereof, extending from the front yard to the rear yard, or, in the absence of either of such yards, to the front lot line and/or rear lot line. The width of a side yard shall be the shortest distance between the side lot line and the nearest point of the principal building or any portion thereof.

Zone. See the term *District*.

(Ord. of 9-21-2009, § 2.2; Ord. No. 13-09062011-05, 9-6-2011; Ord. No. 12-09062011-04, 9-19-2011; Ord. No. 04-03072016, 5-16-2016; Ord. No. 11-11072016, 11-21-2016; Ord. No. 05-04032017, § 1, 4-24-2017; Ord. No. 08-08072017, 9-11-2017; Ord. No. 13-11062017, 11-20-2017; Ord. No. 16-11182019, 12-9-2019)

Sec. 60-3. - Purpose.

- (a) The zoning districts and regulations as set forth in this chapter are for the following purposes:
 - (1) To promote the health, safety, convenience and general welfare of the city's inhabitants.
 - (2) To improve and beautify the city; protect property values; avoid environmental blight and pollution; conserve natural resources; and protect access to direct sunlight for solar energy use.
 - (3) To lessen congestion in the streets; secure safety from fire, flood and other dangers; provide adequate light and air; prevent overcrowding of the land; avoid undue concentration of population; and economize public expenditure in the provision of public services, utilities and facilities.
- (b) This zoning ordinance has been adopted pursuant to authority granted to the city by state law and is consistent with a comprehensive master plan adopted by the city council. Zoning districts have been

designated with reasonable consideration given to the character of each district and its peculiar suitability for particular uses.

(Ord. of 9-21-2009, § 1.1)

Sec. 60-4. - Zoning districts.

- (a) For the purposes in section 60-3, the use, construction and alteration of buildings and structures and the use and alteration of land in the city are hereby restricted and regulated according to the provisions of this chapter.
- (b) The city is hereby divided into zoning districts designated as follows and more fully described on the official zoning map:

| District title | Classification | Short title |
|---|------------------------|-------------|
| Agriculture and Resource Protection | Resource | AG |
| Low Density Country Residential | Resource/Residential | LDCR |
| Rural Residence | Residential | RR |
| Suburban Residence | Residential | SR |
| Urban Residence | Residential | UR |
| Multifamily Suburban | Residential | MFS |
| Multifamily Urban | Residential | MFU |
| Planned Unit Development | Residential/Commercial | PUD |
| Downtown Enterprise Zone | Residential/Commercial | DEZ |
| General Business | Commercial | GB |
| Neighborhood Business | Commercial | NB |
| Form Based Code Regulating Plan: | | |
| Traditional Main Street Neighborhood (Transect 4.1) | Residential/Commercial | T-4.1 |
| Traditional Downtown Neighborhood (Transect 4.2) | Residential/Commercial | T-4.2 |

| | | |
|--|------------------------|-------|
| Downtown Traditional Center (Transect 5.1) | Residential/Commercial | T-5.1 |
| Downtown City Center (Transect 5.2) | Residential/Commercial | T-5.2 |
| Great Falls Metropolitan (Transect 6) | Residential/Commercial | T-6 |
| Industrial | Industrial | ID |
| Floodplain Overlay District | Environmental | FPO |
| Taylor Pond Overlay District | Environmental | TPO |
| Lake Auburn Watershed Overlay District | Environmental | LAO |
| Shoreland Overlay District | Environmental | SLO |
| Manufacturing Housing Overlay District | Residential | MHO |

(Ord. of 9-21-2009, § 1.2; Ord. No. 04-03072016, 5-16-2016)

Sec. 60-5. - Zoning map.

- (a) The location and boundaries of the zoning districts and form based code regulating plan in section 60-4 are as shown on the map entitled City of Auburn, Maine, Zoning Map, dated, May 16, 2016, revised through its current date and revisions, is hereby adopted by reference and declared to be a part of this chapter.
- (b) As zoning district and form based code boundaries are amended from time to time in accordance with article XVII of this chapter, such changes shall be entered on the official zoning map promptly after final approval of the amendment and the date following "revised through" appearing on the map shall be changed to match the effective date of the latest amendment. All previous editions of the zoning map shall thereupon become obsolete, null and void.
- (c) The official zoning map, revised according to the most recent amendment, shall be located in the office of the department of community development and planning and shall be the final authority on current zoning district and form based code locations and boundaries. It shall be the responsibility of the city planning director to see that the official map is kept current and accurate.

(Ord. of 9-21-2009, § 2.2; Ord. No. 13-09062011-05, 9-6-11; Ord. 12-09062011-04, 9-19-2011; Ord. No. 04-03072016, 5-16-2016)

Sec. 60-6. - Zone boundaries.

In the interpretation of the exact boundaries of zoning districts and form based code as shown on the official zoning map, the following rules shall apply:

- (1) Boundaries indicated as approximately following the centerlines of streets, highways or alleys shall be construed to follow such centerlines;
- (2) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;
- (3) Boundaries indicated as approximately following city or county limits shall be construed as following city or county limits;
- (4) Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks;
- (5) Boundaries indicated as approximately following the centerlines of streams, lakes or other bodies of water shall be construed to follow such centerlines;
- (6) Boundaries indicated as parallel to or extensions of features indicated in subsections (1) through (5) of this section indicated on the official zoning map shall be determined by the measurements using the scale of the map;
- (7) Where physical or cultural features existing on the ground are at variance with those shown on the official zoning map, or in other circumstances not covered by subsections (1) through (6) of this section, the planning board shall interpret the zone boundaries.

(Ord. of 9-21-2009, § 1.4; Ord. No. 04-03072016, 5-16-2016)

Sec. 60-7. - Establishment of fees.

- (a) The city council, upon recommendation of the planning board, shall from time to time establish and amend a schedule of fees to be paid upon the filing of certain applications and petitions described in this chapter.
- (b) No certificate, permit, special exception, variance or zoning ordinance amendment shall be issued unless or until such fees have been paid in full by the applicants or petitioners; nor shall any action to schedule public hearings on applications or petitions be taken until the fees related to the application or petition have been paid in full.
- (c) If an approved application or petition is required to be recorded at the registry of deeds, the applicant or petitioner shall pay such fee.

(Ord. of 9-21-2009, § 9.1)

Secs. 60-8—60-32. - Reserved.

ARTICLE II. - GENERAL PROVISIONS

Sec. 60-33. - Permitted uses.

In the zoning districts specified in this article and in article XII of 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 article, 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 nonconforming.

(Ord. of 9-21-2009, § 3.1A)

Sec. 60-34. - Buildings per lot.

No more than one principal building shall be erected on any lot in residential zoning districts except in the case of multifamily buildings and/or developments approved under divisions ~~940~~ and 11 of article IV of this chapter or secondary dwelling units where two-family homes are permitted.

(Ord. of 9-21-2009, § 3.1B)

Sec. 60-35. - Conversion of one-family dwellings.

In all residential, general business and form based code districts, one-family dwellings erected prior to January 1, 1958, may be converted to two-family dwellings provided that:

- (1) Any floor space created by additions to the existing structure after January 1, 1958, shall not be converted to a second dwelling.
- (2) There will not be less than one accessible off-street parking place of 200 square feet in area, exclusive of driveways, per dwelling unit resulting from such conversion.
- (3) 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.
- (4) After such conversion, the building converted will retain substantially the appearance and character of a one-family dwelling.

(Ord. of 9-21-2009, § 3.1C; Ord. No. 04-03072016, 5-16-2016)

Sec. 60-36. - Lots in more than one jurisdiction.

When a lot in one ownership lies in more than one jurisdiction, the whole lot shall be considered for density and lot dimension purposes in the same manner as if the entire lot were situated in the city. Any site plan or special exception review of the use or development of the lot in the city, however, shall be limited to that portion that lies within the city's jurisdiction only.

(Ord. of 9-21-2009, § 3.1D)

Sec. 60-37. - Minimum lot 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 with the following exception: If a lot at a street corner is bounded in part by a curved exterior street line not more than 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 80 feet in length, the minimum area required in such lot shall be measured and computed entirely within the lines bounding such lot.

(Ord. of 9-21-2009, § 3.1E)

Sec. 60-38. - Nonconforming lots.

- (a) Abutting undeveloped nonconforming lots under one ownership shall be considered as one lot and shall not again be divided.
- (b) Abutting nonconforming lots under one ownership or joint ownership shall be considered as one lot. Such a lot may be divided provided that:

- (1) One or more of the lots has been developed.
 - (2) The lots were purchased by separate deed.
 - (3) The lots are divided along the historical lot dimensions.
 - (4) All dimensional regulations are maintained.
- (c) An abutting conforming and nonconforming lot under one ownership, or joint ownership shall be considered as one lot. Such a lot may be divided provided that:
- (1) The lots are divided along the historical lot dimensions.
 - (2) The conforming lot is not reduced in any manner that violates any provision of this chapter.
 - (3) All dimensional regulations are maintained.

(Ord. of 9-21-2009, § 3.1F)

Sec. 60-39. - Lot area, width and depth exception.

The lot area (except as otherwise may be required), lot width and lot depth requirements of this chapter shall not apply to any lot which was lawfully laid out in conformance with zoning regulations in effect at the time of lot creation and duly recorded by plan or deed.

(Ord. of 9-21-2009, § 3.1G)

Sec. 60-40. - Reduction in dimensional regulations.

No lot (except as allowed by the planning board at the time of final approval of a subdivision or development plan) shall be reduced, subdivided, conveyed, divided or otherwise transferred that violates, or creates a lot that violates, any minimum or maximum dimensional regulation of this chapter. No building permit or other municipal permit or license shall be issued to any of the land so transferred or to the land retained until all of such land or lots are in conformance with all dimensional regulations. If a serious health or safety issue with the property should arise, the director of planning and permitting services shall determine if a permit should be issued to correct the problem. This provision shall not allow further nonconformity to occur in order to achieve the corrective action necessary. Any land taken by eminent domain or conveyed for a public purpose shall not be deemed in violation of this provision. Any setback or lot that is reduced below the minimum or extended beyond the dimensional requirements as a result of land taken by eminent domain or conveyed for a public purpose shall not be deemed nonconforming. Setbacks for the enlargement of any existing building located on such a lot shall be referenced to the property line as it was located prior to the eminent domain action or the conveyance for a public purpose.

(Ord. of 9-21-2009, § 3.1H; Ord. No. 04-03072016, 5-16-2016)

Sec. 60-41. - Lot of record.

Where used in this article, the term "lot" means "lot of record" as defined in sections 60-1 and 60-2.

(Ord. of 9-21-2009, § 3.1I)

Sec. 60-42. - Unsewered lots.

The minimum lot sizes specified in this chapter for residential districts are for lots having sanitary sewer service. No unsewered lots having an area less than 20,000 square feet shall be developed for

residential dwelling purposes. This regulation does not reduce lot size requirements in residential districts having larger minimum lot sizes.

(Ord. of 9-21-2009, § 3.1J)

Sec. 60-43. - Residential accessory buildings and structures.

- (a) Accessory buildings of 120 square feet and ten feet or less in height will have a zero rear and side setback. The front yard setback shall be maintained.
- (b) Accessory buildings greater than 120 square feet shall have rear and side yard setbacks that are 50 percent of the requirement for principal buildings, except that in no case shall the setbacks be reduced to less than five feet. The front yard setback shall be maintained.
- (c) A deck that is no greater than 30 inches high shall be allowed a zero rear and side setback provided that the deck is no closer than 15 feet to a neighboring principal building. All decks that are higher than 30 inches shall meet the requirements of subsection (b) of this section.
- (d) A deck that attaches a principal building to an accessory building shall be allowed and shall not be deemed to cause the accessory building to be nonconforming. Such decks shall meet all other requirements as found in this section.
- (e) The maximum first floor space of accessory buildings on lots under two acres is 1,000 square feet. On lots of over two acres, there is no maximum size.

(Ord. of 9-21-2009, § 3.1K; Ord. No. 30-01182011-02, 1-18-2011)

Sec. 60-44. - Conflicts.

In any case where there is a conflict with another ordinance the more stringent standard shall apply.

(Ord. of 9-21-2009, § 3.1L)

Sec. 60-45. - Site plan/special exception review.

- (a) Projects requiring site plan review shall be reviewed by the planning board in accordance with divisions 2 and 3 of article XVI of this chapter and according to the standards and criteria contained therein. No project requiring site plan review shall be expanded, extended or enlarged so as to occupy additional land area greater than ten percent of the original area or one-half acre, whichever is less; or by the construction of a structure or an addition to an existing structure by more than ten percent of additional floor space unless approval has been secured from the planning board in the manner provided in this section. A reduction in the scope of the project, except for land area, does not have to be reviewed by the planning board provided that an amended plan is submitted to the planning department to determine that all other land use provisions are satisfied.
- (b) The expansion, extension or enlargement of uses or buildings which are less than described subsection (a) of this section, shall be reviewed and approved by the planning department using the criteria of divisions 2 and 3 of article XVI of this chapter.
- (c) If an applicant disagrees with the review of the planning department, the planning board upon the written request of the applicant, shall conduct an administrative review of the planning staff's decision.
- (d) Permitted uses subject to special exception review pursuant to sections 60-499(b)(17), 60-525(b)(143), ~~60-547(b)(4)~~ and 60-578(b)(353). which are to be located in a commercial or industrial subdivision which has been duly approved by the city planning board shall not be required to be reviewed and approved by the planning board in accordance with division 3 of article XVI of this chapter unless, in the determination of the municipal officer charged with enforcement, the project contains

elements that deserve a full review by the planning board. In making such a determination, the municipal officer shall take into account the planning board's initial review of the subdivision, including but not limited to such issues as traffic, drainage, infrastructure improvements, availability of water and sewer, fire protection and the impact on the environment.

- (e) The permitted uses which have been exempted from special exception review and located in duly approved commercial or industrial subdivisions shall be processed by administrative review by the planning department in accordance with division 3 of article XVI of this chapter. Such uses shall also be subject to all city ordinances as would be required for review of special exceptions.
- (f) The planning board shall be notified of all action taken, or approvals granted, by the municipal officer pursuant to this section.
- (g) The city finds that a major retail development can have a significant impact on the immediate and surrounding areas and accordingly requires a determination by the city planning board of consistency with the adopted comprehensive plan in addition to the review and approval process of site plan/special exception review and other state and/or municipal permitting. A request for a determination of consistency shall be submitted to the department of planning and code enforcement a minimum of 15 days prior to this item being placed on the planning board agenda for action. Action on the request for a determination of consistency shall be made a minimum of one regularly scheduled meeting prior to the planning board meeting at which the project is to be reviewed. Notice for the consideration of a request for a determination of consistency shall conform to the requirements found in section 60-1474. and must state that the determination of consistency is being sought for a major retail development.

(Ord. of 9-21-2009, § 3.1M)

Sec. 60-46. - Home occupation.

The establishment of a home occupation shall be permitted in all residential zoning districts provided the use is consistent with the definition of home occupation and approval is secured from the department of community development and planning in accordance with article IX of this chapter.

(Ord. of 9-21-2009, § 3.1N)

Sec. 60-47. - Corner lots.

There shall be a front yard along the street line as provided for under yard requirements, front in the district where located. [All](#) other yards shall be considered as side yards and measured as provided for under yard requirements, side in the district where located. On corner lots within the form based code districts, there shall be a primary street front yard and a secondary street front yard with minimum and maximum building setback requirements. The yard opposite from the primary street shall be considered the rear yard while the yard opposite the secondary street shall be considered the side yard.

(Ord. of 9-21-2009, § 3.1O; Ord. No. 04-03072016, 5-16-2016)

Sec. 60-48. - Public utilities.

The use of property by a public utility for the transmission of water, electricity, telephone or gas by pipes, poles, wires, lines, conduits, cables or other devices is permitted in all zoning districts.

(Ord. of 9-21-2009, § 3.1P)

Sec. 60-49. - Railroads.

Railroad tracks, spurs, yards, crossings and structures existing as of the date of the enactment of this provision are permitted. The expansion, extension or enlargement of these facilities and the introduction of new facilities shall be reviewed and approved by the planning board in accordance with division 2 of article XVI of the chapter and according to the standards and criteria contained therein. Railroads shall be allowed in all zoning districts.

(Ord. of 9-21-2009, § 3.1Q)

Sec. 60-50. - Accessways to land zoned commercial or industrial.

Accessways over land zoned residential to parcels of land situated in commercial or industrial districts shall be allowed upon approval of a site plan reviewed by the planning department in accordance with division 2 of article XVI of the chapter and further provided that:

- (1) Access to a public street that does not require using land zoned as residential is reasonably available. Such access shall be used.
- (2) The accessway and the building shall be screened from adjacent residential lots or uses as provided for by section 60-579(3)g.
- (3) The street onto which access will be gained is adequate to carry the projected volumes of traffic. This shall be determined by a traffic study as provided for by chapter 52, pertaining to traffic and vehicles.
- (4) Accessways shall be designed in accordance with the standards for industrial/commercial streets as provided for by chapter 52, pertaining to traffic and vehicles.
- (5) Title to the land used for access will be retained by the owner of the land zoned for commercial or industrial use to which access is provided.

(Ord. of 9-21-2009, § 3.1R)

Sec. 60-51. - Mass gatherings.

The use of property for a mass gathering as defined and regulated by article ~~IX~~ of chapter ~~14~~ is permitted in all zoning districts.

(Ord. of 9-21-2009, § 3.1S)

Sec. 60-52. - Adult day centers and child day care centers.

Adult day care centers and child day care centers proposed to be operated in a church, school or municipally owned building or recreation facility shall not be required to be reviewed and approved by the city planning board as a special exception. Such uses shall be processed by administrative review by the planning department in accordance with division 3 of article XVI of this chapter. The planning board shall be notified of any project approved by the planning department.

(Ord. of 9-21-2009, § 3.1T)

Secs. 60-53—60-77. - Reserved.

ARTICLE III. - NONCONFORMING BUILDINGS OR USES

Sec. 60-78. - Continuance.

Any lawfully nonconforming use of building or land which was established prior to September 14, 1960, or in conformance with zoning regulations in effect at the time of establishment or granted by variance may be continued in the same kind and manner and to the same extent as at the time it became lawfully nonconforming. No lot shall be deemed to be a nonconforming lot, nor shall any building or use of a lot or a building be deemed a nonconforming use solely by reason of the lot being one shown upon an approved planned unit development pursuant to division ~~940~~ of article IV of this chapter.

(Ord. of 9-21-2009, § 3.2A)

Sec. 60-79. - Change, extension or enlargement.

The following provisions shall govern changes, extensions or enlargements of nonconforming buildings or uses.

- (1) A lawfully nonconforming use shall not be changed to a dissimilar use, extended or enlarged; unless it can meet the criteria listed in this section.
- (2) A lawfully nonconforming residential building may not be enlarged beyond the size permitted by dimensional regulations for buildings in said district except that an existing nonconforming building line may be extended, but in no case shall the yard requirement for said addition be reduced to less than five feet.
- (3) An existing lawfully nonconforming, nonresidential building or structure may be extended or enlarged, provided that it satisfies the following criteria:
 - a. No building or structure shall be altered, enlarged, added to or reconstructed (except as may be allowed by subsection (3)h of this section to extend further in a nonconforming manner or in any way which does not satisfy all dimensional regulations required in the district where located;
 - b. A building or structure occupied or otherwise used for a nonconforming use shall not be extended or enlarged;
 - c. Any enlargement shall only be used to accommodate the needs of the existing use or different conforming use proposed to occupy the entire structure. An enlargement which purpose is to provide for additional floor space as a result of the addition of a new business under separate ownerships shall not be allowed;
 - d. Only a commercially used building or structure located in a commercially zoned district and industrially used buildings in an industrial district may be enlarged or extended;
 - e. Except as provided in this subsection (3)e, any building or structure enlarged under this section shall conform to all regulations applicable to: access management, parking, landscaping and buffering, signage and environmental regulations.
 1. Upon written request of the property owner, the planning director may authorize a waiver of, or less than, full compliance with access management, parking, landscaping and buffering, signage, and environmental regulations, if it is determined to be impractical, infeasible or would cause an unnecessary hardship on the property owner;
 2. All owners of abutting properties and property directly across the street from the site shall be notified by mail and given a ten day comment period regarding the requested waiver. The applicant shall be responsible for the postage cost of providing the notice to abutters plus an administrative fee as provided in the city fee schedule;
 3. The planning director shall provide a written decision to the property owner, and to any abutter who responded, within 14 days from the date of the request;
 4. If the property owner or one or more abutters disagrees with the decision of the planning director, regarding the requested waiver, a written request may be submitted to the planning board within 30 days of the decision and the planning board shall determine

whether to grant the waiver. Both the applicant and abutters shall be notified of any such meeting by mailed notice not less than 14 days prior to the meeting. The party making such a request shall be responsible for the cost of the notification;

- f. Any building or structure enlarged under this section shall require the removal of nonconforming or obnoxious characteristics such as: excess signage, improper lighting, and/or outside storage;
- g. A commercially used building or structure located in a commercially zoned district may be enlarged up to 2,500 square feet or 25 percent of the occupied floor area that now exists, whichever is greater, to a maximum expansion of 5,000 square feet; an industrially used building in an industrial district may be enlarged by 5,000 square feet or 25 percent of the occupied floor area that now exists, whichever is greater, to a maximum expansion of 10,000 square feet. The expansion limitations in this subsection (3)g may be allowed under this process no more than once during the lifetime of the structure. Expansions proposed to exceed the thresholds as outlined in this subsection (3)g may be allowed by the planning board, pursuant to divisions 2 of article XVI of this chapter and further provided that all applicable criteria herein articulated are satisfied; and
- h. No building or structure which possesses two or more nonconforming violations (lot dimensions, density, yard requirements or height) shall be extended or enlarged if the new construction will increase or extend the nonconforming violations, unless approved by the planning board, pursuant to division 2 of article XVI of this chapter.

None of the limitations of this subsection (3) shall apply to a building or structure, which requires it to be altered, extended or enlarged to satisfy life safety codes and/or handicapped accessibility.

- (4) An existing nonconforming use may be authorized by the planning director to be changed to a similar nonconforming use upon application to and a finding that the following criteria are met:
 - a. It would not be economically feasible to convert the property to a conforming use;
 - b. The use proposed would have the same or less adverse impact on the neighborhood in terms of noise, odor, smoke, traffic, physical appearance and other similar conditions than the existing or lapsed nonconforming use; and
 - c. Expenditures for any structural modifications to the property required to accommodate the new nonconforming use shall not exceed 50 percent of the assessed tax value of the property at the time of the change in use.
- (5) The use of any property or building that formerly was used in a lawfully nonconforming manner and which was abandoned (as defined in section 60-81) may be permitted after approval by the planning board in accordance with division 2 of article XVI of this chapter.

(Ord. of 9-21-2009, § 3.2B)

Sec. 60-80. - Change to conformity.

Any nonconforming building or portion thereof or nonconforming use of building or land or portions whether or not granted by action of the board of appeals, may be changed to one conforming with all the zoning provisions of the district in which located, provided it shall thereafter continue to conform.

(Ord. of 9-21-2009, § 3.2C)

Sec. 60-81. - Abandonment.

If any nonconforming use of a building or portion thereof or of land or portion thereof be discontinued for a period of 12 consecutive months' duration or more or is voluntarily discontinued, it shall be presumed abandoned, such use shall not be resumed, and only a use conforming with zoning provisions in the zoning district in which located shall thereafter be made of such building or land, except as may be permitted otherwise under section 60-79(4) and (5). A use shall be deemed to be discontinued when the principle activity ceases. A use that is voluntarily discontinued shall be deemed to have ceased when a written statement containing the name of the owner of the property, the name of the business or use, the nature of the use being discontinued and the date of the discontinuance is reviewed by the municipal officer charged with enforcement.

(Ord. of 9-21-2009, § 3.2D)

Sec. 60-82. - Damage.

Any nonconforming use of a building or structure, which has the structural members (frame, flooring, roof and exterior walls) above the foundation and the mechanical equipment (plumbing, electrical and heating) destroyed or damaged by fire, lightning, wind or other natural disaster to the extent of 65 percent or more shall not be rebuilt, repaired, reconstructed or altered except in conformance with all provisions of the underlying district's regulations. For the purpose of this section, a residence building on a full foundation in an agriculture and resource protection district which has been destroyed or damaged by natural disaster shall not be deemed nonconforming for a period of one year following the damage and may be rebuilt, repaired and reconstructed in the same nonconforming location. Alterations and expansions of such buildings shall only be in conformance with all the underlying district's regulations. For the purpose of this section, a full foundation is considered to be a permanent concrete or masonry structure used to support a building.

(Ord. of 9-21-2009, § 3.2E)

Sec. 60-83. - Relocation and replacement mobile homes.

No nonconforming mobile home may be moved to another lot or parcel in the city and no nonconforming structure may be replaced by another nonconforming structure but shall be replaced with a site-built home or manufactured home that meets the definition of newer mobile home as found in section 60-2.

(Ord. of 9-21-2009, § 3.2F)

Sec. 60-84. - Forfeited.

Any nonconforming use housed in a building or structure which has the structural members (frame, flooring, roof and exterior walls) and the mechanical equipment (plumbing, electrical and heating) destroyed or damaged by fire, lightning, wind or other natural disaster to the extent of 65 percent or more shall be presumed to be forfeited at the time of such damage. Such use shall not be resumed, and only a use conforming with zoning provisions in the zoning district in which located shall thereafter be made of such building or land.

(Ord. of 9-21-2009, § 3.2G)

Sec. 60-85. - Reconstruction, alteration or modification.

A nonconforming building or structure which is being rebuilt, remodeled, reconstructed or otherwise modified shall not have its structural members (frame, flooring, roof and exterior walls) above the existing foundation or frame supports removed by more than 50 percent.

(Ord. of 9-21-2009, § 3.2H)

Sec. 60-86. - Residential use.

An existing residential building that is nonconforming in terms of density of units and where the units, either some or all, have been abandoned as defined under section 60-81, shall be allowed to exceed its permitted density by two units or to reestablish the same number of units at the time they were abandoned, whichever is less.

(Ord. of 9-21-2009, § 3.2I)

Secs. 60-87—60-115. - Reserved.

ARTICLE IV. - DISTRICT REGULATIONS

DIVISION 1. - GENERALLY

Secs. 60-116—60-143. - Reserved.

DIVISION 2. - AGRICULTURE AND RESOURCE PROTECTION DISTRICT

Sec. 60-144. - Purpose.

The purposes of this district are to allow for conservation of natural resources and open space land, and to encourage agricultural, forestry, and certain types of recreational uses. It is declared to be in the public interest that these areas should be protected and conserved because of their natural, aesthetic and scenic value, the need to retain and preserve open space lands, their economic contribution to the city, and primarily 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 and its inhabitants. This section shall be construed so as to effectuate the purposes outline here and to prevent any attempt to establish uses which are inconsistent with these purposes or any attempt to evade the provisions of this division.

(Ord. of 9-21-2009, § 3.31A)

Sec. 60-145. - Use regulations.

(a) *Permitted uses.* The following uses are permitted:

- (1) One-family detached dwellings, including manufactured housing subject to all the design standards, except the siting requirements of section 60-101073, as set forth in [division 6](#), article XII of this chapter, on parcels containing no less than ten acres, provided that the dwelling is accessory to farming operations and subject to the following restrictions:
 - a. At least 30 percent of the gross annual household income of the farm occupants living in the farm residence will be derived from farm uses or the gross farm income of the farm occupants living in the farm residence is equal to or greater than 30 percent of the city's median household income, according the most recent census data.
 - b. 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 municipal officer charged with enforcement are 75 percent completed.

- c. In no case shall any farm residence constructed under the provisions of this section after the effective date of the amended ordinance from which this section is derived continue to be occupied as a residence if the principal agricultural use has been abandoned or reduced in scope below the minimum requirements as shown on the plans and specifications presented to the municipal officer charged with enforcement.
 - d. Any residence constructed under this article shall not be converted to nonfarm residential use except by permission of the planning board 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 article.
- (2) Buildings, equipment and machinery accessory to the principal use including, but not limited to: barns silos, storage buildings and farm automobile garages.
 - (3) Forest products raised for harvest.
 - (4) Field crop farms.
 - (5) Row crop farms.
 - (6) Orchard farms.
 - (7) Truck gardens.
 - (8) Plant and tree nurseries.
 - (9) Greenhouses.
 - (10) Handling, storage and sale of agriculture produce and processed agricultural products derived from produce grown on the premises.
 - (11) Livestock operations including poultry farms, cattle farms, dairy farms, stud farms, hog farms, sheep ranches, other animal farms, including farms for raising fur-bearing animals.
 - (12) Wayside stands.
 - (13) Two-family dwellings which are created from the conversion of a one-family dwelling structure which was constructed prior to 1900.
 - (14) Adult use and medical marijuana cultivation, but not retail sales of any kind.
 - (15) Marijuana manufacturing accessory to a licensed cultivation site.
 - (16) Ground-mounted and dual-use solar energy generating systems less than one acre in total land area as defined in section 60-1501.
- (b) *Special exception uses.* The following uses are permitted by special exception after approval by the planning board in accordance with the provisions of division 3 of article XVII of this chapter:
- (1) Sawmills and their customary accessory land uses and buildings incidental to the harvesting of forest products, subject to the following conditions:
 - a. Sawmill and accessory activity shall not be detrimental to the neighborhood or the city by reason of special danger of fire or explosion, pollution of rivers or perennial streams or accumulation of refuse.
 - b. Wood processing operation shall be located no closer than 75 feet from any river or perennial stream, 250 feet from any zoning district boundary or residential dwelling and shall be limited to four persons employed.
 - c. Where natural vegetation is removed, it shall be replaced within six months with other vegetation which will be equally effective in retarding erosion and will preserve natural beauty.

- (2) Veterinary hospitals, where operated by licensed veterinarians, including offices and facilities for temporarily boarding animals.
- (3) Handling, storage and sale of agricultural services, equipment, and supplies accessory to the farming use.
- (4) Bona fide residences required for farm labor. Any residence constructed for farm labor shall not be converted to nonfarm residential use except by permission of the planning board 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 division. The findings and the conditions upon which such altered use may be continued shall be made a part of the permanent records.
- (5) Recreational uses of land intended or designed for public use subject to the following conditions:
 - a. No such recreational use shall be expanded or extended so as to occupy additional land area greater than 20 percent of the original area or one acre, whichever is less; or by the construction of a structure or an addition to an existing structure by more than 900 square feet of additional floor space unless the owner or occupant first obtains approval of the planning board in the manner and upon the same terms as approvals of initial recreational uses.
 - b. Any proposed new or expanded recreational use shall be completed on or before the estimated completion date except that the planning board may grant reasonable extension of time where good cause for the failure to complete is shown.
- (6) Any legally nonconforming summer camp or cottage may be rebuilt if destroyed by fire or other casualty, subject to the following conditions:
 - a. Such reconstruction shall comply with all ordinances applicable to new construction. Such reconstruction need not, however, comply with zoning provisions which would otherwise be applicable except for the provisions of article XII of this chapter.
 - b. In cases where no minimum setback is established by division 5 of article XII of this chapter an open yard space of at least ten feet between the building as reconstructed and each of the property lines shall be maintained.
- (7) Rifle, pistol, skeet or trap shooting ranges, public or private.
- (8) Cemeteries, subject to the following conditions:
 - a. At least 20 acres in area.
 - b. Not located in any environmental overlay district or over any known aquifer.
- (9) Municipal sanitary landfills, subject to the following conditions:
 - a. Not located in any environmental overlay district or over any known aquifer.
 - b. Provisions shall be made to avoid surface water and groundwater pollution.
 - c. Provisions shall be made for frequent covering of deposited wastes with earth to counteract vermin, insects, odors, and windblown debris.
- (10) Radio, radar, television and radio telephone transmitting or broadcasting towers, but not studios or offices for such transmitting or broadcasting, provided that:
 - a. Every such tower shall be installed in a location and manner that ensures its safe operation and the safety of the surrounding residents, building occupants, land uses and properties.
 - b. In no case shall such tower be located less than one and one-half times its height from the nearest property line.
- (11) Wholesale nurseries, subject to the following conditions:

- a. At least one-half of the area of the lot (up to a maximum of three acres) is in active nursery production in a husband type manner.
 - b. The plants and trees propagated, grown and nurtured in the nursery are used as the primary products by the owner/operator of the landscape service.
- (12) Processing and storage of compost and bulking agents from the municipal wastewater sewerage sludge facilities provided that:
 - a. All compost and amendments are to be stored undercover or screened from the public way and abutting property as determined by the planning board.
 - b. All federal, state and local ordinances and laws relating to the processing and storage of waste are complied with.
 - c. An end-use plan must be filed as part of the planning board process.
- (13) Licensed hospice care facility provided that it shall be licensed by the state as a Medicare certificate hospice.
- (14) Slaughterhouse, stockyard, abattoir, dressing plant in compliance with state and federal regulations subject to the following conditions:
 - a. The facility shall not be located within the Lake Auburn Watershed Overlay District, the watershed of Taylor Pond, the shoreland overlay district or the floodplain overlay district.
 - b. The proposed use shall not occupy more than 10,000 square feet of building area.
 - c. The number of employees shall be limited to not more than 15.
 - d. Accessory retail sales shall be limited to 10 percent of building area or 1,000 square feet, whichever is smaller.
 - e. Hours of operation shall limited to between 6:00 a.m. and 8:00 p.m.
- (15) Compost operations, excluding municipal and industrial waste, to process products such as manure, bedding, animal mortalities, waste feed, produce, forestry by-products, leaves and yard trimmings in compliance with state and federal regulations, subject to the following conditions:
 - a. All compost sites shall be evaluated for suitability by a properly qualified professional, including benchmark water testing prior to approval.
 - b. Provisions shall be made to avoid surface and groundwater pollution.
 - c. Provisions shall be made to counteract vermin, insects and odors.
 - d. Must comply with all applicable state department of environmental protection and state department of agriculture rules and regulations and best management practices.
 - e. Shall not be located within the Lake Auburn Watershed Overlay District.
- (16) Adaptive reuse of structures of community significance.
- (17) Assembly, sale, research and development, distribution, instruction, training, demonstration or maintenance of recreational or agricultural equipment, including buildings as accessory structures used in the assembly, sale, distribution, instruction, training, demonstration, or maintenance of recreational or agricultural equipment, subject to the following conditions:
 - a. The proposed use is accessory, complementary, or otherwise related to a recreational or agricultural use;
 - b. The recreational or agricultural use has been in existence for at least five years prior to the date of the application for the special exception; and
 - c. The recreational or agricultural use is located on the parcel for which the special exception is requested or is adjacent to the property for which the special exception is requested.

- (18) One-family detached dwellings, including manufactured housing, subject to all the design standards, except the siting requirements of section 60-~~473~~1010, as set forth in [division 6](#), article XII of this chapter, on parcels containing greater than 6.1, but less than ten acres, provided that the dwelling is accessory to farming operations and subject to the following restrictions:
- a. At least 30 percent of the gross annual household income of the farm occupants living in the farm residence will be derived from farm uses or the gross farm income of the farm occupants living in the farm residence is equal to or greater than 30 percent of the city's median household income, according to the most recent census data; and
 - b. 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 municipal officer charged with enforcement are 75 percent completed; and
 - c. The applicant shall demonstrate compliance with the following requirements, said compliance to be first reviewed by the Agricultural Advisory Committee for recommendation:
 1. The applicant shall provide a farm business plan that appears feasible and, if implemented, will meet the definition of a farm.
 2. The parcel can reasonably accommodate the proposed farm.
 3. The applicant shall demonstrate a commitment to the proposed farm use through compliance with the following requirements:
 4. The parcel must contribute to a gross income per year of at least the amount required to meet the definition of farmland in 36 M.R.S.A. § 1102(4), per year from the sales value of agricultural products as defined in 7 M.R.S.A. § 152(2) in the two calendar years preceding the date of application for special exception use approval. Gross income includes the value of commodities produced for consumption by the farm household.
 5. The proposed residence shall be accessory to farming.
 6. The proposed residence shall not be located in the Lake Auburn Watershed Overlay District.
 - d. The parcel was existing as of October 1, 2017, contains more than five acres of land area, and otherwise meets the requirements of this chapter.
 - e. In no case shall any farm residence constructed under the provisions of this section, after the effective date of the amended ordinance from which this section is derived, continue to be occupied as a residence if the principal agricultural use has been abandoned or reduced in scope below the minimum requirements as shown on the plans and specifications presented to the municipal officer charged with enforcement.
 - f. Any residence constructed under this article shall not be converted to nonfarm residential use except by permission of the planning board 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 requirement of this article.
- (19) Ground-mounted and dual-use solar energy generating systems greater than one acre in total land area as defined in section 60-1501, subject to the following conditions:
- a. Must comply with the provisions of article XVIII under this chapter;
 - b. Setbacks, including appurtenant structures and parking areas, shall be subject to the following yard requirements:
 1. *Rear.* There shall be behind every structure associated with a solar energy generating system a rear yard having a minimum depth of 25 feet.

2. *Side.* There shall be a minimum distance of 15 feet between any structure associated with a solar energy generating system and the side property line.
 3. *Front.* There shall be in front of every structure associated with a solar energy generating system a front yard having a minimum depth of 25 feet or 25 percent of the average depth of the lot whichever is less.
- c. Lot coverage shall not exceed 30 percent, as defined under subsection 60-1506(a)(2).
 - d. *Total land area.* Once one percent of the agriculture and resource protection district has been developed into solar energy generating systems, the planning board must find that any additional proposed solar energy generating systems will not materially alter the stability of the overall land use pattern of the agriculture and resource protection district. In making this determination, the planning board shall consider the overall effect of existing and potential solar energy generating systems and if it will be more difficult for existing farms in the area to continue operation due to diminished opportunities to expand, purchase or lease farmland, acquire water rights, or diminish the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the surrounding area. The planning board shall request an assessment of the proposed project based on subsection 60-145(b)(19)d. by the agriculture committee and, if located in the resource protection district, the conservation commission and carefully consider their recommendations.
 - e. All applications shall consider the location of existing grid infrastructure and plan to limit the need to extend the amenities for optimal efficiency.
 - f. If a solar energy generating system is proposed on forestland in the agriculture and resource protection district, on a parcel adjacent to prime farmland or land currently used for farming, clearing of forestland or the use of prime farmland may be permitted under the following conditions:
 1. The presence of the solar energy generating system will not result in unnecessary soil erosion or loss that could limit agricultural productivity on the subject property or abutting properties.
 2. At the time of decommissioning of any solar energy generating system approved by the planning board, the current sitting planning board shall review the site and proposed decommissioning plan for the conversion of the parcel into prime farmland or forestland, as applicable under the current ordinance standards.
 3. A survey of critical wildlife habitat is provided at the time of application, if a project is located in an area determined to be essential habitat, as defined by the state department of inland fisheries and wildlife, an IF&W recommendation shall be secured before a planning board ruling.
 4. A vegetative cover plan is provided that demonstrates, where feasible, the replanting of forested areas disturbed during construction and preservation of prime soils throughout the life of the project.
 - g. *Prime soils.* All solar energy generating systems proposed in the agriculture and resource protection district shall include a soil analysis. Such analysis shall demonstrate if the site proposed for development contains prime farmland as defined by the United States Department of Agriculture (USDA). Least productive agricultural soils shall be considered first for development unless it can be demonstrated to the planning board that:
 1. Non-prime farmland is not reasonably available on the subject property.
 - h. All applications for solar energy generating systems in the agriculture and resource protection district shall be subject to the following provisions:
 1. Siting of the overall facility and individual panels shall keep with the existing contours of the land;

2. Only pile driven, or ballast block footing shall be used so as to minimize the disturbance of soils during installation;
 3. To the extent possible, infrastructure shall not be located on steep slopes; and
 4. A plan for topsoil maintenance shall be provided at the time of application to the planning board.
- i. All operations and maintenance plans shall also include:
1. A plan prioritizing the ability to co-mingle agricultural and energy generation land uses including but not limited to: apiaries, grazing or handpicked crops.
 2. A plan that provides habitat for native plants and animals and native pollinators.

(Ord. of 9-21-2009, § 3.31B; Ord. No. 32-02072011-07, 2-7-2011; Ord. No. 06-08012011-07, 8-1-2011; Ord. No. 05-04032017, § 2, 4-24-2017; Ord. No. 06-06052017, 6-19-2017; Ord. No. 04-05202019, 6-3-2019; Ord. No. 17-11182019, 12-9-2019; Ord. No. 05-05182020, 6-1-2020)

Sec. 60-146. - Dimensional regulations.

All structures in this district, except as noted shall be subject to the following dimensional regulations:

- (1) *Minimum lot area, width and depth.* No lot shall be created containing less than ten acres, exclusive of any bodies of water having a surface area of one-fourth of an acre or more and measuring less than 250 feet in width at the street frontage, and 200 feet in depth. No building shall be erected on a lot containing less than ten acres, except as allowed in this section, exclusive of any bodies of water having a surface area of one-fourth of an acre or more, and measuring not less than 250 feet in width at the street frontage, and 200 feet in depth.
 - a. A building may be erected on a lot containing not less than 50,000 square feet and possessing the required minimum frontage width provided it is contiguous with other lots or parcels of land in the same ownership containing an aggregate of not less than ten acres; notwithstanding the separation of the said other lots or parcels of land by a road, stream, private right-of-way or other natural boundary from the lot on which the building is to be constructed. This section shall not be construed to prevent the construction of nonresidential accessory farm buildings on any such lot.
 - b. On legally nonconforming undersized lots, the keeping of horses, mules, cows, goats, sheep, hogs, and similar sized animals for domestic use of the residents of the lot is permitted provided that the land area required per animal unit conforms to the definition of [animal farm farm, livestock](#) contained in section 60-2.
 - c. A dwelling may be constructed on lots existing as of October 1, 2017 and containing greater than 6.1 acres but less than ten acres, if approved as a special exception pursuant to subsection 60-145(b)(18).
- (2) *Density.* The density of year-round dwelling units shall not exceed an average of one dwelling per ten acres, unless approved pursuant to subsection (1) above.
- (3) *Yard requirements.*
 - a. *Rear.* There shall be behind every building a rear yard having a minimum depth of 25 feet.
 - b. *Side.* There shall be a minimum distance of 15 feet between any building and the side property line.
 - c. *Front.* There shall be in front of every building a front yard having a minimum depth of 25 feet or 25 percent of the average depth of the lot whichever is less.
- (4) *Height.* The height of all dwelling structures shall be limited to two and one-half stories or 35 feet in height. Accessory buildings and structures may have a maximum height of 65 feet from grade,

provided that the front yard, rear yard and each of the side yards shall be increased by one foot for each foot in height in excess of 35 feet.

- (5) *Off-street parking.* Off-street parking spaces shall be provided in accordance with the requirements for specific uses as set forth in articles ~~V through XI~~ of this chapter.

(Ord. of 9-21-2009, § 3.31C; Ord. No. 18-11182019, 12-9-2019)

Secs. 60-147—60-199. - Reserved.

DIVISION 3. - LOW DENSITY COUNTRY RESIDENTIAL DISTRICT

Sec. 60-200. - Purpose.

The purpose of this zone is to maintain and promote the rural/agricultural character of the land within this zone. This zone is composed of those areas in the city whose predominant land use is rural, wooded and agricultural. The regulations for this zone are designed to protect and stabilize these predominant land uses which are the essential characteristics of these areas and to minimize conflicting land uses detrimental to agricultural enterprises. Since residences are only incidental to this zone's development, the densities which require improved roads and expanded municipal services, in excess of those required by the present agricultural-oriented uses, shall not be permitted.

(Ord. of 9-21-2009, § 3.32A)

Sec. 60-201. - Use regulations.

(a) *Permitted uses.* The following uses are permitted:

- (1) All uses permitted in the Agriculture and Resource Protection District, except uses allowed by section 60-145(a)(8), ~~(9)~~, (14) and (15).
- (2) One-family detached dwellings.
- (3) Lawn maintenance services.

(b) *Special exception uses.* The following uses are permitted by special exception after approval by the planning board in accordance with the provisions of division 3 of article XVI of this chapter:

- (1) All uses permitted by special exception in the Agriculture and Resource Protection (AR) District, (divisions ~~2 and 3~~ of article IV of this chapter), except uses allowed by section 60-172(b)(7), (14), and (15).
- (2) Bed and breakfast.
- (3) Adaptive reuse of structures of community significance.

(Ord. of 9-21-2009, § 3.32B; Ord. 33-02072011-08, 2-7-2011; Ord. No. 08-08012011-07b, 8-1-2011; Ord. No. 05-04032017, § 2, 4-24-2017; Ord. No. 11-08192019, 9-9-2019)

Sec. 60-202. - Dimensional requirements.

All structures in this district except as noted shall be subject to the following dimensional regulations:

- (1) *Minimum lot area, width and depth.* No lot shall be created and/or no building shall be erected on a lot containing less than three acres and measuring less than 325 feet in width. No lot shall be less than 200 feet in depth. 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 land

area required per animal unit forms to the definition of ~~animal farm~~farm, livestock contained in section 60-2.

- (2) *Density.* The density of dwelling units shall not exceed an average of one dwelling per three acres.
- (3) *Yard requirements.*
 - a. *Rear.* There shall be behind every building a rear yard having a minimum depth of 50 feet or 25 percent of the average depth of the lot, whichever is less.
 - b. *Side.* There shall be a minimum distance of 15 feet between any building and the side property line plus the side yard setback shall be increased one foot for every five feet or part thereof increase in street frontage over 50 feet to a maximum of 25 feet for side yard setback.
 - c. *Front.* There shall be in front of every building a front yard having a minimum depth of 50 feet or 25 percent of the average depth of the lot whichever is less.
- (4) *Height.* The height of all dwelling structures shall be limited to 2½ stories or 35 feet in height. Accessory buildings and structures may have a maximum height of 65 feet from grade, provided that the front yard, rear yard, and each of the side yards shall be increased by one foot for each foot in height in excess of 35 feet.
- (5) *Off-street parking.* Off-street parking spaces shall be provided in accordance with the requirements for specific uses as set forth in articles ~~V through XI~~ of this chapter.

(Ord. of 9-21-2009, § 3.32C)

Secs. 60-203—60-227. - Reserved.

DIVISION 4. - LOW DENSITY RURAL RESIDENCE DISTRICT

Sec. 60-228. - Purpose.

This district is intended to provide for low density rural residential areas while protecting adjacent agriculture and resource protection districts, allowing a degree of residential development compatible with maintenance of environmental quality and preservation of the open character of the area.

(Ord. of 9-21-2009, § 3.41A)

Sec. 60-229. - Use regulations.

- (a) *Permitted uses.* The following uses are permitted:
 - (1) All uses permitted in the Agriculture and Resource Protection District pursuant to section 60-145(a), except 60-145(a)(14) and (15).
 - (2) One-family detached dwellings.
 - (3) Two-family dwellings.
 - (4) Attached single-family dwellings, provided that they are approved by the planning board as part of a planned residential unit development and subdivision, under the provisions of division ~~940~~ of article IV and division 4 of article ~~XVII~~ of this chapter.
 - (5) Mobile home parks, subject to the requirements and conditions of section 60-669, mobile home park standards.
 - (6) Licensed veterinarians provided that the lot is of at least three acres.

- (7) Wayside stands.
 - (8) Accessory uses, buildings or structures.
 - (9) Lawn maintenance services.
 - (10) Municipal uses and buildings.
- (b) *Special exception uses.* The following uses are permitted by special exception after approval by the planning board in accordance with the provisions of division 3 of article XVI of this chapter:
- (1) Radio, radar, television and radio-telephone transmitting or broadcasting towers, but not studios or offices for such transmitting or broadcasting, provided that:
 - a. Every such tower shall be installed in a location and manner that ensures its safe operation and the safety of the surrounding residents, buildings occupants, land uses and properties.
 - b. In no case shall such tower be located less than 1½ times its height from the nearest property line.
 - (2) Care homes, lodginghouses and boardinghouses.
 - (3) Recreational uses of land intended or designed for public use, subject to the following conditions:
 - a. No such recreational use shall be expanded or extended so as to occupy additional land area greater than 20 percent of the original area or one acre, whichever is less; or by the construction of a structure or an addition to an existing structure by more than 900 square feet of additional floor space unless the owner or occupant first obtains approval of the planning board.
 - b. Any proposed new or expanded recreational use shall be completed on or before the estimated completion date except that the planning board may grant reasonable extension of time where good cause for the failure to complete is shown.
 - (4) Child day care centers, provided that:
 - a. They are located on arterial and collector streets as defined in the Auburn Tomorrow Comprehensive Plan.
 - b. They shall not be located closer than 1,000 feet from other established day care centers.
 - c. These standards shall not apply to section 60-52.
 - (5) Cemeteries, provided that:
 - a. At least 20 acres in area.
 - b. Not located in any environmental overlay district or over any known aquifer.
 - (6) Community-based residential facilities, provided that:
 - a. The minimum distance between any two such facilities shall be 1,500 feet.
 - b. Any such facility shall house no more than eight persons.
 - (7) Licensed kennels provided that there shall be available land area of at least three acres.
 - (8) Training schools.
 - (9) Handling, storage and sale of agricultural services, equipment, and supplies accessory to the farming use.
 - (10) Adult day centers.
 - (11) Landscape services.
 - (12) Wholesale nurseries, subject to the following conditions:

- a. At least one-half of the area of the lot (up to a maximum of three acres) is in active nursery production in a husband type manner.
- b. The plants and trees propagated, grown and nurtured in the nursery are used as the primary products by the owner/operator of the landscape service.

(13) Schools.

(14) Churches or temples.

(15) Libraries.

(16) Museums.

(17) Adaptive reuse of structures of community significance.

(Ord. of 9-21-2009, § 3.41B; Ord. No. 05-04032017, § 2, 4-24-2017; Ord. No. 12-08192019, 9-9-2019)

Sec. 60-230. - Dimensional regulations.

All structures in this district, except as noted, shall be subject to the following dimensional regulations:

- (1) *Minimum lot area, width and depth.* No lot shall be created and/or no building shall be erected on a lot containing less than 43,560 square feet and measuring less than 250 feet in width. No lot shall be less than 150 feet in depth. The keeping of horses, mules, cows, goats, sheep, hogs, and similar sized animals for domestic use of the residents of the lot is permitted, provided that the land area required per animal unit conforms to the definition of [animal farm](#), [livestock](#) contained in section 60-2.
- (2) *Density.* The density of dwelling units shall not exceed an average of one dwelling per acre.
- (3) *Yard requirements.*
 - a. *Rear.* There shall be behind every building a rear yard having a minimum depth of 25 feet or 25 percent of the average depth of lot, whichever is less.
 - b. *Side.* There shall be a minimum distance of five feet between any building and the side property line plus the side yard setback shall be increased one foot for every five feet or part thereof increase in street frontage over 50 feet to a maximum of 15 feet for side yard setback.
 - c. *Front.* There shall be in front of every building a front yard having a minimum depth of 25 feet or 25 percent of the average depth of the lot whichever is less.
- (4) *Height.* The height of all dwelling structures shall be limited to two and one-half stories or 35 feet in height. A public building, church or temple, and accessory buildings and structures may have a maximum height of 65 feet from grade, provided that the front yard, rear yard, and each of the side yards shall be increased by one foot for each foot in height in excess of 35 feet.
- (5) *Off-street parking.* Off-street parking spaces shall be provided in accordance with the requirements of specific uses as set forth in articles [V through XI](#) of this chapter.

(Ord. of 9-21-2009, § 3.41C)

Secs. 60-231—60-253. - Reserved.

DIVISION 5. - SUBURBAN RESIDENCE DISTRICT

Sec. 60-254. - Purpose.

This district is intended to provide for, protect and stabilize low density suburban residential areas and their adjunct public and institutional uses. It is designed to ensure an open character of development through its lot size requirements and through permitting of certain uses, rural in nature, that are compatible with residential uses.

(Ord. of 9-21-2009, § 3.42A)

Sec. 60-255. - Use regulations.

(a) *Permitted uses.* The following uses are permitted:

- (1) One-family detached dwellings.
- (2) Two-family dwellings.
- (3) Attached single-family dwellings, provided that they are approved by the planning board as part of a planned residential unit development and subdivision, under the provisions of division ~~940~~ of article IV and division 4 of article XVI of this chapter.
- (4) Mobile home parks, subject to the requirements and conditions of section 60-669, mobile home park standards.
- (5) Farming of field crops, row crops, orchards or truck gardens.
- (6) Greenhouses.
- (7) Licensed veterinarians, provided that the lot containing same is of at least three acres.
- (8) ~~Animal farms~~Farm, livestock provided that the land area required per animal unit conforms to the definition of ~~animal farm~~farm, livestock contained in section 60-2 and:
 - a. A site plan be submitted to the municipal officer charged with enforcement that contains the information required by section 60-1301.
 - b. Upon request, the municipal officer charged with enforcement may waive the necessity of providing any of the foregoing information which is not relevant to the proposed development.
 - c. In judging whether or not a permit to operate an animal farm will be issued, the municipal officer charged with enforcement shall review and make a decision consistent with the finding requirements of section 60-1304.
- (9) Wayside stands.
- (10) Accessory uses, buildings or structures.
- (11) Lawn maintenance services.
- (12) Municipal uses and buildings.

(b) *Special exception uses.* The following uses are permitted by special exception after approval by the planning board in accordance with division 3 of article XVI of this chapter:

- (1) All uses permitted by special exception in the Rural Residence (RR) District, except those uses allowed by section 60-229(b)(3), (9), (11) and (12).
- (2) Professional offices may be created within existing single-family residences in existence at the time of adoption of this chapter, provided the following conditions are met:
 - a. Such residences shall have frontage on a major arterial as defined in the city's comprehensive plan.
 - b. Access to parking shall be located on the arterial frontage except for corner lots, in which case access may be located on the secondary roadway frontage.

- c. In addition to meeting the requirements of articles ~~V through XI~~ of this chapter, required parking shall be separated from all lot lines by a buffer of 30 feet in width. Such buffer shall be vegetated in a manner to fully screen parked vehicles from view at the lot lines. A driveway serving such a parking area must be separated from the side lot line by a sight impervious fence of six feet in height or a buffer of ten feet in width meeting the vegetation requirements of this subsection (b)(2)c.
- d. Signage shall be limited to a single nonilluminated sign with a maximum of 16 square feet of display per side.

(3) Adaptive reuse of structures of community significance.

(Ord. of 9-21-2009, § 3.42B; Ord. No. 05-04032017, § 2, 4-24-2017)

Sec. 60-256. - Dimensional regulations.

All structures in this district, except as noted, shall be subject to the following dimensional regulations:

- (1) *Minimum lot area, width and depth.* No lot shall be created and/or no building shall be erected on a lot containing less than 21,780 square feet, and measuring less than 150 feet in width; and measuring less than 125 feet in depth.
- (2) *Density.* The density of dwelling units shall not exceed an average of two dwellings per acre.
- (3) *Yard requirements.*
 - a. *Rear.* There shall be behind every building a rear yard having a minimum depth of 25 feet or 25 percent of the average depth of lot, whichever is less.
 - b. *Side.* There shall be a minimum distance of five feet between any building and the side property line plus the side yard setback shall be increased one foot for every five feet or part thereof increase in street frontage over 50 feet to a maximum of 15 feet for side yard setback.
 - c. *Front.* There shall be in front of every building a front yard having a minimum depth of 25 feet or 25 percent of the average depth of the lot whichever is less.
- (4) *Height.* The height of all structures shall be limited to 2½ stories or 35 feet in height with the following exceptions: A farm accessory building or structure, church or temple, or windmill may have a maximum height of 65 feet from grade, provided that the front yard, rear yard and each of the side yards shall be increased by one foot for each foot in height in excess of 35 feet.
- (5) *Off-street parking.* Off-street parking spaces shall be provided in accordance with the requirements for specific uses as set forth in articles ~~V through XI~~ of this chapter.

(Ord. of 9-21-2009, § 3.42C)

Secs. 60-257—60-275. - Reserved.

DIVISION 6. - URBAN RESIDENCE DISTRICT

Sec. 60-276. - Purpose.

This district is intended to provide for, protect and stabilize medium density urban residential areas of single- and two-family detached dwellings and their adjunct public and institutional uses. It is designed to ensure a family living environment in an urban setting through lot size requirements that provide adequate yard space for family outdoor activity and play space for children.

(Ord. of 9-21-2009, § 3.43A)

Sec. 60-277. - Use regulations.

(a) *Permitted uses.* The following uses are permitted:

- (1) One-family detached dwellings.
- (2) Two-family dwellings.
- (3) Attached single-family dwellings, provided that they are approved by the planning board as part of a planned residential unit development and subdivision, under the provisions of division ~~940~~ of article IV and division 4 of article XVI of this chapter.
- (4) Accessory uses building or structures.
- (5) Farming of field crops, row crops, orchards or truck gardens.
- (6) Municipal uses and buildings.

(b) *Special exception uses.* All uses permitted by special exception in the Suburban Residence (SR) District (division ~~56~~ of article IV of this chapter), except radio, radar, television and radio-telephone transmitting towers are permitted in the Urban Residence (UR) District.

- (1) Adaptive reuse of structures of community significance.

(Ord. of 9-21-2009, § 3.43B; Ord. No. 05-04032017, § 2, 4-24-2017)

Sec. 60-278. - Dimensional regulations.

All structures in this district, except as noted, shall be subject to the following dimensional regulations:

- (1) *Minimum lot area, width and depth.* No lot shall be created and/or no building shall be erected on a lot containing less than 10,000 square feet; and measuring less than 100 feet in width. No lot shall be less than 100 feet in depth. No two-family dwelling shall be erected on a lot containing less than 12,000 square feet.
- (2) *Density.* The density of single-family dwelling units shall not exceed four units per acre. The density of two-family dwelling units shall not exceed six units per acre.
- (3) *Yard requirements.*
 - a. *Rear.* There shall be behind every building a rear yard having a minimum depth of 25 feet or 25 percent of the average depth of lot, whichever is less.
 - b. *Side.* There shall be a minimum distance of five feet between any building and the side property line plus the side yard setback shall be increased one foot for every five feet or part thereof increase in street frontage over 50 feet to a maximum of 15 feet for side yard setback.
 - c. *Front.* There shall be in front of every building a front yard having a minimum depth of 25 feet or 25 percent of the average depth of the lot, whichever is less.
- (4) *Height.* The height of all structures shall be limited to 2½ stories or 35 feet in height with the following exceptions: A farm accessory building or structure, church or temple, or windmill may have a maximum height of 65 feet from grade, provided that the front yard, rear yard and each of the side yards shall be increased by one foot for each foot in height in excess of 35 feet.
- (5) *Off-street parking.* Off-street parking spaces shall be provided in accordance with the requirements for specific uses as set forth in articles ~~V through XI~~ of this chapter.

(Ord. of 9-21-2009, § 3.43C)

Secs. 60-279—60-304. - Reserved.

DIVISION 7. - MULTIFAMILY SUBURBAN DISTRICT

Sec. 60-305. - Purpose.

This district is intended to stabilize and protect medium to high density residential areas by providing for a varied denser urban pattern made suitable to the needs of the population by encouraging a range of dwelling types. This multifamily zone has a maximum density of 17 dwelling units per acre, yet retains the open character of residential areas by requiring 50 percent green space. It is intended that this district will provide the maximum possible freedom in the design of structures and their grouping and will encourage flexible and imaginative layouts and designs.

(Ord. of 9-21-2009, § 3.44A)

Sec. 60-306. - Use regulations.

(a) *Permitted uses.* The following uses are permitted:

- (1) One-family detached dwellings.
- (2) Two-family dwellings.
- (3) Multifamily dwellings in existence on September 23, 1988.
- (4) Attached single-family dwellings, provided that they are approved by the planning board as part of a planned residential unit development and subdivision, under the provisions of division ~~940~~ of article IV and division 4 of article XVI of this chapter.
- (5) Farming of field crops, row crops, orchards or truck gardens.
- (6) Shelter for abused persons.
- (7) Accessory uses, buildings or structures.
- (8) Newly constructed multifamily dwellings and existing structures expanded to contain three or more additional dwelling units within a five-year period, provided that they are approved by the planning board as a subdivision under division 4 of article XVI of this chapter.
- (9) Municipal uses and buildings.

(b) *Special exception uses.* The following uses are permitted as special exceptions after approval by the planning board in accordance with division 3 of article XVI of this chapter:

- (1) All uses are permitted by special exception in the Urban Residence (UR) District (division ~~67~~ of article IV of this chapter).
- (2) Off-street parking lot, provided that:
 - a. Such parking is limited to occupants of buildings located within 500 feet of such parking area whether or not within the same zone.
 - b. Reasonable conditions imposed by the planning board regarding location, fencing, screening, drainage, ingress and egress, signs and lighting and total capacity of the parking area designed to protect the residential character of the neighborhood are met.
- (3) Professional offices.
 - a. Shall be in buildings which are listed on the state resource list and/or federal historic register.

- b. All renovations to the building either internally and externally or both to accommodate the office use shall be accomplished in conformance with accepted historic preservation and rehabilitation guidelines.
 - c. A single sign to identify the building and its uses, conforming to the requirements contained in article VI of this chapter. Signs shall not be lighted.
- (4) Adaptive reuse of structures of community significance.

(Ord. of 9-21-2009, § 3.44B; Ord. No. 05-04032017, § 2, 4-24-2017)

Sec. 60-307. - Dimensional regulations.

All structures in this district, except as noted, shall be subject to the following dimensional regulations.

- (1) *Minimum lot area, width and depth.* For each building erected, there shall be provided lot areas as follows:
- a. Building housing one family: 10,000 square feet minimum lot area, not less than 100 feet width, and 100 feet in depth.
 - b. Buildings housing two families: 12,000 square feet minimum lot area, not less than 100 feet width, and 100 feet in depth.
 - ~~c. Buildings housing three families: 14,000 square feet minimum lot area, not less than 100 feet width, and 100 feet in depth.~~
 - ~~d. Buildings housing four families: 16,000 square feet minimum lot area, not less than 100 feet width, and 100 feet in depth.~~
 - e. Multifamily buildings: 10,000 square feet minimum lot area for the first dwelling unit and 2,000 square feet minimum lot area for each additional dwelling unit. No lot shall be less than 100 feet width and 1200 feet in depth. More than one principal building per lot is allowed.
- (2) *Density.* The following maximum densities per acre shall apply, according to housing type:

| | |
|-------------------------|------------------------------|
| One-family | 4 units per acre |
| Two-family | 6 units per acre |
| Three family | 9 units per acre |
| Four family | 10 units per acre |
| Multifamily | 17 units per acre |

Not less than 50 percent of the net acreage shall be devoted to green area. Green space shall be deemed to include patios, whether paved or not, pedestrian walks, and landscaping within parking lots, but no off-street parking spaces, driveways, or common roads. For townhouse projects, the green area of individual lots may be counted toward the 50 percent green space requirement of the project. Net acreage shall include all land contained within the project except

dedicated streets or street rights-of-way shown on the city's adopted master development plan or proposed to be so included within a reasonable period of time.

(3) *Yard requirements.*

- a. *Rear.* There shall be behind every building a rear yard having a minimum depth of 25 feet or 25 percent of the average depth of lot, whichever is less.
- b. *Side.* There shall be a minimum distance of five feet between any building and the side property line plus the side yard setback shall be increased one foot for every five feet or part thereof increase in street frontage over 50 feet to a maximum of 15 feet for side yard setback.
- c. *Front.* There shall be in front of every building a front yard having a minimum depth of 25 feet or 25 percent of the average depth of the lot whichever is less.
- d. *Principal buildings.* More than one principal building may be erected on a lot, provided that the building meet all yard setback requirements and are separated by a distance equivalent to the height of the higher building or 30 feet, whichever is greater.

(4) *Height.* The height of all structures shall be limited to 2½ stories or 35 feet, except as follows:

- a. Multifamily buildings shall have a maximum height of 45 feet from grade.
- b. A church or temple or windmill may have a maximum height of 65 feet from grade, provided that the front yard, rear yard and each of the side yards shall be increased by one foot for each foot in height in excess of 35 feet.

(5) *Off-street parking.* Off-street parking spaces shall be provided in accordance with the requirements for specific uses as set forth in articles V through XI of this chapter.

(Ord. of 9-21-2009, § 3.44C)

Secs. 60-308—60-332. - Reserved.

DIVISION 8. - MULTIFAMILY URBAN DISTRICT

Sec. 60-333. - Purpose.

This district is intended to stabilize and protect high density residential areas by providing for a varied, denser, urban pattern made suitable to the built-up portions of the city. This multifamily zone has a maximum density of 26 dwelling units per net acre, yet retains the open character of residential areas by requiring 50 percent green space. It is intended that this district will provide the maximum possible freedom in the design of structures and their grouping and will encourage flexible and imaginative layouts and designs.

(Ord. of 9-21-2009, § 3.44A)

Sec. 60-334. - Use regulations.

- (a) *Permitted uses.* All uses permitted in the Multifamily Suburban (MFS) District except section 60-306(a)(5).
- (b) *Special exception uses.* The following uses are permitted special exceptions after approval by the planning board in accordance with division 3 of article XVI of this chapter:
 - (1) All uses permitted by special exception in the Multifamily Suburban (MFS) District (division 78 of article IV of this chapter).
 - (2) Medical and dental clinics, provided that:

- a. Shall be in buildings which are listed on the state resource list and/or federal historic register.
- b. All renovations to the building either internally or externally or both to accommodate the office use shall be accomplished in conformance with the accepted historic preservation and rehabilitation guidelines.
- c. A single sign to identify the building and its uses, conforming to the requirements contained in article VI of this chapter. Signs shall not be lighted.

(3) Adaptive reuse of structures of community significance.

(Ord. of 9-21-2009, § 3.45B; Ord. No. 05-04032017, § 2, 4-24-2017)

Sec. 60-335. - Dimensional regulations.

All structures in this district, except as noted, shall be subject to the following dimensional regulations:

- (1) *Minimum lot area, width and depth.* For each building erected there shall be provided lot areas as follows:
 - a. Building housing one family: 5,000 square feet minimum lot area, not less than 50 feet width, and 100 feet in depth.
 - b. Buildings housing two families: 6,500 square feet minimum lot area, not less than 50 feet width, and 100 feet in depth.
 - ~~c. Buildings housing three families: 8,000 square feet minimum lot area, not less than 50 feet width, and 100 feet in depth.~~
 - ~~d. Buildings housing four families: 9,500 square feet minimum lot area, not less than 100 feet width, and 100 feet in depth.~~
 - e. Multifamily buildings: 5,000 square feet minimum lot area for the first dwelling unit and 1,500 square feet minimum lot area for each additional dwelling unit. No lot shall be less than 50 feet width and 100 feet in depth. More than one principal building per lot is allowed. Buildings located inside the fire zone (as defined in the city building code) are subject to the requirements of chapter 12, pertaining to buildings and building regulations.

(2) *Density.* The following maximum densities per acre shall apply, according to housing type:

| | |
|-------------------------|------------------------------|
| One-family | 8 units per acre |
| Two-family | 13 units per acre |
| Three-family | 15 units per acre |
| Four-family | 17 units per acre |
| Multifamily | 26 units per acre |

Not less than 50 percent of the net acreage shall be devoted to green area. Green space shall be deemed to include patios, whether paved or not, pedestrian walks, and landscaping within

parking lots, but no off-street parking spaces, driveways, or common roads. For townhouse projects, the green area of individual lots may be counted toward the 50 percent green space requirement of the project. Net acreage shall include all land contained within the project except dedicated streets or street rights-of-way shown on the city's adopted master development plan or proposed to be so included within a reasonable period of time.

(3) *Yard requirements.*

- a. *Rear.* There shall be behind every building a rear yard having a minimum depth of 25 feet or 25 percent of the average depth of lot, whichever is less.
- b. *Side.* There shall be a minimum distance of five feet between any building and the side property line plus the side yard setback shall be increased one foot for every five feet or part thereof increase in street frontage over 50 feet to a maximum of 15 feet for side yard setback.
- c. *Front.* There shall be in front of every building a front yard having a minimum depth of 25 feet or 25 percent of the average depth of the lot whichever is less.
- d. *Principal buildings.* More than one principal building may be erected on a lot, provided that the building meet all yard setback requirements and are separated by a distance equivalent to the height of the higher building or 30 feet, whichever is greater.

(4) *Height.* The height of all structures shall be limited to two and one-half stories or 35 feet, except as follows: A church or temple or windmill may have a maximum height of 65 feet from grade, provided that the front yard, rear yard and each of the side yards shall be increased by one foot for each foot in height in excess of 45 feet.

(5) *Off-street parking.* Off-street parking spaces shall be provided in accordance with the requirements for specific uses as set forth in articles ~~V through XI~~ of this chapter.

(Ord. of 9-21-2009, § 3.45C)

Secs. 60-336—60-358. - Reserved.

DIVISION 9. - PLANNED UNIT DEVELOPMENTS

Subdivision I. - In General

Sec. 60-359. - Purpose.

The purpose of this section is to provide for a greater variety and choice of design for urban and suburban living, to gain efficiencies, to coordinate design development efforts, to conserve and make available open space, to utilize new technologies for land development and to offer a flexible alternative to conventional land control regulations. This section should not be used as a device for circumventing the city's development regulations and may be employed in instances where there is truly some benefit to be derived from its use for the community and for the developer. The type and amount of development permitted shall be based on the planning board's evaluation of the development proposal and the purposes standards and provisions set forth in this division.

(Ord. of 3-16-2009, § 3.51(A); Ord. of 9-21-2009, § 3.51A; Ord. No. 08-08072017, 9-11-2017)

Sec. 60-360. - Scope.

- (a) Application for a PUD-C Planned Unit Development, PUD-I Planned Unit Development or PUD-R Planned Unit Development may be made for land located where public sewer is presently available or will be made available by the developer prior to certificates of occupancy being issued. Application for a PUD-RR Planned Unit Development: Recreation/Residential may be made for land located where

public sewer is presently available, will be made available by the developer prior to certificates of occupancy being issued or may utilize private wastewater disposal systems in compliance with state plumbing codes.

- (b) The dimensional requirements stated in individual zoning districts and signs as stated in article VI of this chapter may be increased or decreased by the planning board as they apply to planned unit developments, except the front yard setback from all public streets shall not be reduced. The dimensional requirements and provision of signs shall be controlled by the standards sets forth in section 60-359, purpose, and section 60-361, general standards.
- (c) Coordination with subdivision regulations.
 - (1) If a plan review is required under division 4 of article XVI subdivision of this chapter, it shall be accomplished simultaneously with the review of the planned unit development plan under this division of this zoning chapter.
 - (2) The final development plan shall be submitted in a form that is in accordance with the requirements of division 4 of article XVI subdivision of this chapter relative to final plans where applicable.
 - (3) Requirements of this division of this zoning chapter and those of division 4 of article XVI of this chapter shall apply to all planned unit developments.

(Ord. of 3-16-2009, § 3.51(B); Ord. of 9-21-2009, § 3.51B; Ord. No. 08-08072017, 9-11-2017)

Sec. 60-361. - General standards.

The following provisions apply to all planned unit development districts:

- (1) The dimensional requirements as stated in individual zoning districts shall apply within the PUD but may be increased or decreased due to individual site characteristics as determined by the planning board to promote the purposes set forth in section 60-359 of this chapter.
- (2) The planning board may increase or decrease the required number of off-street parking spaces as stated in article V of this chapter in consideration of the following factors:
 - a. The probable number of cars owned by occupants of dwellings in the planned unit development;
 - b. The parking needs of any nonresidential uses;
 - c. Varying time periods of use, and whatever joint use of common parking areas is proposed.
- (3) Whenever the number of off-street parking spaces is reduced because of the nature of the occupancy, the city shall obtain assurance that the nature of the occupancy will not change.
- (4) A PUD involving residential uses shall reserve an amount of land equal to that required by section 60-1367 to be held as open space for the mutual use of the residents of the PUD or open to the public. Land reserved to satisfy the open space requirement shall be:
 - a. Administered through a homeowner's association; or
 - b. Dedicated to and accepted by the city for public use; or
 - c. Land occupied by a major recreational use adjacent to a PUD-RR; or
 - d. Managed by a non-profit organization or land trust deemed capable of management by the planning board; or
 - e. A combination of a, b, c and/or d above.
- (5) All of the requirements of the City Code of Ordinances applicable to the zoning district not addressed in this division, shall apply.

- (6) Before granting approval of the final development plans, the planning board must find that said plan addresses each of the following criteria or that one or more of the criteria are not applicable to the proposed development and/or that a practical substitute to one or more of the criteria has been achieved::
- a. The proposed development has an appropriate relationship to the surrounding area;
 - b. Circulation, in terms of internal street circulation system, is designed for the type of traffic generated, safety, separation from living areas, convenience, access and control of noise and exhaust. Proper circulation in parking areas is designed for safety, convenience, separation and screening;
 - c. Adequate open space has been provided with consideration given to preservation of natural features including trees and drainage areas, topographic features, recreation and views.
 - d. Privacy in terms of needs of individuals, families and neighbors;
 - e. Pedestrian and bicycle traffic in terms of safety, separation, convenience and access points;
 - f. Building types in terms of appropriateness to density, site relationship and bulk;
 - g. Building design in terms of orientation, spacing, character, storage, signs and lighting;
 - h. Landscaping of total site in terms of purpose such as screening, ornamental types used, and materials uses, if any;
 - i. Preservation of historically or architecturally significant buildings or places, if any;
 - j. There is public sewer available to the lot or will be made available by the developer prior to certificates of occupancy being issued, except as allowed by section 60-360(a) in the case of a PUD-RR.
 - k. That the proposal meets the requirements of section 60-1335, special exception of this ordinance.

(Ord. of 3-16-2009, § 3.51(D); Ord. of 9-21-2009, § 3.51D; Ord. No. 08-08072017, 9-11-2017)

Secs. 60-362—60-380. - Reserved.

Subdivision II. - Types

Sec. 60-381. - Definitions.

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

Planned includes plans, plats or any combination thereof.

(Ord. of 3-16-2009, § 3.51(C)(1); Ord. of 9-21-2009, § 3.51C)

Sec. 60-382. - PUDs established.

The following types of planned unit development may be established by special use approval in any existing zoning district as noted in this section. The options for use are as follows:

- (1) PUD-R Planned Unit Development: Residential in LDCR, RR, SR, UR, MFS, MFU, GB and CB.
- (2) PUD-RR Planned Unit Development: Recreation/Residential in AG/RP, LDCR, RR, SR, UR, and GB.
- (3) PUD-C Planned Unit Development: Commercial in GB and [CGBII](#).

(4) PUD-I Planned Unit Development: Industrial in ID.

(Ord. of 3-16-2009, § 3.51(C)(1); Ord. of 9-21-2009, § 3.51C; Ord. No. 08-08072017, 9-11-2017)

Sec. 60-383. - Zoning map indication.

The area included in each approved planned unit development shall be indicated on the zoning map as PUD-R or, PUD-RR or PUD-C or PUD-I. (Ord. of 3-16-2009, § (3.51)(C); Ord. of 9-21-2009, § 3.51C; Ord. No. 08-08072017, 9-11-2017)

Sec. 60-384. - Permitting.

Phased planned unit developments shall be permitted where any type of PUD is otherwise allowed by this chapter with an additional review by the director of planning and permitting prior to recording at the Androscoggin County Registry of Deeds. It is the intent of this phasing to allow coordinated long term planning of a large scale development without the disincentives of taxation and financing for phases that will not be constructed in the short term. The final development plan shall be kept on file in the planning and permitting office and the developer shall meet the requirements of section 60-420(c) prior to declaration and recording of a phase. The developer shall declare and record the approved phase plan within 30 days after a written approval is issued by the director. The recorded plan shall contain a note referencing this chapter. This division may be applied to existing PUDs if said plan was approved by the planning board as a phased development. (Ord. of 3-16-2009, § 3.51(C)(1); Ord. of 9-21-2009, § 3.51C; Ord. No. 08-08072017, 9-11-2017)

Sec. 60-385. - Planned Unit Development—Residential (PUD-R).

It is the intent of this section that any residential property which is under single ownership and contains three acres or more area may be developed as PUD-R Planned Unit Development: Residential. Within the PUD-R the following uses and densities may be permitted subject to the approval of the planning board.

- (1) Uses permitted by right or permitted by special exception in the residential districts noted in this section and the underlying zoning district.
- (2) Commercial uses may be permitted in the PUD-R district if the planned unit development contains 20 or more dwelling units. Such commercial uses shall be subject to the following requirements:
 - a. Such uses including parking shall be included as an integral part of the PUD and shall not occupy more than five percent of the total area of the PUD. Commercial uses in any development shall not be open to use prior to issuance of the certificates of occupancy for 50 percent of the dwelling units.
 - b. Except as stated in division [1140](#) of article IV of this chapter all restrictions applicable to the NB district are applicable to the commercial center in the PUD-R district.
 - c. Such establishments shall be located, designed and operated primarily to serve the needs of the persons within the planned development. These buildings shall be architecturally compatible with the dwellings they serve using similar materials, geometry, topographic relationships, color and lighting to minimize its effect on the environment of existing or future residential uses adjacent to them.
 - d. Sign.
 1. Any part of the sign for a commercial use shall not project above the eaves or protrude from the face of the building more than 12 inches. A commercial use shall have not more than one sign for every street frontage. Any free standing signs may not exceed 20 feet in height and must have a minimum setback of 25 feet. Portable flashing and

moving signs are not permitted. All emblems, shields or logos are considered part of the total allowable sign area.

2. A residential subdivision may have one sign for each newly created entry to the subdivision, not to exceed 40 square feet in size.
- (3) The total number of dwelling units permitted in the PUD-R district shall be determined by dividing the total project acreage (not including public rights-of-way) by the area required per unit in the underlying zoning district or as approved by the planning board pursuant to the standards in the underlying zoning district.
- (4) If common open space remaining is offered to the city and is acceptable to the city, such dedication may be considered as partial or total fulfillment of park and open space dedication.
- (5) Upon review of a PUD-R proposal, the planning board may authorize up to a 20 percent increase in density over that otherwise allowed in the underlying district if the following criteria are met:
 - a. *Architecture*. Utilization of existing topography, recognition of the character of the area reflected in materials and layout.
 - b. *Siting*. Preservation of unique natural features, separation of pedestrian and vehicular circulation and integration of open space.
 - c. *Design*. A unified cohesive development, focal points for orientation and interaction, variety of scale.
 - d. *Landscaping*. The compatibility with natural landscape, the separation of individual units for privacy.
 - e. *Convenient*. A convenient well-defined access.
 - f. *Compatibility*. Compatibility with the adopted comprehensive plan and/or plans approved by city boards and departments for school service area and size of buildings, park system, police and fire protection standards and other facilities public or private.
- (6) All planned unit developments containing residential units shall comply with all city zoning and subdivision regulations.

(Ord. of 3-16-2009, § 3.51(C)(2); Ord. of 9-21-2009, § 3.51C; Ord. No. 08-08072017, 9-11-2017)

Sec. 60-386. - Planned Unit Development—Recreation/Residential (PUD-RR).

The PUD-RR district is created to provide for the development of residential and commercial uses that are customary, complementary, and appropriate to major recreational uses on land located adjacent to them. Major recreation uses of land are designed for outdoor use of large land areas and have indoor facilities to accommodate groups of people. Major recreation uses may be open year round or may operate seasonally and their economic viability and continued operation are recognized as assets to Auburn. Flexibility for the siting of homes, condominiums, hotels or motels and accessory uses that are of a scale that is compatible with the surrounding area will help support the economics of a major recreation use.

Any major recreation use containing 100 acres or more area may be developed as a planned unit development: Recreation/Residential-PUD-RR. Within a PUD-RR the following uses and densities may be permitted subject to the approval of the planning board.

- (1) Uses permitted by right or permitted by special exception in the underlying zoning district.
- (2) Attached single-family dwellings with direct access to the outside at ground level may be permitted, provided that they are approved as part of a planned unit development and as a subdivision under section 60-359 and section 60-1359 of this chapter.

- (3) Hotels or motels adjacent to an existing major recreation use or a major recreation use if construction of the major recreational use is complete and open for use, provided that they are approved by the planning board as a site plan and as a special exception under section 60-1276 and section 60-1335 of this chapter. The size and scale of a hotel, motel, or accessory commercial uses shall be determined by the planning board at the time of PUD and/or special exception review. In making their determination, the planning board shall consider the appropriate relationship of the hotel, motel or accessory buildings and structures to the major recreation use and the surrounding neighborhood in terms of bulk, location or operation of proposed buildings and structures, traffic impact, access management, parking requirements, internal circulation, vehicular and pedestrian connections to adjacent property, external lighting, landscaping, signage using the standards of section 60-385(2)d. as a guide, provisions for water and public sewer, and the preservation of scenic and natural beauty to the extent possible.
- (4) Accessory commercial uses provided that they are approved as a site plan and as a special exception under section 60-1276 and section 60-1335. Building and structures shall be architecturally compatible using similar materials, topographic relationships, color and lighting, landscaping, and signage to minimize its effect on the environment of existing or future recreation and residential uses adjacent to it.
- (5) The total number of dwelling units permitted in the PUD-RR district shall be determined by dividing the total project acreage including the major recreational use (not including public rights-of-way) by the area required per unit in that zoning district or as approved by the planning board pursuant to section 60-361(4). For the purpose of determining the number of dwelling units permitted on parcels located within more than one zoning district, the higher density district standard may be applied to the entire parcel and adjacent major recreational use in the case of a PUD-RR Planned Unit Development.
- (6) The requirements of a planned unit development, section 60-361(4) and as a subdivision, section 60-1367 to provide recreation and/or open space may be satisfied by the principal recreation, entertainment, and social uses of the adjacent major recreation use.
- (7) Access to the property shall be located on an arterial or collector street to minimize congestion or unsafe conditions and unreasonable deterioration of the local road system. Access to individual house lots shall be from an internal street system to retain the character of the area.
- (8) The requirements of this chapter applicable to the underlying district or districts, not addressed in this section, shall apply.

(Ord. No. 08-08072017, 9-11-2017)

Sec. 60-387. - Planned Unit Development—Commercial (PUD-C).

The PUD-C district is created to provide for the development of planned business and shopping centers and mixtures thereof. It is intended to promote the grouping of professional offices and retail commercial uses and to provide areas of sufficient size to establish harmonious relationships between structures, people and vehicles through the use of well planned parking access, pedestrian walkways, courtyards, walls and other open spaces. This district should offer a wide variety of goods and services. Any commercially zoned area three acres or more in size may be developed as a PUD-C district. Uses permitted in the underlying zoning districts are permitted in the PUD-C district.

(Ord. of 3-16-2009, § 3.51(C)(3); Ord. of 9-21-2009, § 3.51C; Ord. No. 08-08072017, 9-11-2017)

Sec. 60-388. - Planned Unit Development—Industrial (PUD-I).

The PUD-I district is created to provide for the development of planned industrial areas. It is intended to promote the grouping of industrial uses and to group these uses in such a manner that they provide well planned parking and access, landscaped open areas and harmonious relationships between structures. Any industrial area over five acres may be developed as a PUD-I district. Uses permitted in the underlying zoning district are permitted in the PUD-I district.

(Ord. of 3-16-2009, § 3.51(C)(4); Ord. of 9-21-2009, § 3.51C; Ord. No. 08-08072017, 9-11-2017)

Secs. 60-389—60-417. - Reserved.

Subdivision III. - Application Procedure

Sec. 60-418. - Compliance.

All applicants for planned unit development shall comply with procedures set forth in this subdivision and in accordance with division 2 of article XVI of this chapter site plan review.

(Ord. of 3-16-2009, § 3.51(E)(intro. ¶); Ord. of 9-21-2009, § 3.51E)

Sec. 60-419. - Submission and review.

- (a) An applicant shall make application for the approval of the planned unit development to the planning department. The applicant shall present his completed application and fee, in the amount provided in the city fee schedule, along with the development plan outline as specified in this division.
- (b) The development plan outline shall include both the site plan map and a written statement of procedures. The plan shall indicate sufficient areas surrounding the proposed planned unit development to demonstrate the relationship of the planned unit development to adjoining existing and proposed uses.
- (c) The site plan must contain the following information:
 - (1) All site plans shall conform to the provisions as contained in division 2 of article XVI of this chapter;
 - (2) The type and character of proposed development to include general architectural design, types of building materials to be used and, when appropriate, the proposed number of dwelling units per acre;
 - (3) The proposed location and size of public uses including schools, parks, playgrounds, swimming pools and other common open spaces.
- (d) The written statement to accompany the development plan outline map must contain the following information:
 - (1) A brief description of unique project design needs that make the planned unit approach advantageous to the city and developer;
 - (2) An anticipated schedule of development and a conceptual phase plan where the developer intends to phase the declaration of portions of the development;
 - (3) Proposed agreements, provisions or covenants which govern the use, maintenance and continued protection of the PUD and any of its common areas.
- (e) The number of copies of the written statement must be consistent with the provisions of section 60-1300.

- (f) The applicant may be requested to submit any other information or exhibits deemed pertinent in evaluating the proposed planned unit development.

(Ord. of 3-16-2009, § 3.51(E)(1); Ord. of 9-21-2009, § 3.51E)

Sec. 60-420. - Final development plan.

- (a) The final development plan shall be submitted in accordance with section 60-419 of the municipal code relative to final plans.
- (b) The planning board shall approve the final development plan if it is in substantial compliance with the approved preliminary development plan. The final development plan shall be recorded as if it were a final subdivision plan except in the case of a phased development which shall follow the standards of subsection (c) of this section.
- (c) For phased developments the final development plan shall be kept on file in the planning and permitting office. The developer shall provide a phase plan and letter of intent to declare a phase for review and approval by the director of planning and permitting prior to recording at the registry of deeds. The director shall consider the following standards before approving a phased plan for recording:
 - (1) The remaining undeveloped land/phases shall be considered as one lot for frontage purposes. The phase plan shall provide the required frontage for the remaining land/phases.
 - (2) Common open space, roadway improvements and/or access to utilities may be completed without opening a phase provided that the director determines that the work is necessary or beneficial to an open phase of the development or to the city.
 - (3) The phased plan must be determined by the director of planning and permitting to be consistent with and progress towards completion of the long term final development plan.
- (d) From time to time the planning board shall compare the actual development accomplished in the planned unit development with the approved development schedule. If the owner of property in the PUD has failed to meet the approved development schedule without cause, the planning board may initiate proceedings. The planning board, for good cause shown by the property owner, may extend the limits of the development schedule.
- (e) The planning board may require adequate assurance in a form consistent ~~and in a form~~ acceptable to the planning board, that the common open space shown in the final development plan shall be provided and developed.
- (f) Final development plan contents:
 - (1) The final development plan shall contain the information provided on the preliminary development plan and any additional information requested by the planning board and must be submitted within one year following the approval of the preliminary development plan unless written request is made for an extension of up to one year and approved by the planning board.
 - (2) The final development plan, with supplemental information in report form, shall be prepared in conformity with the provisions of section 60-419.
 - (3) Copies of any special agreements, conveyances, deed restrictions, or covenants, which will govern the use, maintenance and continued protection of the planned unit development and any of its common area must accompany the final development plan.
 - (4) The applicant may submit any other information or exhibits he deems pertinent in evaluating his proposed planned unit development.
- (g) Control of planned unit development following completion.
 - (1) The planning board shall review and take action on the completed final plan.

- (2) After final approval has been granted the use of the land and the construction, modification or alteration of any building or structure within the planned development shall be governed by the approved final development plan rather than by any other provisions of this zoning chapter.
- (3) After final approval, no changes may be made in the approved final development plan except upon application to the appropriate agency under the following procedures:
 - a. Any minor extension, alteration, or modification of existing buildings or structures may be authorized by the planning board if they are consistent with the purposes and intent of the final plan. No change authorized by this division may decrease or increase the dimension of any building or structure by more than ten percent.
 - b. Any uses not authorized by the approved final plan, but allowable in the PUD as a permitted principal, accessory, or special use under the provisions of the underlying zoning district in which the planned development is located may be authorized by the planning director and added to the final development plan provided that such an addition does not adversely impact the approved development plan.
 - c. A building or structure that is totally or substantially destroyed may be reconstructed only in compliance with the final development plan or amendments thereof approved under subsection (g)(3)a and b of this section.
 - d. Changes in use of common open spaces may be authorized by an amendment to the final development plan under subsection (g)(3)a- and b- of this section.
 - e. All other changes in the final development plan must be made by the planning board under the procedures authorized by this chapter. No changes may be made in the final development plan unless found to be required for:
 1. Continued successful functioning of the planned unit development;
 2. By changes in conditions that have occurred since the final plan was approved; or
 3. By changes in the development of the community.

No changes in the final development plan which are approved under this division are to be considered as a waiver of the provisions limiting the land use, buildings, structures, and improvements within the area of the planned unit development, and all rights to enforce these provisions against any changes permitted in this division are expressly reserved. (Ord. of 3-16-2009, § 3.51(E)(2); Ord. of 9-21-2009, § 3.51E; Ord. No. 08-08072017, 9-11-2017)

Secs. 60-421—60-438. - Reserved.

~~DIVISION 10.—DOWNTOWN ENTERPRISE ZONE~~ Reserved

~~Sec. 60-439.—Purpose.~~

~~To promote the historic, economic, operational, and visual character of the established residential areas within downtown Auburn, by introducing incentives for reinvestment while maintaining the essential physical integrity of the area consistent with Auburn's Downtown Action Plan for Tomorrow.~~

~~(Ord. of 9-21-2009, § 3.52A)~~

~~Sec. 60-440.—Use regulations.~~

~~(a) Permitted uses. The following uses are permitted:~~

- ~~(1) One-, two- and three-family homes.~~
- ~~(2) Townhouses.~~

- ~~(3) — Bed and breakfast homes with four or fewer rooms for rent.~~
- ~~(4) — Restaurants, diners or cafes with up to 50 seats, but not to include drive-in facilities. An additional 25 outdoor seats may also be permitted subject to all municipal health and safety codes.~~
- ~~(5) — Artist studios, up to two such studios per building.~~
- ~~(6) — Art galleries.~~
- ~~(7) — Performing arts centers owned and operated by a public agency.~~
- ~~(8) — Antique shops.~~
- ~~(9) — Clothing stores.~~
- ~~(10) — Furniture stores.~~
- ~~(11) — Bookstores.~~
- ~~(12) — Elderly day care centers.~~
- ~~(13) — Child day care centers.~~
- ~~(14) — Medical and dental clinics.~~
- ~~(15) — Grocery stores, up to 1,000 square feet of gross floor area.~~
- ~~(16) — Office space, up to 5,000 square feet.~~
- ~~(17) — Retail bakeries.~~
- ~~(18) — Specialty shops.~~
- ~~(19) — Accessory uses and structures commonly associated with the uses in this subsection (a).~~
- ~~(20) — Municipal uses and government buildings.~~
- ~~(b) — *Special exception uses.* The following uses are permitted as special exceptions after approval by the planning board in accordance with division 3 of article XVI of this chapter:~~
 - ~~(1) — Apartment buildings of four or more dwelling units.~~
 - ~~(2) — Bed and breakfast inn with five, but not more than ten rooms for rent.~~
 - ~~(3) — Restaurants, dining rooms or lunchrooms with more than 50 seats, but not to include drive-in facilities. Up to 25 outdoor seats may also be permitted subject to all municipal health and safety codes.~~
 - ~~(4) — Artist studios, more than two such studios per building but not more than four.~~
 - ~~(5) — Research or philanthropic institutions.~~
 - ~~(6) — Performing arts centers owned and operated by nonprofit and for-profit entities.~~
 - ~~(7) — Places of worship such as temples, churches or mosques.~~
 - ~~(8) — Adaptive reuse of structures of community significance.~~

~~(Ord. of 9-21-2009, § 3.52B; Ord. No. 05-04032017, § 2, 4-24-2017)~~

~~Sec. 60-441. — Dimensional regulations.~~

~~All new structures in this district shall be subject to the following dimensional regulations:~~

- ~~(1) — *Minimum lot area, width and depth.* For each building erected, there shall be provided lot areas as follows:~~

- a. ~~Buildings housing one family: 5,000 square feet of lot area, not less than 50 feet in width and 100 feet in depth.~~
 - b. ~~Buildings housing two families: 7,500 square feet minimum lot area, not less than 50 feet in width and 100 feet in depth.~~
 - c. ~~Buildings housing three families: 10,000 square feet minimum lot area, not less than 50 feet in width and 100 feet in depth.~~
 - d. ~~Townhouses: 5,000 square feet minimum lot area, 5,000 square feet of lot area plus 1,500 square feet minimum lot area per dwelling and not less than 50 feet in width and 100 feet in depth.~~
 - e. ~~Multifamily buildings: 10,000 square feet of lot area for the first dwelling unit, and 2,000 square feet of lot area for each additional dwelling unit; no lot shall be less than 100 feet in width and 100 feet in depth.~~
 - f. ~~Commercial building: 10,000 square feet of lot area, not less than 100 feet in width and 100 feet in depth.~~
 - g. ~~Mixed-use building: 5,000 square feet of lot area, not less than 50 feet in width and 100 feet in depth if at least 50 percent of the total building area is used for residential living space.~~
- (2) ~~Maximum lot coverage. For each new building erected, the maximum combined lot area for the building and all parking areas shall not exceed 75 percent of the total lot area for commercial and 65 percent for residential.~~
- (3) ~~Yard requirements.~~
- a. ~~Rear. There shall be a rear yard of 25 feet or 25 percent of the average depth of the lot, whichever is less for all structures.~~
 - b. ~~Side. There shall be a minimum distance of five feet between any portion of a building and the side property line for all structures.~~
 - c. ~~Front. There shall be a minimum front yard of ten feet.~~
 - d. ~~Principal building. More than one principal building may be erected on a lot provided all yard requirements listed in this subsection (3) are met.~~
- (4) ~~Height. The height of all structures shall be limited to 4½ stories or 45 feet. Religious and municipal buildings may have a steeple or tower to a maximum height of 90 feet, if said structure is limited to 15 percent of the footprint of the principal building.~~
- (5) ~~Parking and loading. All uses shall be subject to the off-street parking and loading regulations as listed in this subsection (5). Sections 60-607(7), (8), (12) and (15) shall also be followed.~~
- a. ~~For all uses, no portion of the front yard, other than driveways, shall be used for off-street parking.~~
 - b. ~~One-unit dwellings: two spaces; two and three-unit dwellings: one space per unit.~~
 - c. ~~Residential artist studio: one space for one and two-bedroom units; two spaces for residential artist studio with three or more bedrooms.~~
 - d. ~~Townhouses: one space per unit.~~
 - e. ~~Multifamily buildings: same as townhouses.~~
 - f. ~~Retail businesses: one space per 400 feet of net floor area.~~
 - g. ~~Office uses: one space per 400 feet of net floor area.~~
 - h. ~~Medical or dental clinics: one space per 200 feet of net floor area.~~
 - i. ~~Restaurants, cafes and diners: one space per four seats or bench equivalent capacity.~~

- ~~j.—Off-street parking provided as a private or municipal facility, within 500 feet of any use allowed in the DEZ may be included in the calculation of off-street parking requirements, if written documentation is provided indicating the permanent availability of off-street parking for the use in question. Parking areas may or may not be within the same zoning district.~~
- ~~k.—One parking space may be eliminated from the total off-street parking requirement if two trees and flowering shrubs (or similar planting scheme) are provided and maintained along the lot frontage or within the lot so as to minimize views of the parking area and/or improve the streetscape.~~
- ~~l.—One parking space may be eliminated from the total off-street parking requirement if a publicly accessible walkway is provide connecting two streets in the instance where a lot has the minimum required frontage on two parallel streets or where the lots are back to back and have the minimum required frontage on two parallel streets.~~
- ~~m.—One parking space may be eliminated from the total off-street parking requirement if a significant and permanent public art contribution is provided.~~
- ~~n.—Subsections (5)j, k, and l of this section may be combined resulting in a reduction of up to two parking spaces. A developer shall be eligible for parking reductions in subsections (5)k, l, and m of this section if all requirements in the subsections are met and the proposal has been reviewed by the city planning department.~~
- ~~o.—For projects subject to special exception review, the planning board may reduce the total required off-street parking by up to 30 percent. Off-street parking is required to be met on site to the extent practicable based on the characteristics and use of the property. On-street parking may be allowed within 500 feet if no other off-street parking is available, subject to the approval of the community development department.~~

(Ord. of 9-21-2009, § 3.52C)

~~Sec. 60-442.—Development review.~~

- ~~(a)—Expansions of existing buildings or new construction in excess of 1,000 square feet shall be subject to the site plan review, division 2 of article XVI of this chapter. Projects of less than 1,000 square feet shall be reviewed by the community development department for a determination of consistency with the intent and standards of this chapter.~~
- ~~(b)—The following requirements and those of division 2 of article XVI of this chapter are intended to foster safe and effective site plans that will result in projects that are consistent with the size and scale of the surrounding neighborhoods, and the use of materials or design treatments that protect and highlight the architectural and historic qualities of the area:~~
 - ~~(1)—All off-street parking areas shall be screened by plantings, wood fencing or a combination of both.~~
 - ~~(2)—All lighting shall fall within the lot from which it emanates, and all lighting fixtures shall be in compliance with lighting and fixture standards approved by the planning board or the community development department.~~
 - ~~(3)—All dumpsters or trash receptacles of any kind shall not be permitted in any portion of the front yard setback, and all said facilities shall be screened from public view.~~
 - ~~(4)—Renovation of structures listed on federal, state or local historic registers shall be consistent, at a minimum, with standards adopted by the state office of historic preservation, common preservation practices, and additional standards which, from time to time, may be adopted or amended by the city.~~

- ~~(5) If not previously existing, at least one tree per 50 feet of frontage shall be required for all development. Said tree shall have a trunk diameter of at least three inches, measured six inches above planting grade.~~

~~(Ord. of 9-21-2009, § 3.52D)~~

~~Sec. 60-443. — Signs.~~

~~All signs shall be subject to the regulations contained in article VI of this chapter except for the following:~~

- ~~(1) All uses shall be limited to externally illuminated signs.~~
- ~~(2) Standing signs shall not exceed 12 square feet in area. The maximum height shall not exceed six feet above grade. If employed, a standing sign shall be the only sign permitted except for window signs. See subsection (4) of this section.~~
- ~~(3) Signs for all commercial activities, attached to the premises which they advertise, shall not exceed 16 square feet.~~
- ~~(4) Signs attached perpendicular to a building shall be permitted and shall have a maximum area of 12 square feet. Signs shall not extend more than four feet from the building to which they are attached. Further, the lowest portion of the sign shall be seven feet above grade and the highest portion not more than 15 feet above grade. Height minimums and maximums can be altered by the planning board if it is determined an alternate sign location is required by the building configuration, building material, design consistency in the immediate neighborhood, or to protect historic buildings or facades.~~
- ~~(5) Roof signs, internally lighted signs, automatically changing signs and signs or advertising on canopies are prohibited.~~
- ~~(6) Fees. All fees found in appendix A of this Code, shall not apply to developments found in this division.~~

~~(Ord. of 9-21-2009, § 3.52E; Ord. of 9-21-2009, § 3.52F)~~

Secs. 60-444—60-469. - Reserved.

DIVISION 11. - NEIGHBORHOOD BUSINESS DISTRICT

Sec. 60-470. - Purpose.

This district is intended to provide for the daily convenience shopping and business needs of nearby residents and contains those retail, service and office uses which serve primarily a neighborhood population. It is intended that this district be located on lots in areas zoned for residential use.

(Ord. of 9-21-2009, § 3.61A)

Sec. 60-471. - Use regulations.

- (a) *Permitted uses.* The following uses are permitted, provided that the business use be limited to the ground floor and/or basement and that the gross building area devoted to business use, excluding storage, does not exceed 3,000 square feet:
- (1) Residential dwellings at the same density as permitted in any abutting residential district.
 - (2) Beauty parlors, barbershops and self-service laundries.

- (3) Public transportation passenger stations.
- (4) Grocery stores.
- (5) General commercial uses (retail, service and office uses), not necessarily associated with the surrounding neighborhood, may be authorized by the planning director upon written application adhering to the following procedure and criteria:
 - a. The external activity levels and impacts are limited as to be compatible with and not adversely affect the character of the surrounding neighborhood.
 - b. The proposed use will not create excessive noise, excessive traffic, nuisances (vibration, smoke, odor, appearance, etc.), fire hazard and other negative impacts of business activities being conducted in the residential neighborhood.
- (b) *Special exception uses.* The following uses are permitted as special exceptions after approval by the planning board in accordance with division 3 of article XVI of this chapter.
 - (1) Automobile parking lots and garages, commercial and public, provided that they shall be at least ten feet from any lot in a residential district and that the setback area be landscaped.
 - (2) Public utility uses, such as electric substations and office, excluding repair facilities and the storage of material and trucks.
 - (3) Convenience stores, drug stores, variety stores and retail bakeries shops provided that goods baked on the premises shall be sold only on the premises.
 - (4) Automobile filling stations.
 - (5) Halls, private clubs and lodges.
 - (6) Shoe repair shops, pickup laundries and dry cleaners.
 - (7) Adaptive reuse of structures of community significance.

(Ord. of 9-21-2009, § 3.61B; Ord. No. 05-04032017, § 2, 4-24-2017)

Sec. 60-472. - Dimensional regulations.

All structures in this district, except as noted, shall be subject to the following dimensional regulations:

- (1) *Minimum lot area, width and depth.* No minimum shall be applied to buildings in this district.
- (2) *Density.* The maximum lot coverage by all building shall be 40 percent.
- (3) *Yard requirements.*
 - a. *Rear.* There shall be behind every principal building a rear yard having a minimum depth of 35 feet or 25 percent of the average depth of the lot, whichever is less.
 - b. *Side.* There shall be a distance of five feet between any principal building and the side property line, plus the side yard setback shall be increased one foot for every four feet or part thereof increase in street frontage over 49 feet to a maximum of 25 feet for side yard setback.
 - c. *Front.* There shall be in front of every principal building a front yard having a minimum depth of 25 feet or 25 percent of the average depth of the lot, whichever is less.
 - d. *Open and unbuilt spaces.* 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 feet wide shall be maintained open and green, not built on, paved, or parked on, all or parked on, all along each property line that abuts land residentially.

- (4) *Height.* No permitted structure shall exceed two stories or 35 feet in height. A public building, church or temple, or accessory building or structure may have a maximum height of 65 feet from grade, provided that the front yard, rear yard and each of the side yards shall be increased by one foot for each foot in height in excess of 35 feet.
- (5) *Off-street parking and loading.* Provisions for off-street parking shall not be required in the NB district, except for dwellings and for any parking and loading area required as a condition of special exception approval.

(Ord. of 9-21-2009, § 3.61C)

Secs. 60-473—60-497. - Reserved.

DIVISION 12. - GENERAL BUSINESS DISTRICT

Sec. 60-498. - Purpose.

This district is intended to include commercial uses serving both the city and the region, together with normal accessory uses compatible with a cohesive and attractive shopping and office area.

(Ord. of 9-21-2009, § 3.62A)

Sec. 60-499. - Use regulation.

(a) *Permitted uses.* The following uses are permitted:

- (1) Residential dwelling uses permitted in the Multifamily Suburban District (MFS) (division [79](#) of article IV of this chapter).
- (2) Grocery stores and supermarkets.
- (3) Clothing stores.
- (4) Furniture stores.
- (5) Department stores.
- (6) Specialty shops.
- (7) Hotels and motels.
- (8) Funeral homes and mortuaries.
- (9) Child day care centers.
- (10) Medical and dental clinics.
- (11) Wholesale bakeries.
- (12) Retail laundries and dry cleaners, but not plants.
- (13) Banks, business and professional offices.
- (14) Public transportation passenger offices.
- (15) Governmental offices.
- (16) Municipal, civic or public service buildings and other utility facilities.
- (17) Warehouses, wholesale offices, salesrooms and showrooms.
- (18) Restaurants, bars, dining rooms or lunchrooms, but not to include drive-in and carry-out restaurants.

- (19) Halls, private clubs and lodges, bowling alleys, ice and roller skating rinks, indoor theaters and similar places of indoor amusement or recreation.
 - (20) Animal hospitals and pet shops, but no kennels.
 - (21) Business equipment repair and business services.
 - (22) Radio and television studios.
 - (23) Printing shops, but not publishing plants.
 - (24) Retail, service, office and commercial uses similar to the foregoing.
 - (25) Carwashes.
 - (26) Accessory uses, building and structures.
 - (27) Shelters for abused persons.
 - (28) Greenhouses and lawn maintenance services.
 - (29) Temporary outdoor places of amusement.
 - (30) Churches and temples.
 - (31) Adult use and medical marijuana stores subject to the requirements of chapter 144, article XVIII44 of the City of Auburn Ordinances.
 - (32) Marijuana cultivation accessory to a licensed retail store on the same property.
- (b) *Special exception uses.* The following uses are permitted as special exceptions after approval by the planning board in accordance with division 3 of article XVI of this chapter:
- (1) Automobile filling stations.
 - (2) Automobile repair and service stations.
 - (3) Automobile and marine sales lots and sales and service agencies.
 - (4) Automobile and marine paint and body repair shops.
 - (5) Hospitals, care homes, boardinghouses and lodginghouses.
 - (6) Research or philanthropic institutions.
 - (7) Outdoor theaters.
 - (8) Drive-in or carry-out restaurants.
 - (9) Commercial parks.
 - (10) Sales, rental and service agencies for mobile homes, farm equipment, trucks and trailers, and machine equipment.
 - (11) Light industrial plants which will not create a nuisance by noise, vibration, smoke, odor or appearance.
 - (12) Off-street parking as a commercial or municipal 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 district. The planning board may impose 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.
 - (13) Trucking terminals and similar nonprocessing storage and distribution uses, except bulk storage of chemicals, petroleum products and other flammable, explosive or noxious materials.
 - (14) Convenience stores.
 - (15) Research, experimental and testing laboratories.

- (16) Landscape services.
- (17) Any new building of 5,000 square feet or more or any existing building which proposes a use permitted under subsection (a) of this section which will occupy an area of 5,000 square feet or more.
- (18) Automotive towing and storage.
- (19) Major retail development provided that it meets the conditions noted in section 60-45(g).
- (20) Outpatient addiction treatment clinics.
- (21) Adaptive reuse of structures of community significance.

(Ord. of 9-21-2009, § 3.62B; Ord. No. 11-11072016, 11-21-2016; Ord. No. 05-04032017, § 2, 4-24-2017; Ord. No. 05-05202019, 6-3-2019)

Sec. 60-500. - Dimensional regulations.

All structures in this district, except as noted, shall be subject to the following dimensional regulations:

- (1) *Minimum lot width and depth.* No building used for commercial or office uses shall be constructed on a lot having less than 10,000 square feet minimum lot area and measuring 100 feet in width. No lot shall be less than 100 feet in depth. Buildings used for residential uses shall have the same minimum lot area, width and depth as provided for buildings in the Multifamily Suburban District (MFS), section 60-307(1).
- (2) *Density.* Not more than 30 percent of the total lot area shall be covered by buildings used for commercial or office uses. The density of residential uses shall be the same as that required for buildings in the Multifamily Suburban District (MFS), section 60-30(2).
- (3) *Yard requirements.*
 - a. *Rear.* There shall be behind every building a rear yard having a minimum depth of 35 feet or 35 percent of the average depth of the lot, whichever is less.
 - b. *Side.* There shall be a distance of five feet between any side property line, plus the side yard setback shall be increased one foot for every two feet or part thereof increase in street frontage over 60 feet to a maximum of 25 feet for side yard setback.
 - c. *Front.* There shall be in front of every building a front yard having a minimum depth of 25 feet or 25 percent of the average depth of the lot, whichever is less. No front yard need to be any deeper than the average depth off 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 feet shall be considered as having a front yard of 25 feet.
 - d. *Principal buildings.* More than one principal building may be erected on a lot, provided that the building meet all yard setback requirements and are separated by a distance equivalent to the height of the higher building or 30 feet, whichever is greater.
 - e. *Railroad tracks.* Where the principal use requires access to a railroad, the yard requirements are disregarded for the side of the building adjacent to the railroad trackage. The engineering requisites for a safe and properly designed siding and building setback acceptable to the railroad shall take precedence.
 - f. *Open and unbuilt spaces.* Any yard, space or area required to be kept open and unbuilt on may be used, if otherwise lawful for outdoor storage and display of articles, supplies and materials. Such outdoor storage and display shall occupy no more than 20 percent of the lot with display areas not to exceed one-quarter of the total allowable area. Storage and display areas shall be clearly identified on the land in a fixed location. Storage areas shall be screened from the view of an abutting residential district or use and from the street by an

evergreen tree line planted in staggered rows having the base of the trees not more than ten feet apart or by a solid fence not less than six feet in height.

- (4) *Height.* No permitted structure shall exceed four stories or 45 feet in height. Religious buildings, municipal buildings or buildings listed by the state historic preservation commission may have a steeple, cupola or tower to a maximum height of 90 feet, if said structure is limited to 15 percent of the footprint of the principal building. In the airport approach zone, Federal Aviation Administration regulations shall apply. Accessory structures, including windmills, that are necessary for the operation of an allowed principal use may exceed the above maximum height requirements, provided that the front yard, rear yard and each of the side yards shall be increased by one foot for each foot in height in excess of the yard required pursuant to this section. In the airport approach zone, Federal Aviation Administration regulations shall apply.
- (5) *Off-street parking.* Off-street parking and loading spaces shall be provided in accordance with the requirements for specific uses as set forth in articles ~~V through XI~~ of this chapter.

(Ord. of 9-21-2009, § 3.62C; Ord. of 3-22-2010)

Secs. 60-501—60-523. - Reserved.

DIVISION ~~113~~. - MINOT AVENUE (GBII)

Sec. 60-524. - Purpose.

This district is intended to allow commercial development to locate along the Minot Avenue corridor which is most compatible with local scale business. The corridor is also an arterial which requires that good sound access management design is incorporated into the uses consistent with the access management ordinance.

(Ord. of 9-21-2009, § 3.63A)

Sec. 60-525. - Use regulation.

(a) *Permitted uses.* The following uses are permitted:

- (1) Residential dwelling uses permitted in the Multifamily Suburban District (MFS) (division ~~79~~ of article IV of this chapter).
- (2) Grocery stores and supermarkets.
- (3) Clothing stores.
- (4) Furniture stores.
- (5) Department stores.
- (6) Specialty shops.
- (7) Hotels and motels.
- (8) Funeral homes and mortuaries.
- (9) Child day care centers.
- (10) Medical and dental clinics.
- (11) Retail bakeries.
- (12) Retail laundries and dry cleaners.
- (13) Banks, business and professional offices.

- (14) Public transportation passenger offices.
 - (15) Governmental offices.
 - (16) Municipal, civic or public service buildings and other utility facilities.
 - (17) Restaurants, dining rooms or lunchrooms.
 - (18) Bowling alleys, ice and roller skating rinks, indoor theaters and similar places of indoor amusement or recreation.
 - (19) Animal hospitals and pet shops, but not kennels.
 - (20) Business equipment repair and business services.
 - (21) Radio and television studios.
 - (22) Printing shops, but not publishing plants.
 - (23) Carwashes.
 - (24) Accessory uses, buildings and structures.
 - (25) Greenhouses.
 - (26) Seasonal outdoor places of amusement.
 - (27) Churches and temples.
 - (28) Shelters for abused persons.
 - (29) Adult use and medical marijuana stores subject to the requirements of chapter 141, article 44 XVIII of the City of Auburn Ordinances.
 - (30) Marijuana cultivation accessory to a licensed retail store on the same property.
- (b) *Special exception uses.* The following uses are permitted as special exceptions after approval by the planning board in accordance with division 3 of article XVI of this chapter:
- (1) Commercial parks.
 - (2) Automobile repair and service stations.
 - (3) Hospitals, care homes, boardinghouses and lodgishouses.
 - (4) Research or philanthropic institutions.
 - (5) Outdoor theaters.
 - (6) Drive-in or carry-out restaurants.
 - (7) Sales, rental and service agencies for farm equipment, trucks and trailers, and construction equipment.
 - (8) Light industrial plants which support a retail store selling goods made on the premises and will not create a nuisance by noise, vibration, smoke, odor or appearance.
 - (9) Convenience stores.
 - (10) Research, experimental and testing laboratories.
 - (11) Landscape services and lawn maintenance services.
 - (12) Halls, private clubs and lodges.
 - (13) Outpatient addiction treatment clinics.
 - (14) Any new building of 5,000 square feet or more or any existing building which proposes a use permitted under section 60-525499(a) which will occupy an area of 5,000 square feet or more.
 - (15) Adaptive reuse of structures of community significance.

(Ord. of 9-21-2009, § 3.63B; Ord. No. 11-11072016, 11-21-2016; Ord. No. 05-04032017, § 2, 4-24-2017; Ord. No. 06-05202019, 6-3-2019)

Sec. 60-526. - Dimensional regulations.

All structures in this district, except as noted, shall be subject to the following dimensional regulations:

- (1) *Minimum lot width and depth.* No building used for commercial office uses shall be constructed on a lot having less than 10,000 square feet minimum lot area and measuring 100 feet in width. No lot shall be less than 100 feet in depth. Buildings used for residential uses shall have the same minimum lot area, width and depth as provided for buildings in the Multifamily Suburban (MFS) District, section 60-307(1).
- (2) *Density.* Not more than 30 percent of the total lot area shall be covered by buildings used for commercial or office uses. The density of residential uses shall be the same as that required for buildings in the Multifamily Suburban (MFS) District, section 60-307(2).
- (3) *Yard requirements.*
 - a. *Rear.* There shall be behind every building a rear yard having a minimum depth of 35 feet or 35 percent of the average depth of the lot, whichever is less.
 - b. *Side.* There shall be a distance of five feet between any building and the side property line, plus the side yard setback shall be increased one foot for every two feet or part thereof increase in street frontage over 60 feet to a maximum of 25 feet for side yard setback.
 - c. *Front.* There shall be in front of every building a front yard having a minimum depth of 25 feet or 25 percent of the average depth of the lot, whichever is less.
 - d. *Principal buildings.* More than one principal building may be erected on a lot, provided that the building meet all yard setback requirements and are separated by a distance equivalent to the height of the higher building or 30 feet, whichever is greater.
 - e. *Outdoor storage.* Any yard, space or area required to be kept open and unbuilt on may be used, if otherwise lawful for outdoor storage and display of articles, supplies and materials, Such outdoor storage and display shall occupy no more than 20 percent of the lot with display areas not to exceed one-quarter of the total allowable area. Storage and display areas shall be clearly identified on the land in a fixed location. Storage areas shall be screened from the view of an abutting residential district or use and from the street by an evergreen tree line planted in staggered rows having the base of the trees not more than ten feet apart or by a solid fence not less than six feet in height.
- (4) *Height.* No permitted structure shall exceed four stories or 45 feet in height, except in the airport approach zone where Federal Aviation Administration regulations shall apply.
- (5) *Off-street parking.* Off-street parking and loading spaces shall be provided in accordance with the requirements for specific uses as set forth in articles ~~V through XI~~ of this chapter.

(Ord. of 9-21-2009, § 3.63C)

Secs. 60-527—60-545. - Reserved.

DIVISION 14. - FORM BASED CODE^[2]

Footnotes:

--- (2) ---

Editor's note— Ord. No. 04-03072016, adopted May 16, 2016, repealed former Div. 14, §§ 60-546—60-549, in its entirety and enacted new provisions as herein set out. Former Div. 14 pertained to the central business district and derived from Ord. of 9-21-2009, §§ 3.69A—3.69D; Ord. of 2-16-2010.

Subdivision I. - In General

Sec. 60-546. - Purpose.

The purpose of the form based code is to:

- (a) Provide a building development pattern that is based upon the built environment's physical form and its relationship to the public realm and the private realm.
- (b) Allow for a diversity of uses appropriate and compatible to the designated district area.
- (c) Provide a more accelerated building design, review, approval and construction process.
- (d) Deliver a more predictable building development outcome that is consistent with the traditional pedestrian-oriented street-building development pattern.

(Ord. No. 04-03072016, 5-16-2016)

Sec. 60-547. - Transects.

Form based code uses transects as a way to describe the areas under the regulating plan. A transect is a system of ordering human habitats in a range from the most natural to the most urban. Auburn's transects are organized using five form based code districts, (Transect 4.1, Transect 4.2, Transect 5.1, Transect 5.2 and Transect 6), which describe the physical character of a place at a certain scale, according to the density and intensity of land use and urbanism.

(Ord. No. 04-03072016, 5-16-2016)

Sec. 60-548. - Traditional Main Street Neighborhood (T-4.1)

[HYPERLINK "../images/60-548-1.png"](#)



Illustrative View of T-4.1 (Main Street)

**Intent and Purpose:
Traditional Main Street Neighborhood (T-4.1)**

The Main Street Neighborhood district is designed to continue the existing pattern of large houses set along Main Street. This area is characterized by front porches, residential front yards and front doors facing the street. T- 4.1 promotes a lower-density and less concentrated pattern of buildings along the street, while maintaining a pleasing, connective and compact multi-modal environment.



[HYPERLINK "../images/60-548-2x.png"](#)



HYPERLINK "../images/60-548-3.png"

Characteristic Features

- Front lawns
- Front facade detailing
- Frontage fences
- Porches
- Bay windows
- Foundation planting and yard landscaping
- Street Trees
- Lower Density



HYPERLINK "../images/60-548-4.png"

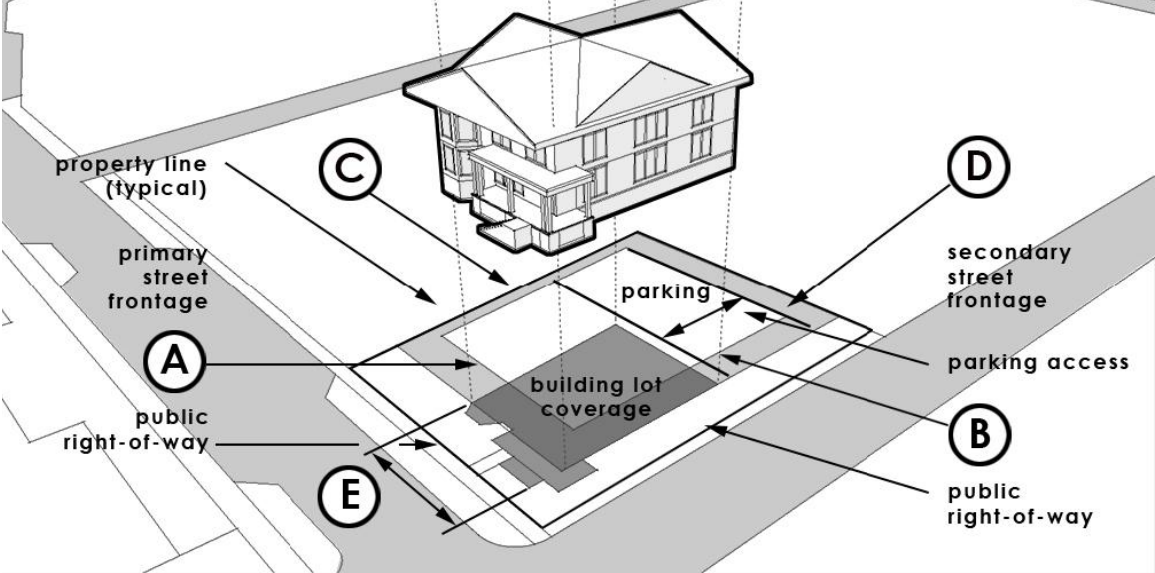
Examples of Main Street Neighborhood - T-4.1

(Ord. No. 04-03072016, 5-16-2016)

Sec. 60-548.1. - Building placement and configuration T-4.1.

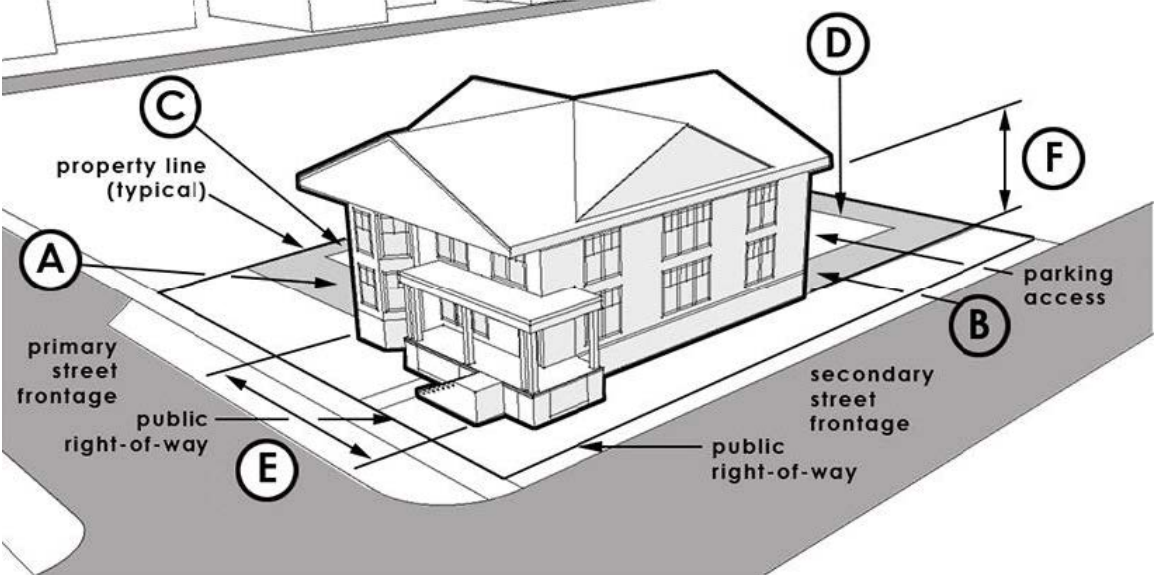
Elevated Building Placement

HYPERLINK "../images/60-548-1-1.png"



Building Placement on Lot

HYPERLINK "../images/60-548-1-2.png"

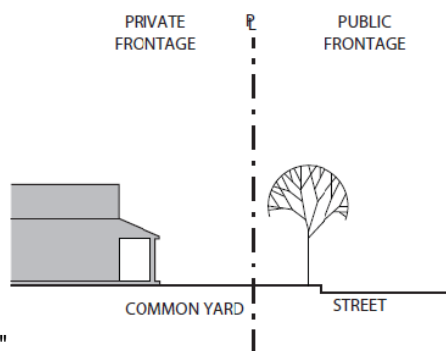


| PRINCIPAL BUILDING PLACEMENT: | | |
|--|-------------------------|-----|
| Front Setback, Principal: | 15 ft. Min. 25 ft. Max. | (A) |
| (Corner Lot) Front Setback, Secondary: | 15 ft. Min., 25 ft. Max | (B) |
| Side Setback: | 5 ft. Min. | (C) |

| | | |
|-----------------------------------|---|-----|
| Rear Setback: | 10 ft. Min. | (D) |
| Building Lot Coverage: | 60% Max. | |
| Useable Open Space: | 20% Min. | |
| Frontage Build-Out: | 40% Min. (along Front Setback, Primary) | |
| Lot Width: | 24 ft. Min, 120 ft. Max | |
| PRINCIPAL BUILDING CONFIGURATION: | | |
| Building Width: | 14 ft. Min., 64 ft. Max. | (E) |
| Building Height Minimum: | 2 Story Min. | (F) |
| Building Height Maximum: | 2 Story Max. (excluding attic story) | (F) |

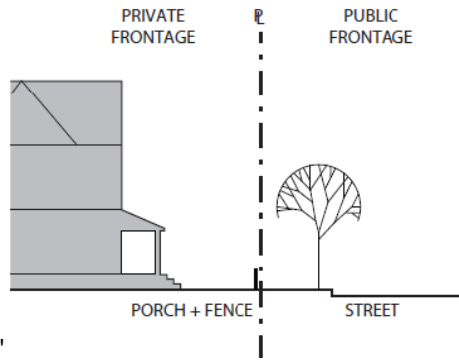
(Ord. No. 04-03072016, 5-16-2016)

Sec. 60-548.2. - Building frontages types T-4.1.



HYPERLINK "../images/60-548-2-1.png"

Common Yard



HYPERLINK "../images/60-548-2-2.png"

Porch Yard

| | |
|--|---|
| BUILDING FRONTAGE TYPES: | Common Yard; Porch Yard |
| BUILDING ENTRIES: | Primary entry door is encouraged along ground story facade facing a primary street. |
| BUILDING ENVELOPE ARTICULATION: | |
| Ground Story Building Frontage Facade: | Windows and doors shall comprise a minimum of 25% and maximum 60% coverage of the total ground story facade frontage. |
| Upper Story Building Frontage Facades: | Windows and doors shall comprise a minimum of 20% and maximum 40% coverage of the total upper story facade frontage. |
| Ground Story Finished Floor Elevation: | The ground story shall be a minimum of 2 feet and 6 feet maximum above the front yard elevation (average grade). |
| Frontage Facade Wall: | Blank lengths of wall exceeding 10 linear feet are prohibited. |

(Ord. No. 04-03072016, 5-16-2016)

Sec. 60-548.3. - External elements T-4.1.

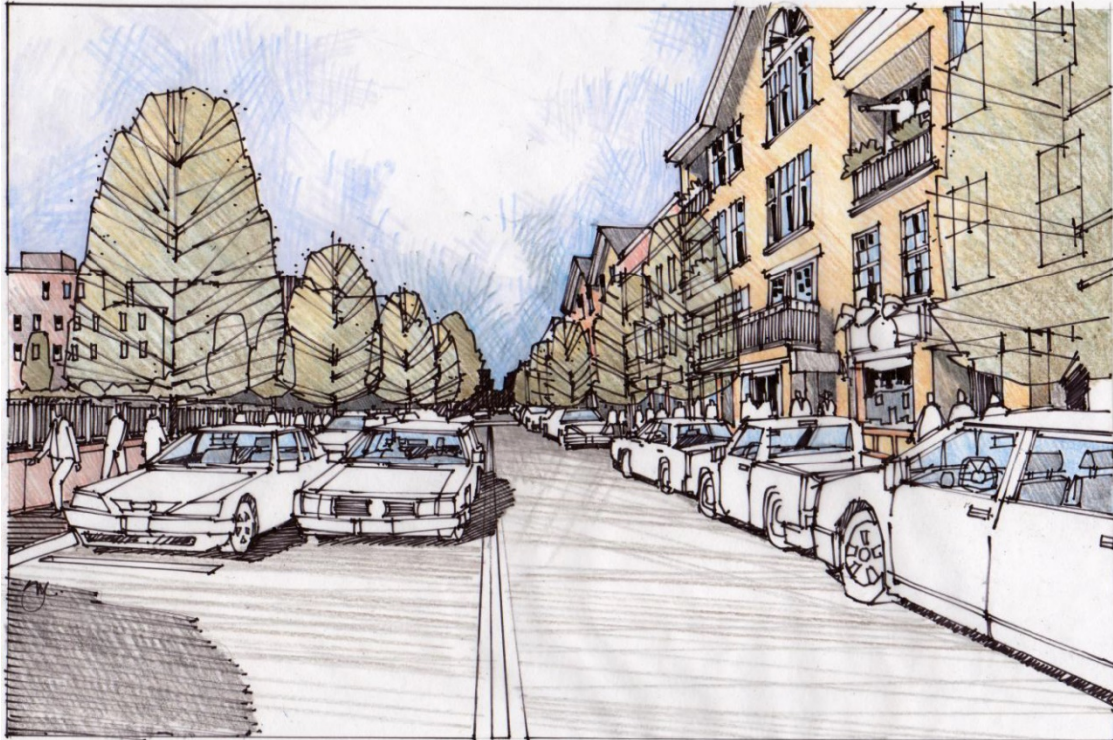
| | |
|--------------------------------|---|
| Front Yard Fence: | A front yard fence a minimum of 2 feet and a maximum of 4 feet in height is encouraged to maintain spatial edge of street. Chain link, vinyl, split rail, or barbed wire is not allowed. |
| Front Yard Fence/Wall Opening: | A vehicle entry way, as part of a front fence/wall, shall be a maximum width of 20 feet; a pedestrian entry way shall be a maximum width of 6 feet. |
| Building Projections: | No part of any building, except overhanging eaves, awnings, balconies, bay windows, stoops and other architectural features shall encroach beyond the minimum or maximum front setback line. |
| Porch & Stoop Encroachments: | Porches & Stoops may encroach upon the minimum front setback line by the following distances: Front Setback, Principal Frontage 10 ft. maximum. Front Setback, Secondary Frontage 10 ft. maximum. |
| Garages: | Detached garages shall be located a minimum of 20 feet from any street right-of-way. |
| Driveways: | Driveways are encouraged to be on the secondary street frontage. Driveways shall be paved and a minimum of 8 feet wide and a maximum of 20 feet wide. |
| Parking: | <u>Residential</u> - Vehicle parking areas shall be located only on driveways or designated parking areas and shall not extend into the street right-of-way or sidewalk. <u>Commercial</u> - Parking shall be located to rear of the property to the greatest extent possible. Parking on a side yard is limited to no more than 60 feet wide or 40% of the lot width. Screening and/or street wall is required for parking areas along a street. |
| Accessory Structures: | Accessory structures shall be located a minimum of 20 feet from any street right-of-way and 5 feet from either side or rear property line. |
| Landscaping: | Landscaping is encouraged but shall not extend into any sidewalk or travel way. Street trees are encouraged. |
| Foundation Planting: | Foundation plantings are encouraged but should be pruned and maintained with enough clearance from the building facade to encourage air circulation. |

(Ord. No. 04-03072016, 5-16-2016)

Sec. 60.549. - Traditional Downtown Neighborhood T-4.2.

Illustrative View of T-4.2 (Spring Street)

HYPERLINK "../images/60-549-1.png"



**Intent and Purpose:
Traditional Downtown Neighborhood (T-4.2)**

The Traditional Downtown Neighborhood district is characterized by a small to medium sized buildings with smaller front yards and stoops in a more compact urban environment, and includes and traditional neighborhood sized storefronts. The smaller minimum and maximum building set-backs form a moderately dense street-wall pattern, diverse architectural styles and pedestrian friendly streets and sidewalks.



[HYPERLINK "../images/60-549-2.png"](#)



[HYPERLINK "../images/60-549-3.png"](#)



HYPERLINK "../images/60-549-4.png"

Characteristic Features

- More public and private realm interaction
- Front facade detailing
- Small front yards
- Bay windows
- Neighborhood scaled storefronts with large windows
- Frontage Fences
- Street Trees
- Moderate densities

(Ord. No. 04-03072016, 5-16-2016)

Sec. 60-549.1. - Building placement and configuration T-4.2.

The diagram shows a building lot with a central building footprint. The lot is divided into several zones, labeled A through E, and has specific dimensions and features:

- Property line (typical):** The boundary of the lot.
- primary street frontage:** The front edge of the lot facing the main street.
- public right-of-way:** The area adjacent to the street.
- building lot coverage:** The area covered by the building footprint.
- parking:** The area designated for parking, located behind the building.
- secondary street frontage:** The side edge of the lot facing a secondary street.
- parking access:** The area providing access to the parking zone.
- public right-of-way:** The area adjacent to the secondary street.
- Dimensions:**
 - A:** The width of the lot.
 - B:** The depth of the lot.
 - C:** The width of the building footprint.
 - D:** The width of the parking area, specified as 40% of lot width or 60' wide.
 - E:** The depth of the parking area.

Elevated Building Placement

Diagram illustrating the relationship between a building and its surrounding public right-of-way. The building is shown with a primary street frontage (A) and a secondary street frontage (B). The public right-of-way is defined by the property line (C) and the primary street frontage (A). The secondary street frontage (B) is also shown. The diagram includes labels for 'property line (typical)', 'primary street frontage', 'public right-of-way', 'secondary street frontage', and 'parking access'. Dimensions are indicated by arrows and labeled with letters A through F.

Building Placement on Lot

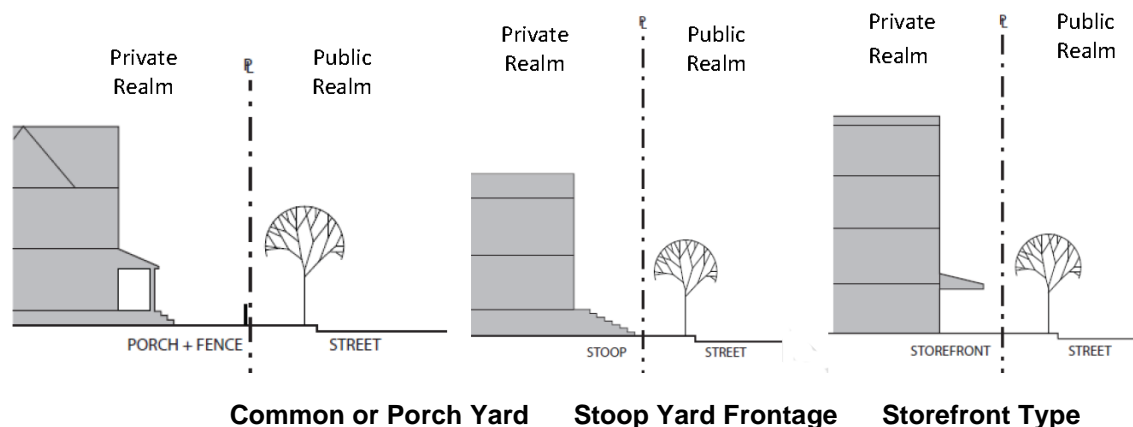
| | | |
|--|-------------------------|-----|
| PRINCIPAL BUILDING PLACEMENT: | | |
| Front Setback, Principal: | 5 ft. Min/, 15 ft. Max | (A) |
| (Corner Lot) Front Setback, Secondary: | 5 ft. Min., 15 ft. Max. | (B) |
| Side Setback: | 5 ft. Min. | (C) |

| | | |
|-----------------------------------|--|-----------------------------|
| Rear Setback: | 10 ft. Min. | (D) |
| Building Lot Coverage: | 70% Max. | |
| Useable Open Space: | 10% Min. | |
| Frontage Build-Out: | 60% Min (along Front Setback, Primary) | |
| Lot Width: | 24 ft. Min, 120 ft. Max. | |
| PRINCIPAL BUILDING CONFIGURATION: | | |
| Building Width: | 14 ft. Min., 110 ft. Max. | (E) |
| Building Height Minimum: | 1 Story Min. | (F) |
| Building Height Maximum: | 3 Story Max. | (F) (excluding attic story) |

(Ord. No. 04-03072016, 5-16-2016)

Sec. 60.549.2. - Building frontages T-4.2.

HYPERLINK "../images/60-549-2-1.png"



| | |
|---------------------------------------|---|
| BUILDING FRONTAGE TYPES: | Common Yard; Porch Yard, Stoop and Storefront |
|---------------------------------------|---|

| | |
|--|---|
| BUILDING ENTRIES: | Primary entry door is encouraged along ground story facade facing a primary street. |
| BUILDING ENVELOPE ARTICULATION: | |
| Ground Story Building Frontage Facade: | <u>Residential</u> - Windows and doors shall comprise a minimum of 25% and maximum 60% coverage of the total ground story frontage facade. <u>Commercial</u> - Windows and doors shall comprise a minimum of 40% and maximum of 90% coverage of the total ground story frontage facade. |
| Upper Story Building Frontage Facade: | Windows and doors shall comprise a minimum of 20% and maximum 40% coverage of the total upper story building frontage facade. |
| Ground Story Finished Floor Elevation: | <u>Residential</u> - The ground story yy elevation must be a minimum of 2 feet minimum and 6 feet maximum above the front yard elevation (average grade). <u>Commercial</u> - The ground story yy elevation must be at a minimum of sidewalk grade to maximum of 2 feet. |
| Frontage Facade Wall: | Blank lengths of wall exceeding 10 linear feet are prohibited. |

(Ord. No. 04-03072016, 5-16-2016)

Sec. 60-549.3. - External elements T-4.2.

| | |
|--------------------------------|---|
| Front Yard Fence: | <u>Residential</u> - A front yard fence a minimum of 2 feet and a maximum of 4 feet in height is encouraged to maintain spatial edge of street. No chain link, vinyl, split rail, or barbed wire is allowed |
| Front Yard Fence/Wall Opening: | A vehicle entry way, as part of a front fence/wall, shall be a maximum width of 20 feet; a pedestrian entry way shall be a maximum width of 6 feet. |

| | |
|------------------------------|--|
| Building Projections: | No part of any building, except overhanging eaves, awnings, balconies, bay windows, stoops and other architectural features shall encroach beyond the minimum front setback line. |
| Porch & Stoop Encroachments: | Porches & Stoops may encroach upon the minimum front setback line by the following distances: Front Setback, Principal Frontage 5 ft. maximum. Front Setback, Secondary Frontage 5 ft. maximum. |
| Garages: | Detached garages shall be located a minimum of 20 feet from any street right-of-way. |
| Driveways: | Driveways are encouraged to be on the secondary street frontage. Driveways shall be paved and a minimum of 8 feet wide and a maximum of 20 feet wide. |
| Parking: | <u>Residential</u> - Vehicle parking areas shall be located only on driveways or designated parking areas and shall not extend into the street right-of-way or sidewalk. <u>Commercial</u> - Parking shall be located to rear of the property to the greatest extent possible. Parking on a side yard is limited to no more than 60 feet wide or 40% of the lot width. Screening and/or street wall is required for parking areas along a street. |
| Accessory Structures: | Accessory structures shall be located a minimum of 20 feet from any street right-of-way and 5 feet from either side or rear property line. |
| Landscaping: | Landscaping is encouraged but shall not extend into any street right-of-way or sidewalk. Street trees are encouraged. |
| Foundation Planting: | Foundation plantings are encouraged but should be pruned and maintained with enough clearance from the building facade to encourage air circulation. |

(Ord. No. 04-03072016, 5-16-2016)

Sec. 60-550. - Downtown Traditional Center T-5.1.

HYPERLINK "../images/60-550-1.png"



Illustrative View of T-5.1 (Future Great Falls Plaza)

Intent and Purpose: Downtown Traditional Center (T-5.1)

The Downtown Traditional Center zone is characterized by medium to larger sized buildings in a compact urban environment that generates an active street life. There is interplay between the Public Realm of the busy street and sidewalk, and the Private Realm of the residential stoops, commercial storefronts and gallery building fronts. The increased building widths form a more solid and compact street wall pattern, generating an energized traditional downtown feel.



HYPERLINK "../images/60-550-2.png"



HYPERLINK "../images/60-550-3.png"



HYPERLINK "../images/60-550-4.png"

Key Features

- Vibrant and active interaction between public and private realms
- Larger buildings
- Front facade detailing
- Bay windows
- Balconies
- Street trees
- More urban density



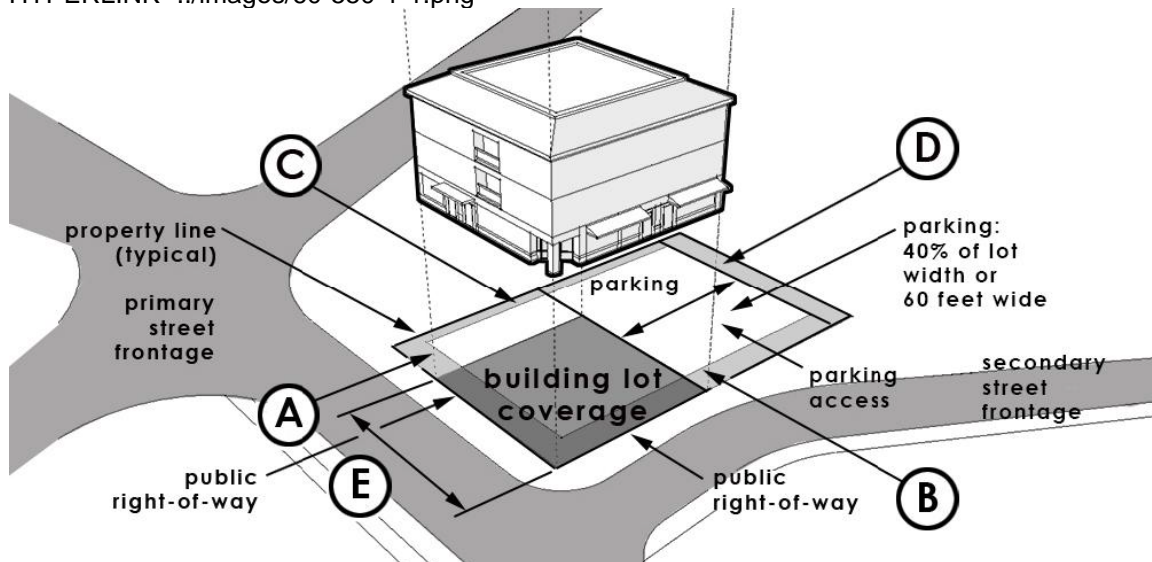
HYPERLINK "../images/60-550-5.png"

Examples of Downtown Traditional Center T-5.1

(Ord. No. 04-03072016, 5-16-2016)

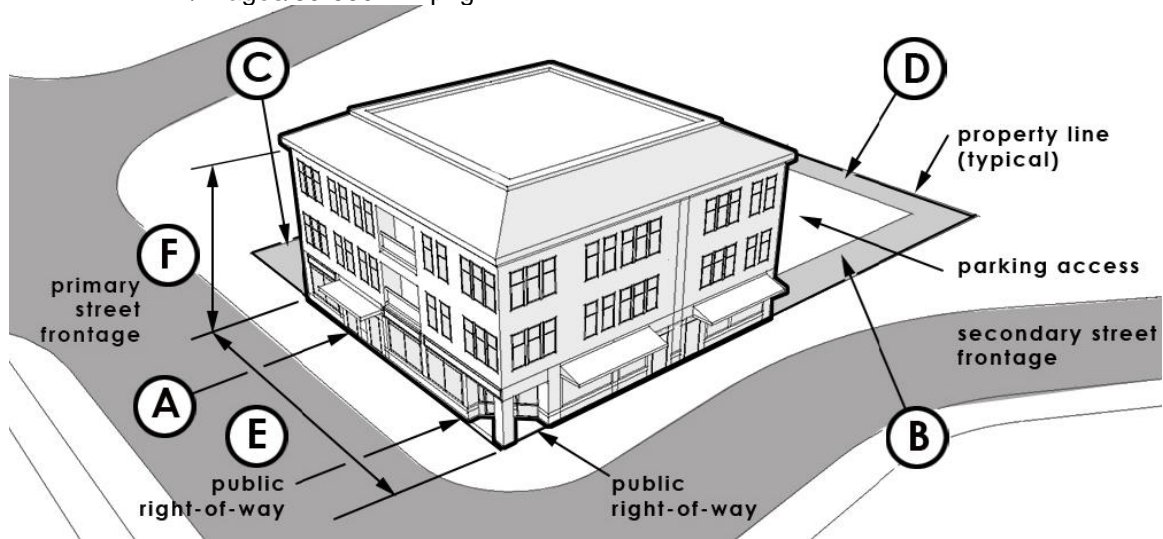
Sec. 60-550.1. - Building placement and configuration T-5.1.

HYPERLINK "../images/60-550-1-1.png"



Elevated Building Placement

HYPERLINK "../images/60-550-1-2.png"



Building Placement on Lot

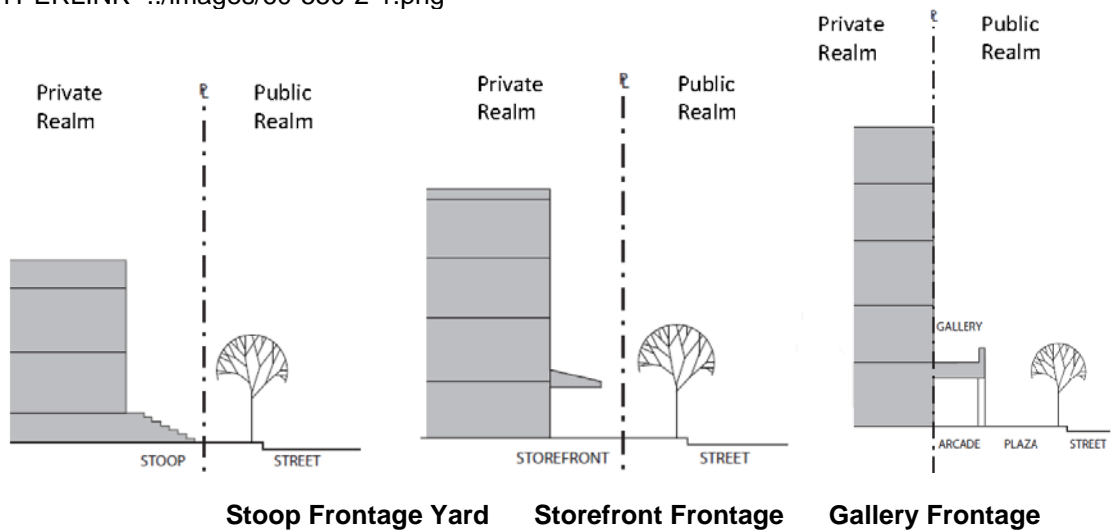
| | | |
|--|---------------------------------------|-----|
| PRINCIPAL BUILDING PLACEMENT: | | |
| Front Setback, Principal: | 0 ft. Min., 10 ft. Max. | (A) |
| (Corner Lot) Front Setback, Secondary: | 0 ft. Min., 10 ft. Max. | (B) |
| Side Setback: | 0*—5 ft. Min. | (C) |
| | *Subject to Building Permit Approval | |
| Rear Setback: | 10 ft. Min. | (D) |
| Building Lot Coverage: | 75% Max. | |
| Useable Open Space: | 5% Min. | |
| Frontage Build-Out: | 75% Min. along Front Setback, Primary | |
| Lot Width: | 24 ft. Min, 160 ft.Max. | |
| PRINCIPAL BUILDING CONFIGURATION: | | |
| Building Width: | 14 ft. Min., 150 ft. Max. | (E) |

| | | |
|--------------------------|---|-----|
| Building Height Minimum: | 2 Story Min. (F) | |
| Building Height Maximum: | 4 Story Max. (excluding attic story) | (F) |

(Ord. No. 04-03072016, 5-16-2016)

Sec. 60-550.2. - Building frontages T-5.1.

HYPERLINK "../images/60-550-2-1.png"



| | |
|--|---|
| BUILDING FRONTAGE TYPES: | Stoop, Storefront and Gallery |
| BUILDING ENTRIES: | Primary entry door is encouraged along ground story facade facing a primary street. |
| BUILDING ENVELOPE ARTICULATION: | |
| Ground Story Building Frontage Facade: | Windows and doors shall comprise a minimum of 25% and maximum 60% coverage of the total ground story facade frontage. |

| | |
|--|---|
| Upper Story Building Frontage Facade: | Windows and doors shall comprise a minimum of 20% and maximum 40% coverage of the total upper story facade frontage. |
| Ground Story Finished Floor Elevation: | The ground story must be a minimum of 2 feet minimum and 6 feet maximum above the front yard elevation (average grade). |
| Front Facade Wall: | Blank lengths of wall exceeding 10 linear feet are prohibited. |

(Ord. No. 04-03072016, 5-16-2016)

Sec. 60-550.3. - External elements T-5.1.

| | |
|---------------------------------|---|
| Front Yard Fence: (Residential) | <u>Residential</u> - A front y ard fence a minimum of 2 feet and a maximum of 4 feet in height is encouraged to maintain spatial edge of street. No chain link, vinyl, split rail, or barbed wire is allowed. |
| Street Wall/Wall Opening: | A vehicle entry way, as part of a street wall, shall be a maximum width of 20 feet (residential) and 24 feet (commercial); a pedestrian entry way shall be a maximum width of 6 feet. |
| Building Projections: | No part of any building, except overhanging eaves, awnings, balconies, bay windows, stoops and other architectural features shall encroach beyond the minimum front setback line. Stoop |
| Encroachments: | Stoops may encroach upon the front setback line by the following distances but not encroach in the street right-of-way. |
| Garages: | Detached garages shall be located a minimum of 20 feet from any street right-of-way. |
| Driveways: | Driveways are encouraged to be on the secondary street frontage. Driveways shall be paved and a minimum of 8 feet wide and a maximum of 20 feet wide. |
| Parking: | <u>Residential</u> - Vehicle parking areas shall be located only on driveways or designated parking areas and shall not extend into the street right-of-way or sidewalk. <u>Commercial</u> - Parking shall be located to rear of the property to the greatest |

| | |
|-----------------------|---|
| | extent possible. Parking on a side yard is limited to no more than 60 feet wide or 40% of the lot width. Screening and/or street wall is required for parking areas along a street. |
| Accessory Structures: | Accessory structures shall be located a minimum of 20 feet from any street right-of-way and 5 feet from either side or rear property line. |
| Landscaping: | Landscaping is encouraged but shall not extend into any street sidewalk or travel way. Street trees are encouraged. |
| Foundation Planting: | Foundation plantings are encouraged but should be pruned and maintained with enough clearance from the building facade to encourage air circulation. |

(Ord. No. 04-03072016, 5-16-2016)

Sec. 60-551. - Downtown City Center T-5.2.

HYPERLINK "../images/60-551-1.png"



Illustrative View of T-5.2 (Court Street)

**Intent and Purpose:
Downtown City Center (T-5.2)**

The Downtown City Center district is characterized by medium to large sized buildings in a compact urban environment. This setting will generate social and cultural activity and events, economic stimulation and human interaction. The streets will be important transportation corridors with large sidewalks. The large residential and commercial building widths, frontages and building heights form a solid, compact street wall pattern. The Downtown Center will generate regional economic development activity along with energized social and lifestyle options.



HYPERLINK "../images/60-551-2.png"

Key Features

- Vibrant street life
- Front facade detailing
- Articulated storefront entrance
- Awnings for storefronts
- Balconies
- Wide sidewalks
- Street Trees
- Compact Urban Environment



HYPERLINK "../images/60-551-3.png"



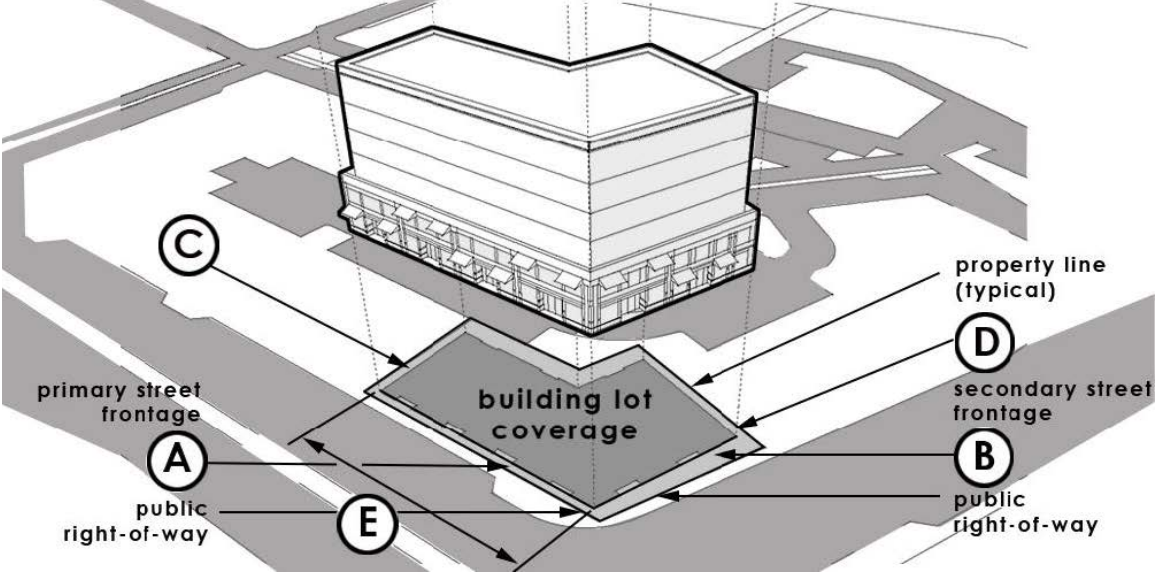
HYPERLINK "../images/60-551-4.png"

Examples of Downtown City Center - T-5.2

(Ord. No. 04-03072016, 5-16-2016)

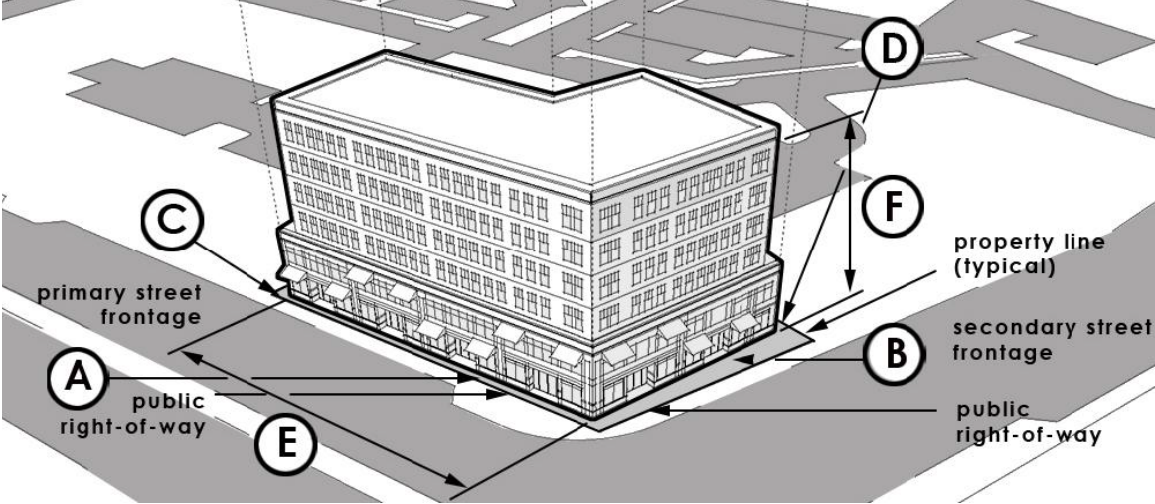
Sec. 60-551.1. - Building placement and configuration T-5.2.

HYPERLINK "../images/60-551-1-1.png"



Elevated Building Placement

HYPERLINK "../images/60-551-1-2.png"



Building Placement on Lot

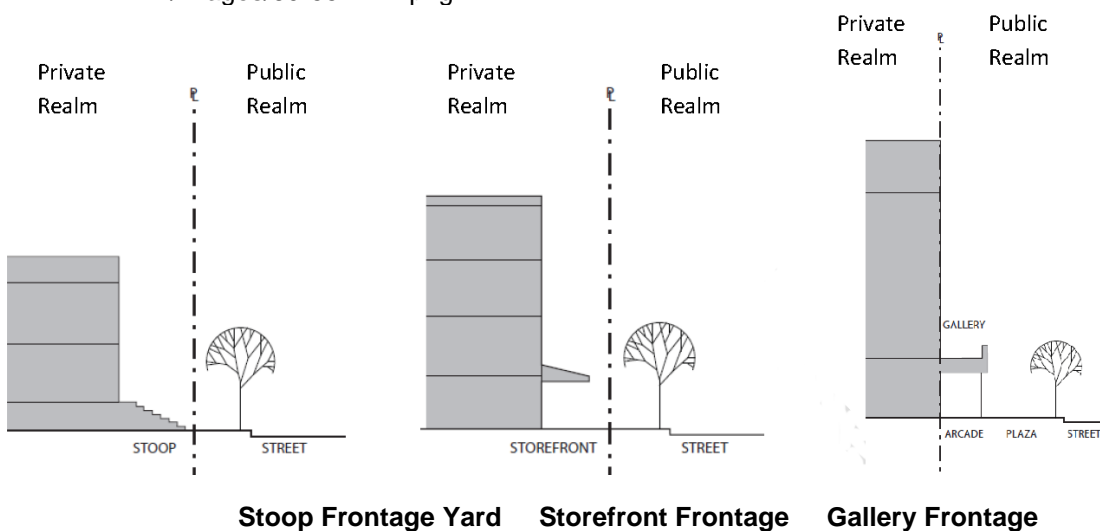
| PRINCIPAL BUILDING PLACEMENT: | | |
|--|---|-----|
| Front Setback, Principal: | 0 ft. Min., 10 ft. Max | (A) |
| (Corner Lot) Front Setback, Secondary: | 0 ft. Min. 10 ft. Max. | (B) |
| Side Setback: | 0*—5 ft. Min. *Subject to Building Permit Approval | (C) |

| | | |
|--|---|-----|
| Rear Setback: | 10 ft. Min. | (D) |
| Building Lot Coverage: | 80% Max. | |
| Useable Open Space: | 5% Min. | |
| Frontage Build-Out: | 85% Min (along Front Setback, Primary) | |
| Lot Width: | 24 ft Min, 240 ft Max | |
| PRINCIPAL BUILDING CONFIGURATION: | | |
| Building Width: | 12 ft. Min., 230 ft. Max. | (E) |
| Building Height Minimum: | 2 Story Min. | (F) |
| Building Height Maximum: | 6 Story Max. (excluding attic story) | (F) |

(Ord. No. 04-03072016, 5-16-2016)

Sec. 60-551.2. - Building frontages T-5.2.

HYPERLINK "../images/60-551-2-1.png"



| | |
|--|--|
| BUILDING FRONTAGE TYPES: | Stoop, Storefront and Gallery |
| BUILDING ENTRIES: | Primary entry door is encouraged along ground story facade facing a primary street. |
| BUILDING ENVELOPE ARTICULATION: | |
| Ground Story Building Frontage Facade: | <u>Residential:</u> Windows and doors shall comprise a minimum of 25% and maximum 60% coverage of the total ground story facade frontage. <u>Storefront:</u> Windows and doors shall comprise a minimum 60% and maximum 90% coverage of the total ground story facade frontage. |
| Upper Story Building Frontage Facade: | Windows and doors shall comprise a minimum of 20% and maximum 40% coverage of the total upper story facade frontage. |
| Ground Story Finished Floor Elevation: | <u>Residential:</u> Ground story must be a minimum of 2 feet or 6 feet maximum above the average front yard elevation. <u>Storefront:</u> Ground story must be a minimum of at the average sidewalk elevation or a maximum of 2 feet above the front yard elevation. |
| Front Facade Wall: | Blank lengths of wall exceeding 15 linear feet are prohibited. |

(Ord. No. 04-03072016, 5-16-2016)

Sec. 60-551.3. - External elements T-5.2.

| | |
|------------------------------------|---|
| Front Yard Fence: (Residential) | A front yard fence a minimum of 3 feet and a maximum of 4 feet in height is encouraged to maintain spatial edge of street. |
| Front Yard Fence/Wall Opening: | A vehicle entry way, as part of a front fence/wall, shall be a maximum width of 20 feet; a pedestrian entry way shall be a maximum width of 6 feet. |

| | |
|------------------------------|--|
| Required Street Wall Height: | A street wall a minimum of 4 feet and maximum of 6 feet shall be required along the building line frontage that is not otherwise occupied by the principal building on the lot. The height of the street wall shall be measured from the adjacent public sidewalk or from the adjacent ground elevation once construction is complete. |
| Building Projections: | No part of any building, except overhanging eaves, awnings, balconies, bay windows, and other architectural features shall encroach beyond the minimum front setback line. |
| Stoop Encroachments: | Stoops may encroach upon the front setback line by the following distances but not encroach in the street right-of-way. |
| Parking: | <u>Residential</u> - Vehicle parking areas shall be located only on driveways or designated parking areas and shall not extend into the street right-of-way or sidewalk. <u>Commercial</u> - Parking shall be located to rear of the property to the greatest extent possible. Parking on a side yard is limited to no more than 60 feet wide or 40% of the lot width. Screening and/or street wall is required for parking areas along a street. |
| Landscaping: | Landscaping is encouraged but shall not extend into any street sidewalk or travel way. Street trees are encouraged. |

(Ord. No. 04-03072016, 5-16-2016)

Sec. 60-552. - Great Falls Metropolitan T-6.

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Illustrative View of T-6 (Turner Street)

**Intent and Purpose:
Great Falls Metropolitan (T-6)**

The Great Falls Metropolitan zone is characterized by large buildings up to 8 stories tall that will define the City of Auburn's emerging downtown. A new central square, "Great Falls Square" will provide a downtown focal point and center for professional enterprise and commerce. The Great Falls Metropolitan urban form will generate strong regional socio-economic gravitational pull, attract corporate investment and become a regional destination for visitors, events, entertainment, shopping and social gatherings.



HYPERLINK "../images/60-552-2.png"

Key Features

- High energy downtown center

- Balconies
- Articulated storefront entrances
- Awnings for storefronts
- Wide sidewalks
- Street trees
- Streetscape elements (benches, planters)
- Transportation hub
- High density

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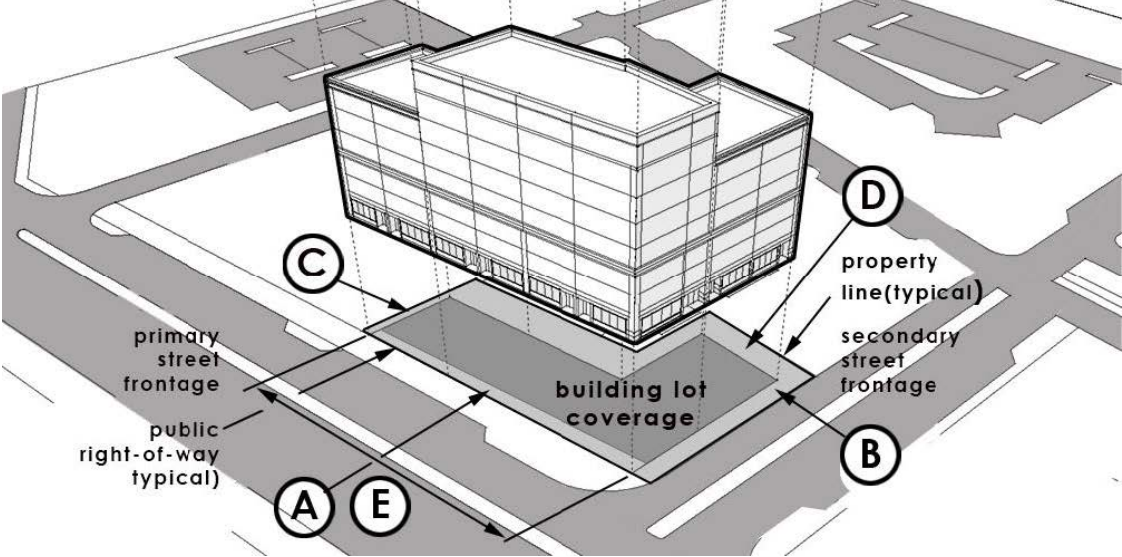


Examples of Great Falls Metropolitan T-6

(Ord. No. 04-03072016, 5-16-2016)

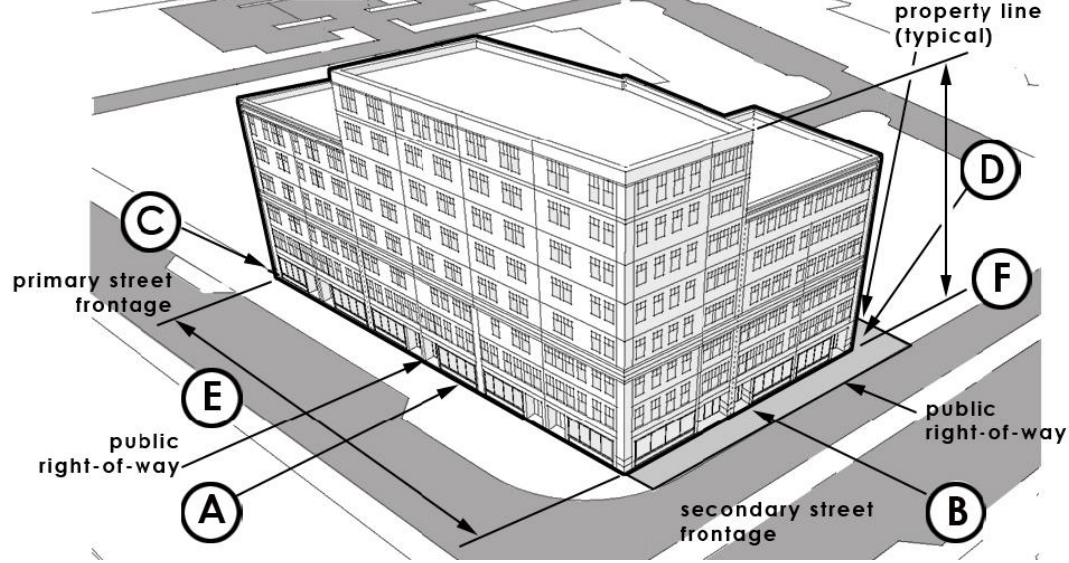
Sec. 60-552.1. - Building placement and configuration T-6.

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Elevated Building Placement

HYPERLINK "../images/60-552-1-2.png"



Building Placement on Lot

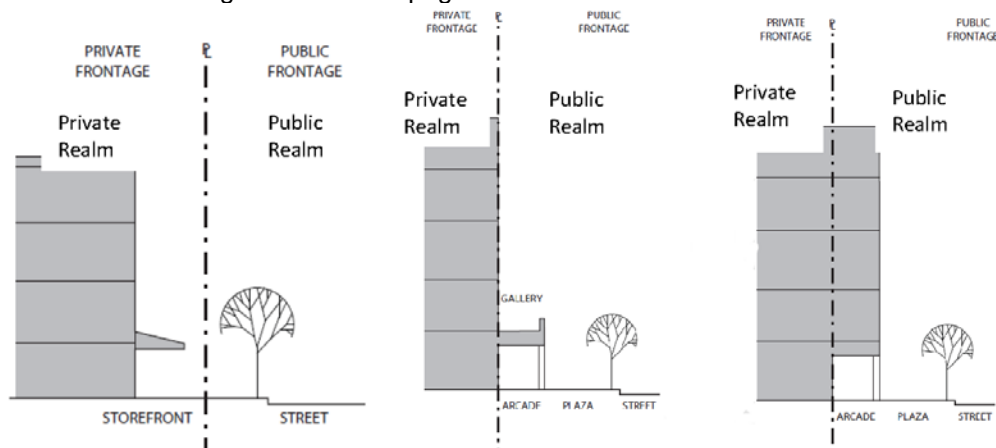
| PRINCIPAL BUILDING PLACEMENT: | | |
|--|-------------------------|-----|
| Front Setback, Principal: | 0 ft. Min., 10 ft. Max. | (A) |
| (Corner Lot) Front Setback, Secondary: | 0 ft. Min., 10 ft. Max. | (B) |

| | | |
|--|---|-----|
| Side Setback: | 0*—5 ft. Min. *Subject to Building Permit Approval | (C) |
| Rear Setback: | 10 ft. Min. | (D) |
| Building Lot Coverage: | 90% Max. | |
| Useable Open Space: | 5% Min. | |
| Frontage Build-Out: | 90% Min. (along Front Setback, Primary) | |
| Lot Width: | 24 ft. Min, 240 ft. Max | |
| PRINCIPAL BUILDING CONFIGURATION: | | |
| Building Width: | 14 ft. Min, 230 ft. Max. | (E) |
| Building Height Minimum: | 4 Story Min. | (F) |
| Building Height Maximum: | 8 Story Max. (excluding attic story) | (F) |

(Ord. No. 04-03072016, 5-16-2016)

Sec. 60-552.2. - Building frontages T-6.

HYPERLINK "../images/60-552-2-1.png"



Storefront Frontage Gallery Frontage Arcade Frontage

| | |
|--|--|
| BUILDING FRONTAGE TYPES: | Storefront, Gallery and Arcade |
| BUILDING ENTRIES: | Primary entry door is encouraged along ground story facade facing a primary street. |
| BUILDING ENVELOPE ARTICULATION: | |
| Ground Story Building Frontage Facade: | Windows and doors shall comprise a minimum 60% and maximum 90% coverage of the total ground story facade frontage. |
| Upper Story Building Frontage Facade: | Windows and doors shall comprise a minimum of 20% and maximum 40% coverage of the total upper story facade frontage. |
| Ground Story Finished Floor Elevation | Must be a minimum of the average sidewalk elevation and maximum of 2 feet. |
| Front Facade Wall: | Blank lengths of wall exceeding 15 linear feet are prohibited. Architectural jogs of up to 18 inches in depth are permitted. |

(Ord. No. 04-03072016, 5-16-2016)

Sec. 60-552.3. - External elements T-6.

| | |
|------------------------------|--|
| Street Wall Opening: | A vehicle entry way, as part of a front fence/wall, shall be a maximum width of 18 feet; a pedestrian entry way shall be a maximum width of 6 feet. |
| Required Street Wall Height: | A street wall a minimum of 4 feet and maximum of 6 feet shall be required along the building line frontage that is not otherwise occupied by the principal building on the lot. The height of the street wall shall be measured from the adjacent public sidewalk or from the adjacent ground elevation once construction is complete. |

| | |
|-----------------------|--|
| Building Projections: | No part of any building, except overhanging eaves, awnings, balconies, bay windows, and other architectural features shall encroach beyond the minimum front setback line. |
| Stoop Encroachments: | Stoops may encroach upon the front setback line by the following distances but not encroach in the street right-of-way. |
| Parking: | <u>Residential</u> - Vehicle parking areas shall be located only on driveways or designated parking areas and shall not extend into the street right-of-way or sidewalk. <u>Commercial</u> - Parking shall be located to rear of the property to the greatest extent possible. Parking on a side yard is limited to no more than 60 feet wide or 40% of the lot width. Screening and/or street wall is required for parking areas along a street. |
| Landscaping: | Landscaping is encouraged but shall not extend into any street sidewalk or travel way. Street trees are encouraged. |

(Ord. No. 04-03072016, 5-16-2016)

Sec. 60-553. - ~~Reserved.~~ [Conservation/Open Space C/OS.](#)

[Intent and Purpose:](#)

[Publicly accessible area used for community open space.](#)

Sec. 60-554. - Form based code use and parking matrix.

| | |
|-------------|-------------------|
| Key: | |
| S = | Special exception |
| P = | Permitted |
| X = | Prohibited |
| sp = | Parking space |

| | | |
|----|---|----------------------------------|
| sf | = | Square foot of gross floor space |
| DU | = | Dwelling unit |

| USE(1) | T-4.1 | T-4.2 | T-5.1 | T-5.2 | T-6 | PARKING REQUIREMENTS 2) |
|--|-------|-------|-------|-------|-----|--|
| Residential Type Use | | | | | | |
| Single Family | P | P | P | | | 1 sp/DU |
| Duplex | P | P | P | P | P | 1 sp/DU |
| Townhouse | P | P | P | P | P | 1 sp/DU |
| Multi-Family | P | P | P | P | P | 1 sp/DU plus 1 guest space/4 DU |
| Bed & Breakfast < 4 Rooms | S | P | P | P | P | 1 sp/employee plus 1 sp/guest |
| Bed & Breakfast > 4 Rooms | S | S | P | P | P | 1 sp/employee plus 1 sp/guest |
| Hotel | X | X | S | S | P | ½ sp/employee plus 1 sp/room |
| Elderly/Child Care Facility | S | S | S | S | P | ½ sp/employee plus 1 sp/ 8 users |
| Home Occupation | P | P | P | P | P | Based on Use Type (Ch. 60, Art. IX) |
| Community Based Residential Facilities | P | P | P | P | P | 1 sp/employee plus 1 sp/client |
| Boarding House/Lodginghouse | P | P | P | S | X | 1 sp/guestroom plus |
| | | | | | | 1 sp/employee |

| | | | | | | |
|--|---|---|---|---|---|--|
| Office/Service Type Use | | | | | | |
| Professional Offices | S | S | P | P | P | 1 sp/400 sf |
| Medical and Dental Clinics | S | S | P | P | P | 1 sp/400 sf |
| Personal Services | S | | P | P | P | 1 sp/400 sf |
| Retail Type Use | | | | | | |
| General Retail | S | S | P | P | P | 1 sp/400 sf |
| Age Restricted Retail (3) | S | S | S | S | S | 1 sp/400 sf |
| Specialty Shops | S | P | P | P | P | 1 sp/400 |
| Restaurant up to 30 seats w/16 outdoor | X | S | P | P | P | 1 sp/4 seats |
| Restaurant over 30 seats w/16 outdoor | | S | S | P | P | 1 sp/4 seats |
| Halls, Private Clubs, Indoor Amusement | S | S | S | P | P | 1 sp/400 sf |
| Artist Studios, Performing Art Center | S | S | P | P | P | 1 sp/400 sf |
| Civic | | | | | | |
| Church or Places of Worship | S | S | P | P | P | 1 sp/5 seats |
| Government Offices | X | X | P | P | P | 1 sp/400 sf |
| Art Galleries | S | P | P | P | P | 1 sp/400 sf |
| Transportation Facilities | X | X | S | S | S | 1 sp/400 sf |
| Adaptive Reuse of Structures of Community Significance | S | S | S | S | S | To be determined by the planning board depending on use(s) |

Notes:

- (1) Uses not listed are considered prohibited unless deemed similar by the director of planning or by the planning board through a special exception approval.
- (2) *Parking requirements in T-5.1, T-5.2 and T-6 may be provided by the municipality or private parking resources within 1,000 feet of the principal building, subject to planning board approval.
- (3) Where more than 50 percent of floor space is devoted to age restricted goods. This may include licensed adult use or medical marijuana stores.

(Ord. No. 04-03072016, 5-16-2016; Ord. No. 05-04032017, § 2, 4-24-2017; Ord. No. 07-05202019, 6-3-2019)

Subdivision II. - Form Based Code Administration

Sec. 60-555. - Form based code administration.

Form based code relation to zoning ordinance:

- (1) The form based code shall regulate areas designated as form based code districts.
- (2) All buildings and land uses located within a form based code district shall comply with section 60-33 et seq. (General Provisions) unless specifically stated otherwise in sections 60-546 to 60-558 of the form based code.
- (3) Site plan/special exception. Any project located within a form based code district that requires special exception or site plan review shall comply with section 60-45.

(Ord. No. 04-03072016, 5-16-2016)

Sec. 60-556. - Form based code plan types.

(a) *Administrative types.*

- (1) *By right.* No permits are required for projects such as normal maintenance or for new structures under 200 square feet.
- (2) *Minor administrative.* Projects that require permits and comply with all form based code or zoning regulations, may be approved and permitted by the appropriate city departmental staff and will not require multiple departmental or planning board approval. These projects can be applied for at any time.
- (3) *Major administrative.* Projects that do not qualify as a Subdivision. Special exception or site plan review type plans and comply with all form based code or zoning regulations, but due to multiple issues, will require review by the multiple city departmental staff.

(b) *Discretionary type plans.* The following plan types shall require review and action by the planning board.

- (1) Subdivisions of three or more lots over a five-year period or a project creating more than three dwelling units. (Subdivision Review).
- (2) Any project listed as special exception or "S" in section 60-554, Use and Parking Matrix Chart. (Special Exception and Site Plan Review).

- (3) Any project within the form based code district proposing a total of 12,000 square feet of new construction, all floors included. (Special Exception and Site Plan Review).
- (4) Any amendment to an existing discretionary plan that increases existing square footage more than 25 percent.
- (5) Any project located within the form based code district area that seeks a waiver from the adopted form based code regulating development standards shall submit a complete Special Exception and Site Plan Review application for Planning Board review and action.

(Ord. No. 04-03072016, 5-16-2016)

Sec. 60-557. - Applicability.

- (a) Any minor, major administrative type plan and/or discretionary plan, as defined in section 60-556, located within a form based code district, shall be required to submit a development review application prior to any issuance of building permits or development activity.
- (b) Any development activity on or within property located with the form based code district shall be reviewed for compliance with applicable form based code or zoning ordinance regulations.

(Ord. No. 04-03072016, 5-16-2016)

Sec. 60-558. - Form based code development application procedure.

(a) *Administrative type plan application process.*

- (1) Applicant identifies the subject property's zoning/transect district and determines what plan type the project is.
- (2) Applicant reviews the project's compliance for form based code development standards, sections 60-548 through 60-552; including all sections on purpose, building placement and configuration, building frontages, external elements, lot layout, the Parking and Use Matrix Chart and administration; along with any other applicable zoning ordinance Regulations.
- (3) Pre-development consultation. All administrative type plan applicants are encouraged to contact the Auburn Planning Office for a pre-development consultation to confirm the property's form based code or zoning district and discuss the form based code requirements and related zoning and/or other regulatory items. Failure to consult with the planning office may result in the delay of acceptance, review and approval of the application.
- (4) Any minor or major administrative plan or discretionary plan applicant in a form based code district shall complete and submit a cover letter describing the project, a development review application, a form based code development checklist and the appropriate application fee and number of applications to the planning office.
- (5) All form based code applications will be reviewed by the planning staff for completeness and applicant will be notified within five working days if the plan is deemed complete and whether the plan is administrative or discretionary. The applicant is responsible for working with the planning staff to correct any deficiencies needed to be accepted for further review.
- (6) Type 2 and 3 administrative plans will be reviewed by the appropriate city departmental staff or other relevant agencies who will recommend approving, disapproving or postponing to allow for time to correct the application. The director of planning will notify the applicant of the decision in writing within 15 calendar days of its receipt of a completed application.
- (7) The director of planning shall have the authority to require an administrative plan to be considered by the planning board and notify the applicant the justifications for doing so.

(b) *Discretionary project application process.*

- (1) Applicant identifies subject property's zoning/transect and determines what plan type the project is.
- (2) Applicant reviews the project's compliance for the applicable form based code development standards sections 60-548 through 60-552; including all sections on purpose, building placement and configuration, building frontages, external elements, lot layout, the Parking and Use Matrix Chart and administration; along with any other applicable zoning ordinance regulations.
- (3) Pre-development consultation. All potential development and project applicants are encouraged to contact the Auburn Planning Office for a pre-development consultation to confirm the form based code or zoning regulations and discuss the form based code requirements and related zoning and/or other regulatory items. Failure to consult with the planning office may result in the delay of acceptance, review and approval of the application.
- (4) Discretionary plan applicants will submit; a development review application, a form based code development checklist the appropriate application fee and number of applications to the planning office for review and consideration by the planning board according to their normal submission deadline and meeting schedule.
- (5) Applications not meeting all the requirements of the form based code may include waiver as per section 60-1312 or variance requests as part of their application.

(c) *Waiver requests.*

- (1) Any waiver request of form based code standards and requirements must identify what is regulation is being requested for the waiver and include a narrative explaining how the waiver, if approved, will allow the project to meet the purpose of the form based code and the objective of section 60-1277, Site plan ~~law~~ review].

(d) *Planning board approval.*

- (1) The planning board shall approve, approve with conditions, disapprove or postpone based on its review of the application meeting all existing requirements, conditions, criteria and provisions of special exception, site plan review. Subdivision law and any other relevant procedural requirement of Chapter 60, Zoning, as part of its consideration of a form based code application.
- (2) The planning board shall provide findings for approval or disapproval based on the application's meeting the purpose of the form based code.

(Ord. No. 04-03072016, 5-16-2016)

Secs. 60-559—60-576. - Reserved.

DIVISION 15. - INDUSTRIAL DISTRICT

Sec. 60-577. - Purpose.

This district is intended to provide for those manufacturing, processing, transportation and storage uses which should be separated from other uses by reason of characteristics which may conflict with other uses. The exclusion of residential and commercial uses is intended to promote the economic welfare of the city by reserving especially suited areas for industry.

(Ord. of 9-21-2009, § 3.71A)

Sec. 60-578. - Use regulations.

- (a) *Permitted uses.* The following uses are permitted, provided that the use proposed will not be noxious, offensive or detrimental to the neighborhood or to the city by reason of danger of fire or explosion; pollution of waterways or groundwater; vibration; emission of corrosive, toxic or unhealthful fumes, gas, smoke, soot obnoxious dust, disagreeable odors, offensive noises or other objectionable characteristics:
- (1) Farming of field crops, row crops, orchards and truck gardens.
 - (2) Plant and tree nurseries, wholesale nurseries, landscape services and greenhouses; on-premises sales permitted.
 - (3) Farm dwellings on premises actively farmed.
 - (4) Financial institutions.
 - (5) Office buildings.
 - (6) Post offices.
 - (7) Telephone exchanges or telephone business offices.
 - (8) Public transportation passenger stations.
 - (9) Churches or temples.
 - (10) Municipal uses buildings.
 - (11) Airports.
 - (12) Wholesale businesses, warehouses, trucking terminals and similar nonprocessing storage and distribution uses, except bulk storage of chemicals, petroleum products and other flammable, explosive or noxious material.
 - (13) Manufacture, compounding, processing or packaging of foods and food products, except uses approved by resolution of the city council allowing review and recommendation of the planning board in the same manner as a special exception.
 - (14) Manufacture, compounding or assembling of articles using the following prepared materials: bone or shell, cellophane, fur, glass, leather, plastics, precious or semi-precious metals or stones, rubber textiles or cloth products, tobacco, or wood, bark or wood products.
 - (15) Manufacture of ceramic products, brick and cinder blocks.
 - (16) Manufacture or assembling from prepared material of the following: musical instruments, clocks or watches, toys or novelties, electrical devices, light sheet metal products, office equipment.
 - (17) Building material sales yard and contractor's equipment storage yard and plant.
 - (18) Research, experimental or testing laboratories.
 - (19) Lumber yard, including planning, milling and other processing.
 - (20) Ice manufacturing and storage plant.
 - (21) Beverage bottling plants.
 - (22) Public utilities uses, such as electric substations, storage of material and trucks, repair facilities, offices and electric generating plants including ground-mounted and dual use solar energy generating systems less than one acre in total land area as defined in section 60-1501 in accordance with applicable FAA regulations if within the airport overlay zone.
 - (23) Accessory uses and buildings, including but not limited to:
 - a. Retail sales of products manufactured on premises.
 - b. Dwellings used as living quarters for caretakers or watchmen and their families.

- c. Storage boxes or space trailers as defined in subsection 60-666(12) used for the storage of nonhazardous material by the commercial or industrial use which occupies the property.
- (24) Training schools.
- (25) Uses similar to those in this subsection (a) and not elsewhere named in the following subsections, provided that the use will not be noxious.
- (26) Any new or existing building proposed as a complex of three or more business and/or offices provided that they are approved by the planning board as a subdivision under division 4 of article XVI of this chapter.
- (27) Adult use and medical marijuana cultivation, manufacturing and testing facilities subject to the requirements of chapter 144, article XVIII44 of this Code.
- (28) Adult use and medical marijuana stores subject to the requirements of chapter 144, article 44 XVIII of this Code, provided that the store is located on the same parcel of land as a marijuana cultivation facility or marijuana manufacturing facility.
- (b) *Special exception uses.* The following uses are permitted as special exceptions after approval by the planning board in accordance with division 3 of article XVI of this chapter; upon determination that such a use will not unduly disturb or harmfully influence other uses in the areas adjoining:
 - (1) Uses similar to those found in subsection (a) of this section and not elsewhere named in the following subsection; that in the determination of the municipal officer charged with enforcement do not meet the requirements subsection (a) of this section.
 - (2) Automobile filling stations.
 - (3) Automobile and marine repair and service stations, automobile and marine paint and body repair shops.
 - (4) Restaurants and diners, including drive-in and carry-out restaurants.
 - (5) Retail food stores.
 - (6) Microwave, radio, radar, television or radio-telephone transmitting or broadcasting towers, including studios or offices for such transmitting or broadcasting, provided that:
 - a. Every such tower shall be installed in a location and manner that ensures its safe operation and the safety of surrounding residents, building occupants, land uses and properties.
 - b. In no case shall such tower be located less than 1½ times its height from the nearest property line.
 - (7) Motels and hotels.
 - (8) Automobile scrap yards.
 - (9) Off-street parking accessory, to a permitted use whether or not located on the same lot.
 - (10) Outdoor advertising.
 - (11) Junkyard.
 - (12) Airplane manufacture or assembly.
 - (13) Alcohol, methanol, or ethanol manufacture.
 - (14) Automobile or automotive manufacture or assembly.
 - (15) Brewery or distillery.
 - (16) Manufacture, or bulk storage of chemicals, petroleum products and other flammable, explosive or noxious materials.
 - (17) Machinery and machine tool manufacture.

- (18) Metal fabrication plant.
- (19) Municipal incinerator or sewage treatment plant.
- (20) Manufacture of cosmetics, toiletries and pharmaceuticals.
- (21) Asphalt batching plant.
- (22) Grain processing and storage.
- (23) Concrete or cement products manufacture.
- (24) Coal distillation and derivation of coal products.
- (25) Iron or steel foundry.
- (26) Meat products manufacture.
- (27) Packinghouse, including meat and poultry canning and curing, processing or freezing.
- (28) Plastic and pyroxylin manufacture.
- (29) Uses similar to the uses of this section and not elsewhere named in the following subsections.
- (30) Accessory uses building and structures, including but not limited to:
 - a. Retail sales of products manufactured on the premises and products accessory to the industry.
 - b. A single dwelling unit for security personnel. Such dwelling unit shall be located in the principal building.
- (31) Hospital.
- (32) Automobile and marine sales lots and agencies.
- (33) Child day care centers over 5,000 square feet (building area).
- (34) Outpatient addiction treatment clinics.
- (35) Any new building of 10,000 square feet or more or any existing building which proposes a use permitted under subsection (a) of this section which will occupy an area of 10,000 square feet or more.
- (36) Adaptive reuse of structures of community significance.
- (37) Ground-mounted and dual-use solar energy generating systems greater than one acre in total land area as defined in section 60-1501.

(Ord. of 9-21-2009, § 3.71B; Ord. 11-09062011-02, 9-6-2011; Ord. No. 05-04032017, § 2, 4-24-2017; Ord. No. 08-05202019, 6-3-2019; Ord. No. 02-02242020, 3-2-2020)

Sec. 60-579. - Dimensional regulations.

All structures in this district, except as noted, shall be subject to the following dimensional regulations:

- (1) *Minimum lot width and depth.* Each lot shall have not less than 150 feet width. No lot shall be less than 250 feet in depth.
- (2) *Density.* Not more than 40 percent of the total lot area shall be covered by buildings.
- (3) *Yard requirements.*
 - a. *Rear.* There shall be behind every building a rear yard having a minimum depth of 50 feet or 20 percent of the average depth of the lot, whichever is less.

- b. *Side.* There shall be a distance of five feet between any building and the side property line, plus the side yard setback shall be increased one foot for every three feet or part thereof increased in street frontage over 60 feet to a maximum of 35 feet for side yard setback.
- c. *Front.* There shall be in front of every building a front yard having a minimum depth of 35 feet or 15 percent 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 more than 35 feet shall be considered as having a front yard of 35 feet.
- d. *Principal buildings.* More than one principal building may be erected on a lot provided that the building meet all yard setback requirements and are separated by a distance equivalent to the height of the higher building or 30 feet, whichever is greater.
- e. *Railroad tracks.* Where the principal use requires access to a railroad, the yard requirements are disregarded for the side of the building adjacent to the railroad trackage. The engineering requisites for a safe and properly designed siding and building setback acceptable to the railroad shall take precedence.
- f. *Open and unbuilt spaces.* Any yard, space or are 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 shall be screened from the view of abutting residential property owners and/or street by a solid wall or evergreen hedge.
- g. *Landscaping.* Landscaping shall be provided and maintained as follows:
 - 1. Within a parking lot, landscaping shall be provided in an amount equal to ten percent of the area of the parking lot.
 - 2. The perimeter of a principal building, except for entrances and loading doors, shall be landscaped in an amount equal to 20 percent of the building footprint. Emphasis shall be given to the front and sides of the building.
 - 3. All lots which abut the side or rear lot line of a lot in a residential district or use shall be screened from said lot by an evergreen tree line planted in staggered rows having the base of the trees not more than ten feet apart. The minimum width of the screened buffer line shall be 30 feet.
 - 4. Side and rear lot lines between nonresidential uses shall be planted with evergreen trees in the same manner as subsection (3)g3 of this section, except that the width of the screened buffer line shall not be less than 15 feet.
 - 5. Landscaping is considered to be vegetative treatment with trees, shrubs, flowering plants and grass and/or bark mulch. Grass only is not deemed to satisfy this requirement. Evergreen trees shall be used as required in subsections (3)g3 and (3)g4 of this section. Trees shall be a minimum of six feet at the time of planting. Where possible, existing trees shall be preserved, building shall be oriented with respect to natural landscape features, topography and natural drainage areas.
- (4) *Height.* Buildings shall not exceed 75 feet in height, except in the airport approach zone where Federal Aviation Administration height regulations shall apply.
- (5) *Off-street parking.* Off-street parking and loading spaces shall be provided in accordance with the requirements for specific uses as set forth in articles ~~V through XI~~ of this chapter.

(Ord. of 9-21-2009, § 3.71C)

Secs. 60-580—60-606. - Reserved.

ARTICLE V. - OFF-STREET PARKING AND LOADING

Sec. 60-607. - General provisions and design standards.

Development of the parking and loading spaces required by this section is subject to the following general provisions and design standards:

- (1) There shall be provided, at the time of erection of any main building or structure or development of a site in its permitted use, the minimum number of off-street parking and loading spaces specified in the following subsections, within or without a structure. In calculating the spaces, any fractions shall be rounded to the nearest whole number.
- (2) Each individual parking space shall consist of an effective area of nine feet by 18 feet in dimension and shall be accessible to a public way, except for residential uses in Multifamily Urban Districts (MFU) containing five or more dwelling units. Such uses may develop tandem parking spaces but shall be limited to not more than two vehicles in depth.
- (3) Loading spaces shall have the following dimensions:
 - a. Buildings having a gross floor area of 10,000 square feet or less: 25-foot length, 20-foot width;
 - b. Buildings having a gross floor area of greater than 10,000 square feet: 50-foot length, ten-foot width. Each loading space shall have a vertical clearance of at least 14 feet. Required loading spaces shall not be counted as meeting part of the parking space requirements.
- (4) Interior driveways and ingress and egress points serving parking areas shall be at least 20 feet in width to allow safe and expeditious movement of vehicles. Ingress and egress points shall be separated wherever possible and so signed. Ingress and egress points for one-way vehicular movement only, may be reduced to not less than 14 feet for angle parking areas or 12 feet for perpendicular parking areas.
- (5) The required parking and/or loading spaces shall be provided on the same lot as the principal use, building or structure they are required to serve. For buildings other than dwellings, parking spaces may be located not more than 300 feet there from should practical difficulties prevent their provision on the same lot.
- (6) No required parking area or driveways servicing [the](#) same shall be used for the sale, repair, dismantling or servicing of any vehicle, equipment, material, supplies or merchandise.
- (7) On any residential property or in any residential district, outdoor off-street parking may include the parking or storage of not more than one unregistered or uninspected motor vehicle per lot. If a vehicle is both unregistered and uninspected, the vehicle must be stored within a building.
- (8) In any residential district, off-street parking may include not more than one commercial vehicle per lot.
- (9) In any residential district, no portion of the front yard space, other than the driveway, shall be utilized for off-street parking.
- (10) Any parking or loading space serving a business or industrial use which abuts the side or rear lot line of a lot in a residential district or use shall be screened from said lot by a tight evergreen shrub hedge or similar landscaping, a fence, a solid wall or a combination of two or more of the foregoing. The screen landscaping, wall or fence shall be at least six feet high and may be extended no closer than 15 feet from the street line.
- (11) Exterior lighting provided in any parking or loading area shall be arranged and shielded so that it is deflected away from adjacent properties used for residential purposes and from any public highway.
- (12) All uses containing over five parking and/or loading spaces shall either contain such spaces within structures or be subject to the following requirements:
 - a. All access drives, parking, loading and service spaces shall be graded and surfaced with a solid paving material that is impermeable to water and so as to be dust free and properly

drained. Materials which satisfy this criteria include but are not limited to: bituminous pavement, concrete, geotextiles and brick or cobblestone or other paving block provided that it is mortared.

- b. Parking and loading spaces shall be suitably marked by painted lines or other appropriate markings.
 - c. A substantial bumper of concrete, masonry, steel or heavy timber or a curb of similar material or an earthen berm shall be placed at the head of each parking or loading stall that abuts a structure, rear or side setback or property line, sidewalk, street right-of-way, or landscaped area to prevent vehicles from rolling into such areas.
 - d. Where, in nonresidential districts, parking is planned to occupy a portion of the required front yard area, parking shall not be placed nearer than ten feet from the street right-of-way line. The area between the parking area and the street right-of-way line shall be landscaped.
- (13) Parking and loading spaces shall be so arranged as not to require backing of vehicles onto any public street. 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 sideline of any street right-of-way lines.
- (14) No portion of any entrance or exit driveway serving a residential use or building shall be closer than 50 feet from the nearest public street intersection unless prevented by dimensional or physical difficulties. No portion of any entrance or exit driveway serving a commercial or industrial use of building shall be closer than 100 feet from the nearest public street intersection unless prevented by dimensional or physical difficulties.
- (15) On lots where one entrance and exit driveway or curb-cut is constructed, the curb-cut shall not exceed 32 feet in width. Where two or more driveways or curb-cuts are constructed, the curb cuts shall not exceed 20 feet in width. For automotive service stations, the curb cut widths may be increased to 32 feet for each driveway or access, but shall not exceed two driveways. These widths may be increased up to a maximum of 44 feet on arterial roads if required by the city engineering department or the state department of transportation.
- (16) A parking lot cluster containing more than 80 stalls shall contain landscaped areas within the perimeter of the overall lot, in the form of landscaped perimeter and islands.
- (17) For those developments subject to site plan review (division 2 of article XVI of this chapter) the relaxation of the requirements of this section shall be reviewed by the planning board.
- (18) Required off-street parking in the [Form-Based Code Auburn Downtown Action Plan for Tomorrow](#) areas for lots which cannot provide their own parking because of location, lot size or existing development may be substituted by parking facilities which, in the public's interest may be provided for by the municipality or private parking resources. No such public or private off-street parking shall be considered as a substitute unless located within 1,000 feet of the principal building or use as measured along lines of public access.
- (19) In calculating the required number of off-street parking spaces, the gross leasable area shall be used.

(Ord. of 9-21-2009, § 4.1A; Ord. No. 0403212016, 4-4-2016)

Sec. 60-608. - Parking requirements.

A minimum number of off-street parking spaces shall be provided with each use permitted, erected, altered or changed, in accordance with the following standards:

| Off-Street Land Use | Minimum Number of Parking Spaces |
|---------------------|----------------------------------|
|---------------------|----------------------------------|

| | |
|---|--|
| Residential | |
| Single-family; farm | Two per each dwelling unit |
| Multifamily; two-family | 1½ per dwelling unit |
| Elderly** | One-half per dwelling unit |
| Commercial | |
| Retail, business or institution | One per 300 square feet of gross floor area |
| Office, business, medical or dental | One per 200 square feet of gross floor area plus one per each doctor |
| Wholesale, warehouse | One per 1,200 square feet of storage gross floor area |
| Industrial or Manufacturing | One-half per employee for combined employment of the two largest overlapping shifts. |
| Hotel, motel, boarding and lodging and lodginghouses, tourist homes | One per guestroom plus one-half per employee |
| Places of assembly | |
| Restaurants | One per each three seats or equivalent bench seating capacity |
| Stadiums, outdoor amphitheaters | One per each four seats or equivalent bench seating capacity |
| Churches, temples, synagogues | One per each five seats or equivalent bench seating capacity |
| Indoor theaters | One per each five seats |
| Auditoriums | One per each ten seats |

| | |
|--|--|
| Meeting halls, convention exhibition halls | One per 100 square feet of floor area and floor area used for assembly |
| Hospitals | One per bed |
| Nursing homes | One-half per bed |
| Educational institutions | |
| Elementary/middle | One per classroom |
| High school | Four per classroom |
| College, business, vocational schools | One per 200 gross square feet of classroom area |
| Dormitories | One-third per bed |
| Home Occupation | One per 50 square feet of gross floor area used for home occupation |
| Recreational Uses | |
| Golf course | Six per green |
| Tennis court | Three per court |
| Swimming pool | One per 100 square feet of gross area per facility |
| Skating rink | One per 100 square feet of gross area of facility |
| Ranges (golf, skeet) | 1½ |
| Campgrounds | 1½ per campsite |
| Ski areas | 50 percent of the lift capacity |
| Shopping centers | 4½ per 1,000 square feet of gross leasable floor area |

| | |
|--|---|
| Mixed uses | Sum of various uses computed separately unless it can be demonstrated to the planning board's satisfaction that the need for parking by each occurs at different times. |
| Uses not listed or | The required number of similar to those parking spaces shall be noted above determined by the municipal officer charged with enforcement and shall conform to the number of spaces for similar uses as listed in the latest planning publication on file in the office of community development and planning. |
| **Applies to elderly housing as constructed under special local, state or federal guidelines restricting occupancy to elderly persons. | |

(Ord. of 9-21-2009, § 4.1B)

Sec. 60-609. - Off-street loading space requirements.

Loading and unloading from a public street is prohibited except in permitted loading and unloading areas. Each building hereafter erected and every use hereafter established in an existing building or area shall be provided with a minimum number of loading space located at the rear of the building as follows:

| Land Use | Minimum Number of Off-Street Loading Spaces |
|--|---|
| All uses under 5,000 square feet of gross floor area | No minimum |
| All buildings | Sufficient provisions to eliminate all loading on the street pursuant to normal economic activity |
| Retail trade, manufacturing and hospital establishment with over 5,000 square feet of gross floor area | One per 20,000 square feet or fraction thereof of gross floor area up to two spaces; one additional space for each 60,000 square feet or fraction thereof of gross floor area over 40,000 square feet used for ambulance receiving at a hospital is not to be used to meet these loading requirements |
| Business services, other services, community facilities (schools, church, municipal building, | One per 75,000 square feet or fraction thereof of gross floor area up to two spaces; one additional space for each 20,000 square feet or fraction thereof of gross floor area over 150,000 square feet |

| | |
|---|--|
| recreation, etc.) or public utility establishment with over 5,000 square feet of gross floor area | |
|---|--|

(Ord. of 9-21-2009, § 4.1C)

Secs. 60-610—60-636. - Reserved.

ARTICLE VI. - SIGNS

Sec. 60-637. - General provisions; regulations.

Signs in all districts shall be subject to the following general provisions and regulations:

- (1) Unless otherwise in this article, no sign shall be erected until a sign permit has first been issued by the municipal officer charged with enforcement.
 - a. An application for a sign permit may be obtained at the department of community development and planning.
 - b. No sign permit shall be issued unless the municipal officer charged with enforcement is satisfied that the sign supporting devices and electrical appurtenances and connections are in conformance with the city's building and electrical codes.
 - c. A processing fee in the amount provided in the city fee schedule shall accompany all applications for a sign permit.
- (2) No sign shall contain any moving, flashing or animated lights, or visible moving or movable parts, except such portions of a sign as consist solely of indicators of time and/or temperature or changeable message signs permitted by the director of planning and permitting or his designee pursuant to the following standards:
 - a. The property must be located in the General Business, General Business II, T5, T6 or Industrial Zoning District.
 - b. The applicant must demonstrate to the satisfaction of the chief of police that the sign will not constitute a driving hazard.
 - c. Each message shall be a fixed static display with a five second hold rate of change minimum between changes including the use of subtle transitions such as fade, dissolve, travel and scrolling or similar transitions and with frames that appear to move or change in size, or be revealed sequentially rather than at once including the movement of illumination or the scintillation or varying of light intensity as long as the intermittent lighting is used to change messages and not solely to attract attention. Definitions related to changeable message signs shall have the meanings from 23 M.R.S.A. § 1914(11-A). Time and temperature signs are allowed to change display with a two second message hold rate.
 - d. The changeable message portion of the sign shall not comprise more than 50 percent of the sign area allowed pursuant to section 60-638(c).
 - e. Those provisions of 23 M.R.S.A. § 1914 that are applicable to changeable message signs as they apply to controlled-access highways or ramps remain in effect. A flashing sign or message with graphic, pictorial, animated, or photographic images is prohibited.

- (3) Signs may be illuminated only by the following means:
- a. By a white, steady, stationary light of reasonable intensity shielded and directed solely at the sign and not casting light off the premises.
 - b. By interior nonexposed lights of reasonable intensity.
 - c. An illuminated sign or lighting device shall not be so placed or directed so that it constitutes a traffic hazard or nuisance through glare or reflection upon a public street, highway, sidewalk or adjacent premises.
- (4) No illuminated sign shall contain red, green or amber colors or lights if same would, in the opinion of the chief of police, constitute a driving hazard.
- (5) No sign shall project beyond the property line of the lot on which it is placed.
- (6) No sign may be located so as to obstruct a traffic control device or in a manner which would obscure the view of approaching or merging traffic.
- (7) Wall, projecting and roof signs shall be firmly affixed to the building. Wall signs shall not project more than 12 inches from the face of the wall to which it is attached. Projecting signs shall not project more than four feet perpendicularly from the face of the wall to which they are attached. Roof signs shall not project more than four feet above the roofline.
- (8) No sign which advertises or calls attention to any products, businesses or activities which are no longer sold or carried on shall remain on the premises for more than six months after the product, business or activity has ceased being sold or carried on.
- (9) Temporary movable signs are not permitted except for the following uses:
- a. To call attention to and/or to advertise the name of a new business and the products sold or activities to be carried on in connection with a new business. In such cases, no sign shall remain at premises for more than 90 days.
 - b. To advertise a special sale. In such cases a sign shall be allowed for a period not to exceed 90 days in any calendar year.
 - c. Signs or other advertising devices as may be permitted by the city council to promote community or civic activities. Petitions for such signs shall be made directly to the city council and shall include a scaled map of the sign site, size and design of the sign, how the sign may be electrified, period of use, written permission of property owner if not the city, a description of the reason for the sign, a recommendation from the police department and the department of community development and planning and any other information the city may require. Such signs shall not be required to satisfy the requirements of subsection (1) of this section.
- (10) Signs legally erected before the adoption of this chapter which do not conform to the provision of this chapter may continue to be maintained, provided, however, that no such sign shall be permitted if it is, after the adoption of this chapter, enlarged, reworded (other than in the case of theater or cinema signs or signs with automatic or manually changing messages), redesigned or altered in any way excluding repainting in a different color, except to conform to the requirements of this chapter; and provided further that any such sign which has deteriorated to such an extent that the cost of restoration would exceed 35 percent of the replacement cost of the sign at the time of restoration shall not be repaired, rebuilt or altered except to conform to the requirements of this chapter. Any exemption provided in this article shall terminate with respect to any sign which:
- a. Shall have been abandoned for at least 12 consecutive months;
 - b. Advertises or calls attention to any products, businesses or activities which are no longer sold or carried on, whether generally or at the particular premises; or
 - c. Shall not have been repaired or properly maintained within 30 days after notice to that effect has been given by the municipal officer charged with enforcement.

- (11) For those developments subject to site plan review (division 2 of article XVI of this chapter) the relaxation of the number and location of signs shall be reviewed by the planning board. The modifications to the sign requirements shall be allowed as the planning board may deem necessary to carry out the objectives and intent of site plan review.

(Ord. of 9-21-2009, § 4.2A)

Sec. 60-638. - Signs, on-premises.

- (a) *All districts.* The following signs are permitted in any use district, except where otherwise prohibited by law, and shall not be subject to the issuance of a sign permit.
- (1) One sign not exceeding one square foot used to display the street number and/or name of the occupants of the premises.
 - (2) One nonilluminated sign not exceeding two square feet used to describe a home occupation, boardinghouse or lodginghouse, or tourist home located on the premises.
 - (3) One sign not exceeding 24 square feet on the premises of public or semipublic buildings, funeral homes and charitable or religious institutions. This sign may incorporate a bulletin board.
 - (4) One real estate sign not exceeding eight square feet relating to the sale, rental or lease of the premises. Such sign shall be removed within one week after the property transaction.
 - (5) One sign each for a building contractor, architect or engineer, each sign not exceeding 16 square feet, relating to construction projects. Such sign shall be removed within one week after the issuance of the certificate of occupancy (completion).
 - (6) Building name and date sign and/or memorial tablet, not exceeding an aggregate of ten square feet, showing the name of the building and date of erection and/or historic information, when cut into masonry, formed of bronze or similar noncombustible material.
 - (7) One professional name plate sign not exceeding eight square feet.
 - (8) Two signs, not exceeding 16 square feet each, describing farm products for sale on the premises. Instead of two signs, a single double-faced sign may be erected with a display area, not exceeding 16 square feet on each side.
 - (9) Political signs, not exceeding 16 square feet in total area for single-faced signs on one standard, or eight square feet on each side of double-faced signs on one standard, provided that:
 - a. Such signs shall not be erected more than 30 days prior to the election to which they pertain;
 - b. Such signs are removed within seven days after the election to which they refer;
 - c. Removal of such signs shall be the joint responsibility of the candidate and the property owner on whose premises the signs are displayed.
 - (10) One portable or sandwich board or easel sign shall be permitted per property with the following conditions, and such signs shall not require a permit:
 - a. Said sign shall be located immediately in front of the building for which it advertises, with at least a 36 inch wide clearance when placed within any public pedestrian right-of-way;
 - b. Said sign shall be no larger than four feet in height and shall not exceed six square feet per side in area;
 - c. Said sign shall have no illumination of any kind and may be displayed only during the time when the business is open to the public.
 - d. Said sign shall not create a sight distance hazard or any other safety hazard as determined by the director of planning and permitting. If such a hazard is created the director of planning

and permitting or his designee ~~sign~~ may require that the sign owner or property owner remove or relocate the sign immediately to eliminate the hazard.

- e. A second sandwich board or easel sign shall be allowed on lots with frontage on a second street.
- (11) Traffic or other municipal signs, legal notices, railroad crossing signs, danger signs, directional signs, noncommercial and temporary signs or street banners related to public or charitable purposes may be approved by the city clerk along with stipulations as to the size, location, message, period of display and other requirements such as insurance and approval of building owners on whose property the banner will be attached.
- (b) *Residence districts.* The following sign regulations apply in residence districts:
- (1) Except where specifically permitted, all signs shall be single-faced, mounted flat on the wall of a structure or standing.
 - (2) No off-premises signs are permitted, except as provided for in chapter 42.
 - (3) No projecting or roof signs are permitted.
 - (4) One identification sign, not exceeding 40 square feet in area, at any public entrance to a subdivision or multifamily development.
 - (5) Signs permitted pursuant to a site plan review.
 - (6) In Agriculture and Resource Protection, Low Density Country Residential, Rural Residence and Suburban Residence Districts one nonilluminated sign, not exceeding 16 square feet, used to display the name of the business and products or services sold from a use which is permitted in the district.
- (c) *Business and industrial districts.* The following sign regulations apply in business and industrial districts:
- (1) Sign 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 products and services available within said premises. In the case of a multitenant or condominium development, it shall be the responsibility of the owner or property manager of such premises to allocate sign space upon the premises, under the terms of this article.
 - (2) Wall signs and roof signs are permitted provided that the aggregate area of the signs shall not exceed 15 percent of the area of the wall on or over which the signs are located. Signs proposed for placement at an angle at the intersection of two walls shall use 15 percent of the area of the wall with the smallest dimensions.
 - (3) Projecting and standing signs, one of each per premises, are permitted subject to the following provisions:
 - a. The aggregate area of sign surface for any one premises shall not exceed four square feet per foot of street to the maximum of 250 square feet or one square foot per foot of street frontage, whichever is larger. These dimensions shall be halved in Neighborhood Business (NB) Districts.
 - b. Standing signs may be located within the required front yard space but not nearer than 12 feet from either side lot line unless written permission is obtained from the abutting property owner to erect such sign nearer than that distance from the common side lot line between the two properties.
 - c. The maximum height of standing signs shall be 25 feet above grade.
 - d. Two projecting and two standing signs are permitted where the premise fronts on two streets; one sign of each type per street.
 - e. Compliance with all the state sign regulations when applicable.

- (4) In addition to the foregoing sign, one directory of the establishments occupying a building may be affixed to the exterior wall of the buildings at each public entrance to the building. Such directory shall not exceed an area determined on the basis of one square foot for each establishment occupying the building.
- (5) Signs painted or placed on the inside of the glass of a window may be permitted in addition to the above, provided that the aggregate area of such signs does not exceed 50 percent of the area of the window glass.
- (6) Sign permitted pursuant to site plan review.
- (7) Commercial and industrial subdivisions and planned unit developments are allowed to have a single standing sign at each public entrance to the development to advertise the individual uses within the development, not to exceed in size the aggregate area of sign surface allowed by subsection (c)3 of this section for lots within the development. Individual standing signs for lots within the development are prohibited.

(Ord. of 9-21-2009, § 4.2B; Ord. of 6-7-2010)

Secs. 60-639—60-664. - Reserved.

ARTICLE VII. - MANUFACTURED HOUSING AND MOBILE HOMES

Sec. 60-665. - General provisions.

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

Permanent use of manufactured housing means occupancy while in a parked position for any purpose permitted by section 60-666(1) and (2) including storage. Manufactured housing units and mobile homes must meet all federal, state and city codes.

Temporary use of manufactured housing, mobile homes, trailer homes and office trailers means an occupancy that must be recorded with the municipal officer charged with enforcement and requires a permit issued for each period of use prior to the beginning of such use.

- (b) A mobile home shall be construed to remain a mobile home, subject to all regulations applying thereto, whether or not wheels, axles, hitch or other E-G of mobility are removed and regardless of nature of the foundation provided.

(Ord. of 9-21-2009, § 4.3A)

Sec. 60-666. - Uses of—Manufactured housing, trailers, office trailers.

The use of manufactured housing, trailers and office trailers is prohibited except as follows:

- (1) As permanent single-family residences on individual lots in all residential districts (applies only to manufactured housing units that meet all federal, state and city codes).
- (2) As permanent single-family residence in approved mobile home developments in Rural Residence (RR), and Suburban Residence (SR) Districts (applies only to manufactured housing units that meet all federal, state and city codes).
- (3) As permanent single-family residence on individual lots in the Manufactured Housing Overlay (MHO) Districts (applies only to manufactured housing units that meet the requirements of division 6 of article XII of this chapter).

- (4) 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 seasonal employment.
- (5) As temporary field headquarters or office space on construction sites for persons or firms actually engaged in construction work.
- (6) As temporary office space for persons or firms actually engaged in the business of selling manufactured housing, mobile homes and trailers.
- (7) As temporary 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.
- (8) 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 12 months together with any additional period during which a valid building permit for construction of replacement living quarters may be in effect (applies to manufactured housing only).
- (9) As temporary office space for a business enterprise during the period in which permanent office space is being constructed for which a valid building permit has been issued.
- (10) 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 (applied to trailers only).
- (11) As temporary classroom space at an existing school facility for educational activities conducted by the city's department of education.
- (12) Storage boxes or space trailers used as storage space for nonhazardous materials by the commercial or industrial use which occupies the property. For the purpose of this chapter, the term "storage box" or "space trailer" means a fully enclosed structure manufactured for storage use only and does not include tractor-trailer bodies, cargo container boxes or railroad cars.
- (13) As office space for excavation and sawmill operations for the period of active use. If such operations are discontinued for a period of 12 consecutive months, such use shall be considered abandoned and the office trailer shall be removed.

(Ord. of 9-21-2009, § 4.3B)

Sec. 60-667. - Same—Mobile homes.

The uses of mobile homes are prohibited except as follows:

- (1) As permanent single-family residences in approved mobile home developments in Rural Residence (RR) and Suburban Residence (SR) Districts.
- (2) All uses permitted by section 60-666(3) through (9).

(Ord. of 9-21-2009, § 4.3C)

Sec. 60-668. - Mobile homes in floodplain districts.

- (a) Mobile homes shall be elevated and anchored to prevent flotation, collapse and lateral movement. Mobile homes shall be anchored as follows:
 - (1) By the use of over-the-top or frame ties; or
 - (2) As provided for in the FEMA manual, Manufactured Home Installation in Flood Hazard Areas, published in September 1985.

(b) Mobile homes shall be elevated as follows:

- (1) General requirements that the lowest floor of the mobile home be elevated to 1 foot or above the base flood elevation; or
- (2) As provided for in the FEMA manual, Manufactured Home Installation in Flood Hazard Areas, published in September 1985.

(Ord. of 9-21-2009, § 4.3D)

Sec. 60-669. - Mobile home park standards.

Mobile home parks proposed to be established must have a minimum of three lots and be located within 1,500 feet of municipal sewer and water. Mobile home parks shall meet all of the following standards set forth in this division:

- (1) *Minimum lot size.*
 - a. The minimum lot size shall be 5,000 square feet.
 - b. The following frontage and setbacks shall apply:

| | |
|---------------|---------|
| Frontage | 50 feet |
| Front setback | 15 feet |
| Side | 10 feet |
| Rear | 10 feet |

- (2) *Parking in front yard to zero lot line.* Setbacks may be reduced along rear lot lines of lots adjacent to abutting property where buffers are proposed along the perimeter of the proposed park.
- (3) *Siting.* All mobile home lots shall be laid out on the proposed subdivision and site plan showing approximate pad locations prior to final approval. On sites/lots which abut rear lot lines, the pads shall be offset as to not obstruct view from the rear portion of each unit. Units/lots that abut public roads shall meet front yard setbacks established by the zone in which the park is proposed.
- (4) *Off-street parking requirements.*
 - a. Off-street parking in the form of parking lots or carports for mobile home parks shall meet the same standards as provided in articles V through XI of this chapter.
 - b. Residential parking spaces need not be located on lots occupied by the dwelling units served, but at least two such spaces per unit shall be reserved for, and located within 100 feet walking distance of the dwelling unit it is intended to serve. No on-street parking will be provided.
 - c. Parking on each individual lot will be allowed to infringe the principal structure setbacks. All off-street parking must be of an impervious material. All off-street parking lots proposed must be shown on the site and subdivision plans at time of planning board review.
 - d. Lots with 50 feet of frontage will allow parking within the ten-foot side yard setback and associated front setback.

(5) *Buffering and landscaping.*

- a. All parks shall provide and maintain a buffer strip of 50 feet around the perimeter of the mobile home park. If the per acre density of homes within the mobile home park is at least two times greater than:
 1. The density of residential development on immediately adjacent parcels of land; or
 2. If the immediately adjacent parcels of land are undeveloped, the maximum net residential density permitted by applicable municipal ordinances or state law. This buffer must include either a wooden stockade fence, a chainlink fence with vegetative cover at a minimum height of six feet or the buffer must be heavily vegetated with coniferous trees that at the time of planting must be six feet in height. Heavily vegetated is considered to mean trees planted in a row at least eight feet on center. The buffer vegetation shall not exceed 25 feet in width. Each row shall be offset from the adjacent row. The planning board may allow a reduction in the buffer width, if the developer can prove that the intent of this provision is not impaired.
- b. Where possible, existing trees shall be preserved, mobile home sites shall be oriented with respect to scenic vistas, natural landscape features, topography and natural drainage areas. Areas such as wetlands shall be preserved in accordance with the Army Corps of Engineers standards.
- c. Open space, storage or recreation requirements shall not exceed ten percent of the combined area of the individual lots within a mobile home park. If the developer wishes to develop more than ten percent open space, storage and/or recreation area, he may do so.

(6) *Accessory buildings and utility sheds.*

- a. Utility sheds or accessory buildings will be allowed along the rear portion of the lot and along the rear lot line and shall not exceed two percent of the lot size.
- b. At least one large storage facility may be required in the park in order to store such items as recreation vehicles, boats, snowmobiles and all other licensed and unlicensed recreation vehicles which might otherwise be stored in a parking space to be utilized by an individual unit. This area shall in total not be less than 50 square feet for each mobile home lot and shall have screening around the storage area on all four sides. Fully enclosed security fencing is encouraged.

(7) *Street design standards.* Privately owned and maintained streets shall meet the following requirements:

- a. Streets shall have a right-of-way of 23 feet in width, and pavement shall be 20 feet in width.
- b. Intersections proposed as part of the mobile home park which will tie directly into city accepted streets, shall meet minimum intersection geometric design standards as developed by the institute of transportation engineers or the American Association of State Highway and Transportation Officials.
- c. All street design plans must be stamped and signed by a registered professional engineer.

(8) *Refuse.* Refuse containers shall be conveniently located throughout the site at a rate of one eight yard garbage container for every 20 mobile home units and shall be fenced in on three sides in order to protect the health and safety of the park residents. This standard is based on a weekly pickup and may be reduced if pick-up is more frequent. In the event lot-to-lot pickup is provided by the park management, this provision shall be waived.

(9) *Fire hydrants.* Fire hydrants shall be placed at a distance of no more than 1,000 feet apart in order to service the complete mobile home park.

(10) *Mailboxes.* Must be established in such a manner that at a minimum five vehicles may be able to either park or be queued in order to pick up mail at the proposed mail box location. This location must also be approved in writing by the local postmaster.

- (11) *Design and anchoring of units.* All units being established within an approved mobile home park are subject to all standards noted in section 60-1010(d)(1) through (10).
- (12) *Site plan standards for review.* Provisions of this section are subject to both division 4, subdivision, and division 2, site plan review, of article XVI of this chapter for review.
- (13) *PUDs.* Planned unit developments (PUDs) are encouraged under section 60-385. If a developer proposes a park under the PUD section, then all standards and sections of that article must be met.

(Ord. of 9-21-2009, § 4.3E)

Secs. 60-670—60-696. - Reserved.

ARTICLE VIII. - EXCAVATION PERMIT REGULATIONS

Sec. 60-697. - Activities requiring resource extraction permits.

- (a) The excavation of sand, gravel, stone or other earth material from any land in the city is hereby prohibited except such excavation as may be authorized in any zoning district by a permit issued by the planning board or as otherwise permitted under this chapter.
- (b) The commercial excavation of sod, loam, topsoil, peat or other organic material for landscaping and site development related activities exceeding 300 cubic yards per site per year from any land in the city is hereby prohibited except such excavation as may be authorized in any zoning district by a permit issued by the department of community development and planning or as otherwise permitted under this chapter.

(Ord. of 9-21-2009, § 4.4A)

Sec. 60-698. - Items to be considered in application review.

- (a) In judging whether or not an resource extraction permit shall be issued, the planning board shall after a public hearing, determine the setback allowances, ingress and egress to provide a site distance that meets minimum safety standards, and access road location and maintenance.
- (b) In judging whether or not an resource extraction permit shall be issued, the planning board shall address the following, if applicable:
 - (1) Maintenance of safe and healthful conditions such as the posting of danger areas, the installation of gates to prevent access, etc.;
 - (2) The prevention and control of erosion and sedimentation;
 - (3) The proximity of water bodies and wetland areas;
 - (4) The effect on the aesthetic, scenic or natural beauty of the immediate area;
 - (5) Whether the size of the resource deposit in relation to the area affected justifies the excavation activity;
 - (6) The compatibility of the use with the surrounding uses and the neighborhood. Under this criteria items to be addressed are as follows: hours of operation, noise emitted from the operation, types of machinery to be used, dust, provisions of screening, orientation of the excavation operation, etc.
- (c) In judging whether or not an resource extraction permit should be issued, the planning board shall address the following:

- (1) Adequacy of the applicant's reclamation plan;
 - (2) The applicant must demonstrate proof of bonding capacity or security adequate to ensure compliance with an approved reclamation plan.
- (d) In judging whether or not an resource extraction permit should be issued for the excavation of organic material, the department of community development and planning shall consider compliance with the criteria cited in subsection (a) of this section and shall address, if applicable, the criteria in subsection (b) of this section.

(Ord. of 9-21-2009, § 4.4B)

Sec. 60-699. - Submission of application and review procedure.

- (a) A written application for an resource extraction permit required under section 60-697(a) shall be submitted with a processing fee in the amount provided in the city fee schedule to the department of community development and planning. The planning board shall conduct an on-site inspection of the proposed excavation location prior to the public hearing. Notice of such inspection shall be given to the applicant and others by mail at such addresses as may be known to the department of community development and planning or as appear in the city property tax list. Comments concerning the proposed excavation operation will be solicited from all persons in attendance. Failure of the applicant or others to receive a mailed notice of such on-site inspection shall not constitute grounds for objections by the applicant or others and shall not invalidate any action taken by the planning board shall hold a public hearing on such application.
- (b) An application of an resource extraction permit required under section 60-697(a) shall be submitted to the department of community development and planning not less than 30 days prior to the next regular meeting of the planning board. The planning board shall schedule a public hearing, the notice of which shall be given by publication in a newspaper having general circulation in the city not less than 12 days prior to the meeting of the planning board. Upon holding the public hearing and reviewing the application, the planning board shall approve, conditionally approve or deny the application based on the criteria set forth in section 60-698. The planning board shall notify the applicant in writing of any conditions and the reasons for its action.
- (c) A written application for an resource extraction permit required under section 60-697(b) shall be submitted with a processing fee in the amount provided in the city fee schedule to the department of community development and planning.
- (d) When an application for an resource extraction permit under section 60-697(b) is submitted, the department of community development and planning shall have 15 working days to complete its review of the application. The department of community development and planning can approve, conditionally approve or deny the application based on the criteria set forth in section 60-698. The department of community development and planning shall notify the applicant in writing of any conditions and the reasons for its action.

(Ord. of 9-21-2009, § 4.4C)

Sec. 60-700. - Application.

- (a) The written application submitted to the department of community development and planning shall contain the following information:
 - (1) Legal description of the property and description of the site to be affected by the excavation operation;
 - (2) Status of title of land;

- (3) Description of the scope of activities to be undertaken on the site: i.e., area, depth of proposed excavation, etc.;
 - (4) Narrative description addressing the items required under section 60-698(a);
 - (5) Narrative description addressing any items listed under section 60-698(b) that the applicant feels are applicable to his proposed operation; and
 - (6) Proof of bonding capacity or security adequate to ensure compliance with an approved reclamation plan.
- (b) At the time of submission of the written application, the applicant shall submit an inked original and 15 copies of a site plan map drawn to the following specifications:
- (1) Sheet size not to exceed 24 inches by 30 inches;
 - (2) A plan prepared to a scale of one inch equals 40 feet is preferred but where appropriate, a scale up to one inch equals 100 feet is acceptable;
 - (3) Name and address of owner and developer, and interest of the applicant if other than the owner or developer;
 - (4) Name of development and north point;
 - (5) Names and addresses of all owners of record of all adjacent property as appear on assessor's records;
 - (6) Current zoning classification and district boundaries;
 - (7) Easements, rights-of-way, or other reservations adjacent to or intersecting the property;
 - (8) Existing and proposed topography, at contour intervals of not more than five feet;
 - (9) Location of watercourses, marshes and wooded areas within 150 feet of property lines;
 - (10) Location of buildings existing on the site to be developed and on adjacent land;
 - (11) Existing public street rights-of-way and proposed ingress and egress facilities; and
 - (12) Proposed temporary and permanent drainage methods to be approved by the city engineer.
- (c) At the time of submission of the written application and site plan, the applicant shall submit a reclamation plan which shall include such items as slope of finished banks, vegetation to be introduced, etc.

(Ord. of 9-21-2009, § 4.4D)

Sec. 60-701. - Posting of bond or security.

Upon approval of an application for an resource extraction permit and prior to the excavation of any earth or organic materials, the applicant shall tender a certified check payable to the city a performance bond running to the city and issued by a surety company or secured by deposits issued by institutions authorized to issue the same by the laws of the state or the United States or irrevocable letters of credit issued by said banking institutions, in a dollar amount to be determined by the planning board and/or the department of community development and planning in an amount adequate to guarantee fulfillment of conditions imposed.

(Ord. of 9-21-2009, § 4.4E)

Sec. 60-702. - Enforcement procedure and penalty.

- (a) The planning staff shall conduct at least an annual review of the excavation operation and forward its findings to the planning board at the next regular scheduled meeting. The review process shall take into consideration the conditions of compliance, adjustment of the performance bond, if warranted, and any other applicable concerns.
- (b) If after the review of the planning staff findings the planning board determines that the conditions of the permit have substantially changed, the owner of an resource extraction permit may be required to submit a new application in the same manner as prescribed in sections 60-699 and 60-700.
- (c) If after the review of the planning staff findings the planning board determines that the owner of an resource extraction permit has violated the conditions of the permit, the planning board may revoke such permit provided the owner of such permit is given a reasonable time to abate the violations as prescribed in section 60-1403.
- (d) Any person being the owner or tenant of, or having the control or use of land or part thereof in the city, who excavates, grades, transfers or removes any earth or organic materials prior to receiving an resource extraction permit and who intends to initiate an excavating operation shall be guilty of a civil infraction and penalized as provided for by section 1-15. This section is not intended to prohibit exploratory excavation for earth material deposits.
- (e) Complaints against an excavation operation permitted under this article shall be received and reviewed in the manner provided by section 60-1403.

(Ord. of 9-21-2009, § 4.4F)

Sec. 60-703. - Resource extraction permit exceptions.

- (a) This article shall be deemed not to prohibit the excavation of earth or organic materials as may be incidental to any lawfully permitted use of land or of a building or incidental to any necessitated by any building construction for which a building permit has lawfully been issued under the city zoning chapter prior to such materials excavation.
- (b) This article shall also be deemed not to prohibit the excavation from any lot or way of materials so far as may be necessitated by the construction or installation of utilities, public ways or other engineering works for public service on such lot or in such way.
- (c) This article shall also be deemed not to prohibit the excavation, grading, or transferring of any earth materials noted under section 60-697(a) 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 excavation for sale at a rate not exceeding ten cubic yards per acre per year.
- (d) This article shall not apply to excavation activities in existence on the date of adoption of the ordinance from which this chapter is derived, provisioned and registered with the department of community development and planning within six months of the date of adoption of the ordinance from which this chapter is derived provision as long as the total land area affected by the excavation activity is not expanded by more than one acre. Excavation activities which expand in depth must file a reclamation plan to be approved by the department of community development and planning. The applicant shall post a bond of security in a dollar amount to be determined by the department of community development and planning in an amount adequate to guarantee completion of reclamation activities. Any excavation activity which is discontinued for 12 consecutive months shall require a permit to reopen.
- (e) In order for an excavation to be considered grandfathered, in addition to the registration requirements outlined in this article, the owner/operator must file a reclamation plan for the entire area proposed to be excavated. In addition, the owner/operator shall tender a certified check payable to the city, a performance bond running to city, or other surety acceptable to the city, in a dollar amount to be determined by the department of planning and permitting services to guarantee completion of pit reclamation. To be considered grandfathered, any excavation that is located wholly or partly in the

Lake Auburn Watershed Overlay Zone or which proposes to extend excavation into an area affecting that zone shall, within six months of registering, also be required to comply with the following:

- (1) The excavation area must be registered under the provisions of 38 M.S.R.A. § 490 and 38 M.S.R.A. §§ 490-A to 490-M or be fully licensed under state site development law as provided in 38 M.S.R.A. 484-A.
- (2) The owner/operator must provide a basic site plan of the entire property proposed to be excavated based upon the most current versions of the City of Auburn GIS Mapping Systems.
- (3) The owner/operator must provide a written or plan view excavation plan that illustrates how the excavation will be maintained as an internally drained pit.
- (4) The owner/operator must agree to operate any new excavation areas in compliance with existing state permits. For excavations registered under the provisions of 38 M.S.R.A. § 490 and 38 M.S.R.A. §§ 490-A to 490-M, any new excavation area shall occur without variance to the rules, unless the variance request is approved by the state department of environmental protection, the department of planning and permitting services and the Lake Auburn Watershed Protection Commission.

- | (f) The Lake Auburn Watershed Protection Commission and gravel pits grandfathered in this article are exempt from strict adherence to the requirements of this article when the Lake Auburn Watershed Protection Commission makes a determination that the proposed activity will result in significant improvement in water quality with Lake Auburn and the Lake Auburn Watershed.

(Ord. of 9-21-2009, § 4.4G)

Secs. 60-704—60-734. - Reserved.

ARTICLE IX. - HOME OCCUPATION REGULATIONS

Sec. 60-735. - Definitions.

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

Home occupation means the accessory use of a dwelling unit for a business or commercial venture engaged in, by the person residing in the dwelling unit, and which allows up to one person who does not reside on the premises to be employed by that home occupation.

(Ord. of 9-21-2009, § 4.5B)

Sec. 60-736. - Purpose.

The purpose of this home occupation article is to allow the secondary and incidental use of a residence for the conduct of appropriate occupations whose external activity levels and impacts are so limited as to be compatible with and not adversely affect the character of the surrounding neighborhood. Additionally, the city wishes to provide all residents freedom from excessive noise, excessive traffic, nuisances, fire hazards and other possible impacts of business activities being conducted in residential buildings.

(Ord. of 9-21-2009, § 4.5A)

Sec. 60-737. - Objectives.

The following objectives will be those standards provided to the code enforcement officer for guidance to determine if the proposed home occupation meets the appropriate standards set forth in the article:

- (1) The proposed home occupation will be conducted entirely within the dwelling unit, with the exception of required outdoor play areas at child day care homes, and shall not be extended to any accessory structures.
- (2) The provisions for vehicular loading, unloading and parking and for vehicular and pedestrian circulation on the site and onto adjacent public streets will not create hazards to safety.
- (3) The location or operation of the proposed home occupation will not be detrimental to and adversely affect the use and values of existing development in the neighborhood or the health or safety of persons residing or working therein.
- (4) The provisions for exterior lighting will not create safety hazards for motorists traveling on adjacent streets and will be adequate for the safety of occupants and users of the site, and will not create a nuisance affecting adjacent properties.
- (5) The proposed home occupation will not unduly burden off-site sewer drainage or water systems.
- (6) The proposed home occupation will not create a fire/safety concern beyond what currently exists as determined by the fire department.
- (7) The proposed home occupation does not violate provisions of the zoning regulations applicable to the site or other applicable laws, regulations or ordinances.
- (8) The proposed home occupation shall not unduly impact the ability to provide municipal services.

(Ord. of 9-21-2009, § 4.5C)

Sec. 60-738. - Criteria.

A home occupation shall:

- (1) Require a permit, which shall be reviewed and renewed annually.
- (2) Be conducted entirely within the dwelling unit, with the exception of required outdoor play areas at child day care homes, and involve not more than one person other than members of the family residing in the dwelling, employed on the premises in conjunction with the home occupation.
- (3) Be clearly incidental and secondary to the use of the dwelling for residential purposes and not involve the use of more than 25 percent, or a maximum of 50 percent for child day care homes, of the habitable floor area occupied by the applicant.
- (4) Present only incidental visible exterior evidence of the home occupation. Structural alterations of the dwelling, related to the home occupation, shall be consistent with the residential character of the dwelling.
- (5) Exterior signage shall be limited to one nonilluminated sign, not exceeding a total area of two square feet in size.
- (6) Not involve the use of any accessory buildings located on the property, nor any exterior storage of materials used in the home occupation. Storage or use of any highly explosive or combustible material is prohibited.
- (7) Not involve any retail sales, other than incidental, which are associated with the home occupation.
- (8) Not involve deliveries or pickups made by vehicles larger than a single unit truck with three or fewer axles. Overall deliveries shall be limited to not more than five per week.

- (9) Provide one parking space on the property for each 150 square feet of area designated for home occupation use.
- (10) Not generate any offensive noise, vibration, smoke, dust, odors, heat or glare which is detectible to normal sensory perception at or beyond the property boundaries. The home occupation shall also not interfere with radio or television reception in the area.
- (11) Not involve the use, on the premises, of any equipment other than that normally used within a residential household or general office.
- (12) Only be permitted with the written consent of the property owner if the property is not owned by the applicant.

(Ord. of 9-21-2009, § 4.5D)

Sec. 60-739. - Administrative procedures.

- (a) A completed home occupation application, and fee in the amount provided in the city fee schedule shall be submitted. Fees for new home occupation applications will be prorated on a monthly basis to December 31 of the calendar year. The fees shall not be applied to businesses that are required to obtain a separate business license through the city for the same use.
- (b) The abutting property owners, as defined under article 60-147⁵⁶, shall be notified in writing and given a 14-day comment period to raise issues of concerns with the proposed use of the property.
- (c) Decision and required conditions for the use of the property for a home occupation will be forwarded by the code enforcement officer within 21 days of the date of the application.
- (d) There shall be a 30-day appeal period from the date of the code enforcement officer's written decision.

(Ord. of 9-21-2009, § 4.5G)

Sec. 60-740. - Appeals.

If either the applicant or the abutters to the proposed home occupation do not agree with the decision rendered by the code enforcement officer, that party has 30 days from the date of the code enforcement officer's letter to the applicant advising he of the decision. The appeal shall be made in accordance with section 60-1186. The board of appeals shall render its decision based on the criteria found in sections 60-735, 60-737 and 60-738 as applicable.

(Ord. of 9-21-2009, § 4.5H)

Sec. 60-741. - Enforcement.

Home occupation applicants shall permit a reasonable inspection of the premises by the code enforcement officer on an annual basis. Any violation of the home occupation approval shall be followed up in accordance with section 60-1403.

(Ord. of 9-21-2009, § 4.5I)

Sec. 60-742. - Renewal.

The applicant will be required to pay a renewal fee in the amount provided in the city fee schedule for a home occupation permit on a yearly basis. The permit will be based on the calendar year with renewals occurring on January 1. There shall be a 30-day grace period for all renewals. If a home occupation

permit has not been renewed during that time period a late fee in the amount provided in the city fee schedule will be charged.

(Ord. of 9-21-2009, § 4.5J)

Sec. 60-743. - Applicability.

Any person presently operating a home occupation in the city as defined herein, on the effective date of the ordinance from which this article is derived shall comply with the terms of this article by obtaining a permit within six months of the effective date of the ordinance from which this article is derived.

(Ord. of 9-21-2009, § 4.5K)

Secs. 60-744—60-769. - Reserved.

ARTICLE X. - ACCESS MANAGEMENT STANDARDS

DIVISION 1. - GENERALLY

Sec. 60-770. - Definitions.

The following definitions are applicable to an access management program for development along arterial and collector roadways and, where applicable, local roads serving land abutting arterial and collector roadways. Definitions found in other chapters or in other municipal ordinances which relate to access management may be used to assist in gaining greater understanding of the city's overall intentions.

Acceleration lane means a speed-change lane for the purpose of enabling a vehicle entering a roadway to increase its speed to a rate at which it can safely merge with through traffic.

Access means the ability to enter or leave a public street or highway from an adjacent driveway or another public street.

Access management means the control of driveways and intersections to maintain highway safety and the traffic carrying capacity of an arterial.

Annual average daily traffic (AADT) means the annual average two-way daily traffic volume. It represents the total annual traffic on a road for the year, divided by 365.

Arterial means major roadways which serve long distance through traffic. Access to abutting land can generally be provided. Also see *Major arterial highway* and *Minor arterial highway* in section 60-2.

Collector street means roadways which connect streets to arterials and generally provide access to abutting lands. Also see *Minor arterial highway* in section 60-2.

Corner clearance means the minimum dimension, measured parallel to a highway, between the curb, pavement or shoulder lines of an intersecting highway and the nearest edge of a driveway.

Corner lot means a single lot with frontage on two or more intersecting roads. Also see *Corner lot* in section 60-2.

Deceleration lane means a speed-change lane for the purpose of enabling a vehicle to leave the through traffic lane at speed equal to or slightly less than the speed of traffic in the through lane and to decelerate to a stop or make a slow speed turn.

Design hourly volume means the hourly traffic volume used to evaluate or design a highway or driveway.

Driveway means an entrance used by vehicular traffic to access property abutting a highway. As used in this chapter, the term "driveway" includes private residential driveways as well as commercial and other nonresidential driveways.

- (1) *Low volume driveways* means driveways with a traffic volume of less than 500 vehicle trips per day and less than 50 vehicle trips per peak hour.
- (2) *Medium volume driveways* means driveways with a traffic volume of 500 to less than 1,500 vehicle trips per day and 50 to less than 150 vehicle trips per peak hour.
- (3) *High volume driveways* means driveways with a traffic volume of 1,500 or more vehicle trips per day and 150 or more vehicle trips per peak hour.

Driveway width means the narrowest width of the driveway, measured parallel to the highway right-of-way.

Highway capacity means the maximum number of vehicles that a highway can handle during a specific unit of time at a given level of service.

Lane means the portion of a roadway for the movement of a single line of vehicles which does not include the gutter or shoulder of the roadway.

Peak hour traffic means the highest number of vehicles found to be passing over a section of a lane or roadway during any 60 consecutive minutes. Typically, there is a peak hour condition in the morning and a peak hour condition in the afternoon for which the roadway or intersection is analyzed for capacity and level of service.

Service road/frontage road means a local street or road located parallel to an arterial for service to abutting properties for the purpose of controlling access to the arterial.

Shared driveway means a single driveway serving two or more lots. A shared driveway may cross a lot line or be on the lot line, and the owners may have an easement for the shared use and maintenance.

Storage length means additional lane footage added to a turning lane to hold the maximum number of vehicles likely to accumulate during a peak period so as not to interfere with the through travel lanes.

Traffic congestion means a condition resulting from more vehicles trying to use a given road during a specific period of time than the road can handle with what are considered to be acceptable levels of delay or inconvenience.

Trip generation means the estimated volume of traffic going to and from a particular location.

Uncontrolled access means the unlimited number, spacing and/or unstandardized design of driveways onto a street or road.

Vehicle trip means the vehicle moving from an origination point to a destination point.

(Ord. of 9-21-2009, § 4.6B)

Sec. 60-771. - Purpose.

The access management program is the sum of all actions taken by the city to maintain the safety and traffic carrying capacity of its arterials and collector roadways. The following standards are enacted to provide for safe driving conditions, reduced potential traffic hazards, relieve congestion, and achieve a sustainable level of vehicle carrying capacity within identified commercial corridors and abutting lands. The effective application of these standards, coupled with other associated municipal ordinances, will assist in preserving highway capacity, reducing accidents and avoiding or minimizing costly road improvements.

(Ord. of 9-21-2009, § 4.6A)

Sec. 60-772. - Applicability.

The provisions of this ordinance shall apply as follows:

- (1) See section 60-2, definitions of major or principal highway and minor arterial highway for a listing of roadways subject to access management standards.
- (2) Proposed changes in use requiring the issuance of any land use permit.
- (3) Properties which meet the following threshold standards:
 - a. Any building or addition which results in a building footprint of greater than 5,000 square feet.
 - b. Uses generating more than 100 vehicle trips in the peak hour.
 - c. Uses with a drive-through facility which generates ~~s~~S more than 50 vehicle trips in the peak hour.
- (4) Subdivisions consisting of three or more lots.
- (5) The following municipal uses where large or emergency vehicles are commonly used: fire, public works, parks and recreation, police and schools.

(Ord. of 9-21-2009, § 4.6C)

Secs. 60-773—60-797. - Reserved.

DIVISION 2. - STANDARDS

Sec. 60-798. - Purpose.

The following standards are designed to ensure safety and maintain the traffic carrying capacity of identified roadways. In the review of a development proposal, a primary consideration shall be for the safety of people traveling on the arterial and a secondary consideration shall be for people entering and leaving the proposed development. Design elements should conform to the standards as contained in the most current version of the Institute of Transportation Engineers (ITE) manual and commonly used by the state department of transportation (MDOT).

(Ord. of 9-21-2009, § 4.6D(intro. ¶))

Sec. 60-799. - Safe site-sight distance.

Driveways and other accesses for all developments, including individual residences, subdivisions and commercial and other nonresidential developments shall be located to meet a minimum sight distance measured in each direction along the arterial or collector while maintaining adequate distances from adjacent driveways and intersections. For the purpose of the site-sight distance standard, the following provisions shall apply:

- (1) The site-sight distance shall be based on the posted speed limit. For those developments requiring planning board review and/or the submission of a traffic impact study, the developer shall provide an analysis of the sight distance for both the posted speed limit and the 85th percentile speed, either one of which the board may require the plan to be designed to.
- (2) Measurements shall be from the driver's seat of a vehicle that is ten feet behind the curb (or edge of shoulder) line with the height of the eye 3½ feet above the pavement and the height of the object 4¼ feet.

- (3) Where truck traffic from a development onto a roadway is expected to be significant, increase the sight distance by 50 percent. Height of eye shall be six feet with the height of the object no more than 4¼ feet.
- (4) For low and medium volume driveways and intersection road placement, the unobstructed sight distance shall be according to the following schedule:

| Highway Speed (mph) | Minimum Sight Distance (in feet) |
|---------------------|----------------------------------|
| 20 | 200 |
| 25 | 250 |
| 30 | 300 |
| 35 | 350 |
| 40 | 400 |
| 45 | 450 |
| 50 | 500 |
| 55 | 550 |

- (5) For high volume driveways and intersection road placement, an unobstructed sight distance shall be according to the following schedule:

| Highway Speed (mph) | Minimum Sight Distance (in feet) |
|---------------------|----------------------------------|
| 25 | 300 |
| 30 | 380 |
| 40 | 580 |
| 50 | 840 |
| 55 | 990 |

(Ord. of 9-21-2009, § 4.6D(1))

Sec. 60-800. - Curb cut and driveway spacing.

- (a) For those developments requiring planning board review, the developer shall provide a design for curb cuts and driveways for both the posted speed limit and the 85th percentile speed, either one of which the board may require the plan to be designed to. The minimum distances shall apply to driveways on the same lot or on adjoining lots to the maximum possible to minimize traffic safety impacts. The minimum distance between curb cuts and driveways shall be measured from the centerline of the driveways at the right-of-way line and shall be a function of the posted corridor road speed according to the following table:

| Highway Speed (mph) | Minimum Spacing (in feet) |
|---------------------|---------------------------|
| 20 | 85 |
| 25 | 105 |
| 30 | 125 |
| 35 | 150 |
| 40 | 185 |
| 45 | 230 |
| 50 | 275 |

- (b) When a lot lacks sufficient corridor road frontage for spacing, the distance can be reduced to the next lowest level as shown on the table in this section. For example, on a 40 mph road requiring an 185 foot spacing, the distance may be reduced to no less than 150 feet; or the property owner can establish a shared driveway or common frontage road with an adjacent property owner.
- (c) Where adjoining nonconforming frontage lots or conforming and nonconforming frontage lots are owned in common, those lots shall be considered combined for the purposes of meeting the frontage and access requirements of this article.

(Ord. of 9-21-2009, § 4.6D(2))

Sec. 60-801. - Number of driveways per lot.

The maximum number of driveways to a particular site shall be governed by the following:

- (1) No low volume traffic generator, including single-family dwellings and duplexes, shall have more than one two-way access onto a single roadway.

- (2) No medium or high volume traffic generator shall have more than one two-way access or two one-way accesses in total onto a single roadway.
- (3) All driveways shall comply with the spacing requirements.

(Ord. of 9-21-2009, § 4.6D(3))

Sec. 60-802. - Access to planned developments.

Where a proposed development involves the construction of two or more uses, or where the potential for two or more uses being developed over time exists, access to the development shall be as follows:

- (1) Direct access to an arterial to any individual lot or to a single place of business shall be prohibited unless it is determined that physical conditions peculiar to the parcel justify the granting of a waiver. A waiver may be granted only if there will be no further subdivision of the parcel and one of the following conditions is met:
 - a. There is too little road frontage to reasonably allow the creation of a new way;
 - b. The shape or physical condition of the parcel does not permit access to or creation of a street other than an arterial; or
 - c. Common access will be utilized which will allow other proposed lots to be serviced by one new curb cut.
- (2) If there is more than one developer or if development proceeds piecemeal over time, smaller sites may be served by an individual entrance until such time as adjacent lots are developed. These temporary individual commercial driveways shall be closed or consolidated into one or two access points and connected to a common service road.
- (3) Permitted access to the development may include one or more of the following:
 - a. A common frontage road running parallel to the corridor road provided that such frontage road shall be located at least 35 feet from the edge of the right-of-way.
 - b. A common driveway or subdivision street which may intersect the arterial and which serves the individual lots or businesses or a common parking lot adjacent to the individual lots or businesses.
 - c. One or more minor roads to be constructed by the developer according to the standards of this article which shall serve the development.

(Ord. of 9-21-2009, § 4.6D(4))

Sec. 60-803. - Corner lot access.

Where a proposed development is to be located at the intersection of an arterial and a minor or collector road, entrance to and exit from the site shall be located only on the minor or collector road. This requirement may be waived where it can be demonstrated that existing site conditions preclude the location of a driveway on the minor or collector road or that the location of the driveway on the minor or collector road would significantly interfere with a predominately residential neighborhood.

(Ord. of 9-21-2009, § 4.6D(5))

Sec. 60-804. - Shared driveways.

Shared driveways shall be encouraged for adjacent sites in order to minimize the number of driveways along the arterial. When two or more adjacent property owners agree to a shared curb cut, driveway or common frontage road, the development may be granted a bonus of lot size and road frontage up to 15 percent for each property owner. In addition, the percentage of the total lot area to be covered by buildings may be increased by up to ten percent for each development that uses a shared driveway. No additional parking shall be required as a result of building space.

(Ord. of 9-21-2009, § 4.6D(6))

Sec. 60-805. - Interconnections.

For all projects, provisions for vehicular and pedestrian circulation connections to future projects on adjacent properties shall be provided wherever feasible and to the maximum extent possible. When the developer agrees to establish vehicular connections to adjacent developments of a type, scale and intensity similar to the proposed development, a reduction up to five percent of lot size, road frontage and parking requirements may be granted. Developers are further encouraged to provide pedestrian and bicycle linkages, separated from vehicular connections between adjacent developments and residential developments in the area.

(Ord. of 9-21-2009, § 4.6D(7))

Sec. 60-806. - Access management standards.

An applicant for a project subject to site plan review or a developer or owner of property which is subject to the access management standards may request, with the exception of section 60-799, a modification of such standards. Such requests shall be made to the planning board. Modifications to the access management standards may be allowed upon a demonstration of need by the applicant provided the planning board makes a finding that the objectives of access management have been satisfied.

(Ord. of 9-21-2009, § 4.6D(8))

Secs. 60-807—60-835. - Reserved.

ARTICLE XI. - WIRELESS COMMUNICATIONS FACILITIES

Sec. 60-836. - Definitions.

In addition to the definitions presented in sections 60-1 and 60-2, the following definitions are applicable to this article:

Antenna means any system of poles, panels, rods, reflecting discs or similar devices used for the transmission of radio or electromagnetic frequency signals.

Colocation means the use of a WCF by more than one wireless communications provider.

Expansion of WCF means the addition of antennas, towers, or other devices to an existing structure.

Parabolic antenna means an antenna which is bowl-shaped, designed for the reception and/or transmission of radio frequency communication signals in a specific directional pattern (also known as a satellite dish antenna).

Targeted market coverage means the area which is targeted to be served by a WCF.

Wireless communications facility (WCF) means any structure, antenna, tower or other device which provides radio/television transmission, commercial mobile wireless services, unlicensed wireless services, cellular phone services, specialized mobile radio telecommunications (SMR), common carrier wireless

exchange phone services, common carrier wireless exchange access services, and personal communications service (PCS) or pager services.

(Ord. of 9-21-2009, § 4.7B)

Sec. 60-837. - Purpose.

The city recognizes that wireless communications facilities provide a valuable and necessary service to the public. The city also recognizes that the proliferation of these facilities could result in unintended interference with public safety communications and the potential for avoidable visual impacts in the community. These regulations are intended to balance the interests of the telecommunication providers, their customers, public safety agencies and the public by:

- (1) Establishing clear standards and submission requirements for wireless communication facilities (WCFs).
- (2) Creating a two-tier process in which minor WCFs can be reviewed and approved by a staff review committee while all other WCFs are subject to planning board review and approval.
- (3) Encouraging the collocation of proposed WCFs on existing facilities and requiring new towers to be designed to permit collocation.
- (4) Encouraging the use of finishes and colors to minimize visual impact by matching or blending the appearance of the new facilities with the surrounding natural or built environment.
- (5) Ensuring that new WCFs, either by themselves or in combination with other existing on- or off-site WCFs, will not interfere with any public safety communications.

(Ord. of 9-21-2009, § 4.7A)

Sec. 60-838. - Applicability.

This section shall apply to all WCFs except the following:

- (1) WCFs for municipal use.
- (2) Parabolic antennas less than seven feet in diameter, that are an accessory use of the property.
- (3) Maintenance, repair or reconstruction of a WCF and related equipment, provided that it does not constitute an expansion of a WCF and there is no change in the height or any other dimension of the facility.
- (4) An antenna that is an accessory use to a residential dwelling unit.

(Ord. of 9-21-2009, § 4.7C)

Sec. 60-839. - Administrative procedures.

- (a) A WCF that includes construction of a new tower, structural modification to an existing tower or an increase of ten percent or more in total WCF height shall be permitted by special exception in all zoning districts after approval by the planning board in accordance with the provisions of division 2 of article XVI of this chapter as well as the supplemental provisions described in these regulations. The planning board shall not approve such WCF if it is closer than one-half miles radius from an existing public safety WCF.
- (b) Unless subject to the provisions of subsection (a) of this section or listed as an exempt activity in section 60-838, any other WCF, including the replacement of an existing antenna or the addition and/or

collocation of a new antenna on an existing tower, shall be permitted by right in all zoning districts subject to review and approval in accordance with these regulations.

(Ord. of 9-21-2009, § 4.7D)

Sec. 60-840. - Application requirements.

- (a) *WCF permitted by special exception.* In addition to the submissions requirements of site plan review, an application for a WCF permitted as a special exception shall contain the following information:
- (1) A copy of the federal license for the WCF, or a signed statement from the owner or operator attesting that the facility will comply with FCC regulations.
 - (2) A USGS 7.5 minute topographic map showing the locations of all WCFs above 100 feet in height above ground level, except rooftop antennas, within a five miles radius of the proposed WCF.
 - (3) A site plan prepared and certified by a professional engineer registered in the state indicating the location, type, and height of the proposed WCF, antenna capacity, on-site and abutting off-site land uses, means of access, and setbacks from property lines. The site plan must include said engineer's certification that the proposed WCF complies with all American National Standards Institute (ANSI) and other applicable technical codes.
 - (4) Elevation drawings of the proposed WCF and any other proposed structures, showing height above ground level, guy wires and existing and proposed tree line within 100 feet of the property line.
 - (5) Details of the tower base, support structures, access road, fencing and gate.
 - (6) Written description of how the WCF fits into the applicant's communications network.
 - (7) Photos of the site showing existing conditions at the perimeter of the site, within setback areas and in the vicinity of proposed improvements.
 - (8) An estimate of the cost of construction and removal of the WCF prepared by a professional engineer registered in the state and evidence of financial capacity to construct and operate the WCF.
 - (9) A letter of commitment from a financial institution agreeing to provide an irrevocable letter of credit sufficient to cover the cost of removal of the WCF.
 - (10) For proposals to construct a new tower, evidence that no existing building, site or structure can accommodate the proposed facility. Such evidence may consist of the following:
 - a. Evidence that no existing facilities are located within the targeted market coverage area as required to meet the applicant's engineering requirements.
 - b. Evidence that existing facilities do not have sufficient height, structural strength or capacity and cannot be reasonably improved to address these deficiencies to meet the applicant's engineering requirements.
 - c. Evidence that the fees, costs, or contractual provisions required by the owner of an existing facility in order to permit collocation on an existing facility are unreasonable. Costs exceeding the pro rata share of a new facility development are presumed to be unreasonable.
 - (11) A letter signed by the applicant for a new tower agreeing to allow future collocation of WCFs based on a reasonable charge for shared use, based on community rates and generally accepted accounting principles. Such charge may include but is not limited to a pro rata share of the cost of site selection, planning and project administration, land costs, site design, construction, permitting, financing, return on equity, depreciation, and all of the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference. The amortization of the above costs by the facility owner shall be accomplished at a reasonable rate, over the useful life span of the facility.

- (12) An analysis prepared and certified by an RF Engineer or qualified engineer registered in the state demonstrating that WCF will not interfere with any public safety communications. Such analysis shall include the following:
 - a. Location in longitude and latitude of the antenna.
 - b. Frequency in megahertz.
 - c. Ground elevation.
 - d. Antenna centerline.
 - e. Antenna model number.
 - f. ERP.
 - g. Cumulative field measurements of frequency emissions of all antennas installed on an existing WCF.
- (b) *WCF permitted by right.* An application for a WCF that is permitted by right as described in section 60-839 shall contain the following information:
 - (1) Name and address of owner and developer and interest of the applicant if other than the owner or developer.
 - (2) Names and addresses of all owners of all adjacent properties as they appear on assessor's records.
 - (3) Copy of city tax topographic map showing the location of the proposed facility.
 - (4) A copy of the federal license for the WCF, or a signed statement from the owner or operator attesting that the facility will comply with FCC regulations.
 - (5) Written description of how the WCF fits into the applicant's communications network.
 - (6) If the applicant is the owner of the structure on which a proposed antenna is to be located, a letter agreeing to allow future collocation of WCFs based on a reasonable charge for shared use, based on community rates and generally accepted accounting principles. Such charge may include but is not limited to a pro rata share of the cost of site selection, planning and project administration, land costs, site design, construction, financing, return on equity, depreciation, and all of the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference. The amortization of the above costs by the facility owner shall be accomplished at a reasonable rate, over the useful life span of the facility.
 - (7) An analysis prepared and certified by an RF engineer or qualified engineer registered in state demonstrating that the WCF will not interfere with any public safety communications. Such analysis shall include the following:
 - a. Location in longitude and latitude of the antenna.
 - b. Frequency in megahertz.
 - c. Ground elevation.
 - d. Antenna centerline.
 - e. Antenna model number.
 - f. ERP.
 - g. Cumulative field measurements of frequency emissions of all antennas installed on an existing WCF.

(Ord. of 9-21-2009, § 4.7E)

Sec. 60-841. - Approval.

- (a) *WCF permitted by special exception.* The planning board is authorized to retain experts at the applicant's expense to evaluate technical information or conduct studies that it finds necessary in order to determine whether these standards will be met. In addition to the criteria in sections 60-1304 and 60-1336, the planning board shall consider the following standards:
- (1) A WCF consisting of a new or expanded tower structure is designated to accommodate future collocation of at least three additional WCFs or providers.
 - (2) A new or expanded WCF complies with the setback requirements for the zoning district in which it is located, or setback 150 percent of its height from all property lines, whichever is greater. The setback may be satisfied by including areas outside the property boundaries if secured by an easement. Such setback may be reduced by the planning board upon a showing that the WCF is designed to collapse in a manner that will not harm an abutting property.
 - (3) The landscaping plan demonstrates that existing and proposed vegetation is sufficient to create a minimum six foot high continuous vegetative buffer within required setback areas.
 - (4) A gated eight foot high perimeter fence adequately protects improvements from trespassers.
 - (5) Lighting is limited to shielded nighttime security lighting as well as any illumination required by state or federal regulations.
 - (6) Proposed color and materials are designed to allow the structures as well as cables to match or blend with the surrounding natural or built environment to the maximum extent practicable. Unless otherwise required, this may be accomplished by muted colors, earth tones and subdued hues. There shall be no environmental impact or potential impact including noise, fuel leakage, etc.
 - (7) A new or expanded WCF complies with the current Electronic Industries Association/Telecommunications Industries Association (EIA/TIA) 222 Revision Standard entitled, "Structural Standards for Steel Towers and Antenna Supporting Structures".
 - (8) The applicant has demonstrated to the satisfaction of the planning board that the WCF will not, either by itself or in combination with other existing on- or off-site WCFs, interfere with any public safety communications.
 - (9) The applicant has submitted a letter of commitment from a financial institution agreeing to provide an irrevocable letter of credit sufficient to cover the cost of removal of the WCF. Such letter of credit shall be in force prior to the issuance of a building permit, be adjusted annually to reflect any changes in consumer price index, and include a covenant requiring the city be provided a minimum of 180 days notice prior to the cancellation of said letter of credit.
- (b) *WCF permitted by right.* An application for a WCF permitted by right shall require review and approval by a staff review committee consisting of the city planner, city engineer and a representative of Lewiston-Auburn 911 Committee. The committee shall disapprove the WCF if it finds that the applicant has not demonstrated to the satisfaction of the committee that the WCF, either by itself or in combination with other existing on- or off-site WCFs, will not interfere with any public safety communications.

(Ord. of 9-21-2009, § 4.7F)

Sec. 60-842. - Abandonment.

- (a) A WCF that is not operated as a WCF for a continuous period of 12 months or for which the city has received notice that the irrevocable letter of credit is to be canceled shall be considered abandoned. The code enforcement officer shall notify the owner of an abandoned WCF in writing and order the removal of the facility within 60 days of receipt of a written notice. The owner of the facility shall have 30 days from the receipt of the notice to demonstrate to the code enforcement officer that the facility has not been abandoned. If the owner fails to show that the facility has not been abandoned, the owner shall have 60 days to remove the facility. If the facility is not removed within the time period, the city

may draw on the line of credit to pay for the costs of removing the WCF and returning the site to its pre-construction condition, including removal of roads and reestablishment of vegetation.

- (b) The owner who removes an abandoned WCF may apply to the planning board for release of the surety when the facility and related equipment are removed to the satisfaction of the planning board.

(Ord. of 9-21-2009, § 4.7G)

Sec. 60-843. - Appeals.

- (a) An appeal from a decision of the planning board on a WCF permitted by special exception shall be in accordance with the provisions of division [34](#) of article XVI of this chapter.
- (b) An appeal from a decision of the staff review committee on a WCF permitted by right shall be to the board of appeals and shall be limited to the potential for the WCF, either by itself or in combination with other existing on- or off-site WCFs, to interfere with any public safety communications. The board of appeals is authorized to retain experts at the applicant's expense to evaluate technical information or conduct studies that the board of appeals determines may be necessary in order to render a decision on the appeal.

(Ord. of 9-21-2009, § 4.7H)

Secs. 60-844—60-864. - Reserved.

ARTICLE XII. - ENVIRONMENTAL REGULATIONS

DIVISION 1. - GENERALLY

Secs. 60-865—60-891. - Reserved.

DIVISION 2. - FLOODPLAIN OVERLAY DISTRICT

Sec. 60-892. - Purpose and establishment.

- (a) Certain areas of the city are subject to periodic flooding, causing serious damages to properties within these areas. Relief is available in the form of flood insurance as authorized by the National Flood Insurance Act of 1968. Therefore, the city has chosen to become a participating community in the national flood insurance program, and agrees to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended) as delineated in this division. It is the intent of the city to require the recognition and evaluation of flood hazards in all official actions relating to land use in the floodplain areas having special flood hazards.
- (b) The city has the legal authority to adopt land use and control measures to reduce future flood losses pursuant to Title 30-A M.R.S.A. §§ 3001—3007, 4352, 4401—4407, and Title 38 M.R.S.A., §§ 440.
- (c) The national flood insurance program, established in the aforesaid act, provides that areas of the city having a special flood hazard be identified by the federal emergency management agency and that floodplain management measures be applied in such flood hazard areas. [T](#)his division establishes a flood hazard development permit system and review procedure for development activities in the designated flood hazard areas of the city.
- (d) The areas of special flood hazard, Zones A and AE for the city, identified by the federal emergency management agency in a report entitled "Flood Insurance Study - Androscoggin County, Maine" dated July 8, 2013 with accompanying "Flood Insurance Rate Map" dated July 8, 2013 with panels: 183E, 184E, 191E, 192E, 193E, 194E, 203E, 211E, 212E, 213E, 214E, 302E, 304E, 306E, 307E, 308E,

309E, 312E, 316E, 317E, 320E, 326E, 327E, 328E, 329E, 336E, 337E, 338E, 339E, 341E, 343E, 430E, derived from the county wide digital Flood Insurance Rate Map entitled "Digital Flood Insurance Rate Map, Androscoggin County, Maine" are hereby adopted by reference and declared to be a part of this division.

(Ord. No. 09-06172013, 7-1-2013)

Sec. 60-893. - Definitions.

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

Accessory structure means a small detached structure that is incidental and subordinate to the principal structure.

Adjacent grade means the natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Area of special flood hazard means the land in the floodplain having a one percent or greater chance of flooding in any given year, as specifically identified in the Flood Insurance Study cited in section 60-892 of this division.

Base flood means the flood having a one percent chance of being equaled or exceeded in any given year, commonly called the 100-year flood.

Basement means any area of the building having its floor subgrade (below ground level) on all sides.

Building. See "structure."

Certificate of compliance. A document signed by the code enforcement officer stating that a structure is in compliance with all of the provisions of this division.

Code enforcement officer. A person certified under Title 30-A MRSA, Section 4451 (including exceptions in subsection 4451, paragraph 1) and employed by a municipality to enforce all applicable comprehensive planning and land use laws and ordinances.

Development means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, drilling operations or storage of equipment or materials.

Elevated building means a non-basement building.

- (1) Built, in the case of a building in Zones A or AE, to have the top of the elevated floor elevated above the ground level by means of pilings, columns, post, piers, or "stilts"; and
- (2) Adequately anchored so as not to impair the structural integrity of the building during a flood of up to one foot above the magnitude of the base flood.

In the case of Zones A or AE, elevated building also includes a building elevated by means of fill or solid foundation perimeter walls with hydraulic openings sufficient to facilitate the unimpeded movement of flood waters, as required in Section 60-897.L.

Elevation certificate. An official form (FEMA Form 81-31) that:

- (1) Is used to verify compliance with the floodplain management regulations of the National Flood Insurance Program; and
- (2) Is required for purchasing flood insurance.

Flood or flooding means:

- (1) A general and temporary condition of partial or complete inundation of normally dry land areas from:

- a. The overflow of inland or tidal waters.
 - b. The unusual and rapid accumulation or runoff of surface waters from any source.
- (2) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph (1)a. of this definition.

Flood elevation study means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

Flood insurance rate map (FIRM) means an official map of a community, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community.

Flood insurance study. See flood elevation study.

Floodplain or flood-prone area means any land area susceptible to being inundated by water from any source (see flooding).

Floodplain management means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.

Floodplain management regulations means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance, and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

Floodproofing means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and contents.

Floodway. See "regulatory floodway."

Floodway encroachment lines mean the lines marking the limits of floodways on federal, state, and local floodplain maps.

Freeboard means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. Freeboard tends to compensate for the many unknown factors, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions.

Functionally dependent use means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

Historic Structure means any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;
- (3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

- (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - a. By an approved state program as determined by the Secretary of the Interior, or
 - b. Directly by the Secretary of the Interior in states without approved programs.

Locally established datum means, for purposes of this ordinance, an elevation established for a specific site to which all other elevations at the site are referenced. This elevation is generally not referenced to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD) or any other established datum and is used in areas where mean sea level data is too far from a specific site to be practically used.

Lowest floor means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements described in section 60-897(l) of this division.

Manufactured home means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term manufactured home also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.

Manufactured home park or subdivision means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Mean sea level means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) or other datum, to which base flood elevations shown on a community's flood insurance rate map are referenced.

Minor development means all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50 percent of the market value of the structure. It also includes, but is not limited to: accessory structures as provided for in section 60-897(j), mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves, and piers.

National Geodetic Vertical Datum (NGVD) means the national vertical datum, whose standard was established in 1929, which is used by the National Flood Insurance Program (NFIP). NGVD was based upon mean sea level in 1929 and also has been called 1929 Mean Sea Level (MSL)."

New construction means structures for which the "start of construction" commenced on or after the effective date of the initial floodplain management regulations adopted by a community and includes any subsequent improvements to such structures.

North American Vertical Datum (NAVD) means the national datum whose standard was established in 1988, which is the new vertical datum used by the National Flood Insurance Program (NFIP) for all new flood insurance rate maps. NAVD is based upon vertical datum used by other North American countries such as Canada and Mexico and was established to replace NGVD because of constant movement of the earth's crust, glacial rebound, and subsidence and the increasing use of satellite technology.

100-year flood. See "Base flood."

Recreational vehicle means a vehicle which is:

- (1) Built on a single chassis;
- (2) 400 square feet or less when measured at the largest horizontal projection, not including slideouts;
- (3) Designed to be self-propelled or permanently towable by a motor vehicle; and

- (4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Regulatory floodway.

- (1) Means the channel of a river or other water course and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot; and
- (2) When not designated on the community's flood insurance rate map, it is considered to be the channel of a river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain, as measured from the normal high water mark to the upland limit of the floodplain.

Riverine means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

Special flood hazard area. See "Area of special flood hazard."

Start of construction means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, or modification of any construction element, whether or not that alteration affects the external dimensions of the building.

Structure means, for floodplain management purposes, a walled and roofed building. A gas or liquid storage tank that is principally above ground is also a structure.

Substantial damage means, damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial improvement means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

- (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- (2) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure, and a variance is obtained from the community's board of appeals.

Variance means a grant of relief by a community from the terms of a floodplain management regulation.

Violation means the failure of a structure or development to comply with a community's floodplain management regulations.

(Ord. No. 09-06172013, 7-1-2013)

Sec. 60-893.5. - Required.

Before any construction or other development (as defined in Section 60-904), including the placement of manufactured homes, begins within any areas of special flood hazard established in section 60-892, a flood hazard development permit shall be obtained from the planning and development department. This permit shall be in addition to any other permits which may be required pursuant to the codes and ordinances of the city.

(Ord. No. 09-06172013, 7-1-2013)

Sec. 60-894. - Application for permit.

The application for a flood hazard development permit shall be submitted to the planning and development department and shall include:

- (a) The name, address and phone number of the applicant, owner, and contractor;
 - (b) An address and a map indicating the location of the construction site;
 - (c) A site plan showing location of existing and/or proposed development, including but not limited to structures, sewage disposal facilities, water supply facilities, areas to be cut and filled, and lot dimensions;
 - (d) A statement of the intended use of the structure and/or development;
 - (e) A statement of the cost of the development including all materials and labor;
 - (f) A statement as to the type of sewage system proposed;
 - (g) Specification of dimensions of the proposed structure and/or development;
- [Items (h)–(k)(2) apply only to new construction and substantial improvements.]
- (h) The elevation in relation to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD) or to a locally established datum in Zone A only, of the:
 - (1) Base flood at the proposed site of all new or substantially improved structures, which is determined:
 - a. In Zones AE, from data contained in the "Flood Insurance Study - Androscoggin County, Maine" as described in section 60-892; or
 - b. In Zone A:
 - 1. From any base flood elevation data from federal, state, or other technical sources (such as FEMA's Quick-2 model, FEMA 265), including information obtained pursuant to Section 60-897(k) and 60-899(d);
 - 2. From the contour elevation extrapolated from a best fit analysis of the floodplain boundary when overlaid onto a USGS Quadrangle Map or other topographic map prepared by a Professional Land Surveyor or registered professional engineer, if the floodplain boundary has a significant correlation to the elevation contour line(s); or, in the absence of all other data;
 - 3. To be the elevation of the ground at the intersection of the floodplain boundary and a line perpendicular to the shoreline which passes along the ground through the site of the proposed building.
 - (2) Highest and lowest grades at the site adjacent to the walls of the proposed building;
 - (3) Lowest floor, including basement; and whether or not such structures contain a basement; and

- (4) Level, in the case of non-residential structures only, to which the structure will be floodproofed;
- (i) A description of an elevation reference point established on the site of all developments for which elevation standards apply as required in section 60-897;
- (j) A written certification by a professional land surveyor, registered professional engineer or architect, that the base flood elevation and grade elevations shown on the application are accurate;
- (k) The following certifications as required in section 60-897 by a registered professional engineer or architect:
 - (1) A floodproofing certificate (FEMA Form 81-65), to verify that the floodproofing methods for any non-residential structures will meet the floodproofing criteria of section 60-894(h)(4), section 60-897(g) and other applicable standards in section 60-897;
 - (2) A hydraulic openings certificate to verify that engineered hydraulic openings in foundation walls will meet the standards of section 60-897(l)(2)a.;
 - (3) A certified statement that bridges will meet the standards of section 60-897(m);
 - (4) A certified statement that containment walls will meet the standards of section 60-897(n);
- (l) A description of the extent to which any water course will be altered or relocated as a result of the proposed development; and
- (m) A statement of construction plans describing in detail how each applicable development standard in section 60-897 will be met.

(Ord. No. 09-06172013, 7-1-2013)

Sec. 60-895. - Application fee and expert's fee.

A non-refundable application fee of \$50.00 for all minor development and \$100.00 for all new construction or substantial improvements shall be paid to the city.

An additional fee may be charged if the planning and development department and/or board of appeals needs the assistance of a professional engineer or other expert. The expert's fee shall be paid in full by the applicant within ten days after the town submits a bill to the applicant. Failure to pay the bill shall constitute a violation of the ordinance and be grounds for the issuance of a stop work order. An expert shall not be hired by the municipality at the expense of an applicant until the applicant has either consented to such hiring in writing or been given an opportunity to be heard on the subject. An applicant who is dissatisfied with a decision to hire expert assistance may appeal that decision to the board of appeals.

(Ord. No. 09-06172013, 7-1-2013)

Sec. 60-896. - Review standards for flood hazard development permit.

The planning and development department shall:

- (a) Review all applications for the flood hazard development permit to assure that proposed developments are reasonably safe from flooding and to determine that all pertinent requirements of section 60-897 (Development standards) have been, or will be met;
- (b) Utilize, in the review of all flood hazard development permit applications:
 - (1) The base flood and floodway data contained in the "Flood Insurance Study - Androscoggin County, Maine" as described in section 60-892;

- (2) In special flood hazard areas where base flood elevation and floodway data are not provided, the code enforcement officer shall obtain, review and reasonably utilize any base flood elevation and floodway data from federal, state, or other technical sources, including information obtained pursuant to section 60-894(h)(1)b., section 60-897(k); and section 60-899(d), in order to administer section 60-897 of this division; and,
- (3) When the community establishes a base flood elevation in a Zone A by methods outlined in section 60-894(h)(1)b., the community shall submit that data to the Maine Floodplain Management Program.
- (c) Make interpretations of the location of boundaries of special flood hazard areas shown on the maps described in section 60-892 of this division;
- (d) In the review of flood hazard development permit applications, determine that all necessary permits have been obtained from those federal, state, and local government agencies from which prior approval is required by federal or state law, including but not limited to Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33U.S.C. 1344;
- (e) Notify adjacent municipalities, the department of environmental protection, and the state floodplain management program prior to any alteration or relocation of a water course and submit copies of such notifications to the federal emergency management agency;
- (f) If the application satisfies the requirements of this division, approve the issuance of one of the following flood hazard development permits based on the type of development:
 - (1) A two-part flood hazard development permit for elevated structures. Part I shall authorize the applicant to build a structure to and including the first horizontal floor only above the base flood level. At that time the applicant shall provide the code enforcement officer with an elevation certificate completed by a professional land surveyor, registered professional engineer or architect based on the Part I permit construction, "as built," for verifying compliance with the elevation requirements of section 60-897, paragraphs (f), (g), or (h). Following review of the elevation certificate data, which shall take place within 72 hours of receipt of the application, the code enforcement officer shall issue part ii of the flood hazard development permit. Part II shall authorize the applicant to complete the construction project; or
 - (2) A flood hazard development permit for floodproofing of non-residential structures that are new construction or substantially improved non-residential structures that are not being elevated but that meet the floodproofing standards of section 60-897(g)(1)a.,b., and c. The application for this permit shall include a floodproofing certificate signed by a registered professional engineer or architect; or
 - (3) A flood hazard development permit for minor development for all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50 percent of the market value of the structure. Minor development also includes, but is not limited to: accessory structures as provided for in section 60-897(j), mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves and piers.
- (g) Maintain, as a permanent record, copies of all flood hazard development permit applications, corresponding permits issued, and data relevant thereto, including reports of the board of appeals on variances granted under the provisions of section 60-900 of this division, and copies of elevation certificates, floodproofing certificates, certificates of compliance and certifications of design standards required under the provisions of section 60-894, 60-897 and 60-898 of this division.

(Ord. No. 09-06172013, 7-1-2013)

Sec. 60-897. - Development standards.

All developments in areas of special flood hazard shall meet the following applicable standards:

- (a) *All development.* All development shall:
 - (1) Be designed or modified and adequately anchored to prevent flotation (excluding piers and docks), collapse or lateral movement of the development resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
 - (2) Use construction materials that are resistant to flood damage;
 - (3) Use construction methods and practices that will minimize flood damage; and
 - (4) Use electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during flooding conditions.
- (b) *Water supply.* All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.
- (c) *Sanitary sewage systems.* All new and replacement sanitary sewage systems shall be designed and located to minimize or eliminate infiltration of flood waters into the system and discharges from the system into flood waters.
- (d) *On site waste disposal systems.* On site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during floods.
- (e) *Watercourse carrying capacity.* All development associated with altered or relocated portions of a watercourse shall be constructed and maintained in such a manner that no reduction occurs in the flood carrying capacity of the watercourse.
- (f) *Residential.* New construction or substantial improvement of any residential structure located within:
 - (1) Zones AE shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation.
 - (2) Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to section 60-894(h)(1)b.; section 60-896(b); or section 60-899(d).
- (g) *Non-residential.* New construction or substantial improvement of any non-residential structure located within:
 - (1) Zones AE shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation, or together with attendant utility and sanitary facilities shall:
 - a. Be floodproofed to at least one foot above the base flood elevation so that below that elevation the structure is watertight with walls substantially impermeable to the passage of water;
 - b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and
 - c. Be certified by a registered professional engineer or architect that the floodproofing design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a flood hazard development permit, as required by section 60-894(k) and shall include a record of the elevation above mean sea level to which the structure is floodproofed.

- (2) Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to section 60-894(h)(1)b., section 60-896(b) or section 60-899(d); or
 - a. Together with attendant utility and sanitary facilities meet the floodproofing standards of section 60-897(g)(1).
- (h) *Manufactured homes.* New or substantially improved manufactured homes located within:
 - (1) Zones AE shall:
 - a. Be elevated such that the lowest floor (including basement) of the manufactured home is at least one foot above the base flood elevation;
 - b. Be on a permanent foundation, which may be poured masonry slab or foundation walls, with hydraulic openings, or may be reinforced piers or block supports, any of which support the manufactured home so that no weight is supported by its wheels and axles; and
 - c. Be securely anchored to an adequately anchored foundation system to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to:
 - 1. Over-the-top ties anchored to the ground at the four corners of the manufactured home, plus two additional ties per side at intermediate points (manufactured homes less than 50 feet long require one additional tie per side); or by,
 - 2. Frame ties at each corner of the home, plus five additional ties along each side at intermediate points (manufactured homes less than 50 feet long require four additional ties per side).
 - 3. All components of the anchoring system described in section 60-897(h)(1)c.1. and 2. shall be capable of carrying a force of 4,800 pounds.
 - (2) Zone A shall:
 - a. Be elevated on a permanent foundation, as described in section 60-897(h)(1)b., such that the lowest floor (including basement) of the manufactured home is at least one foot above the base flood elevation utilizing information obtained pursuant to section 60-894(h)(1)b., section 60-896(b), or section 60-899(d); and
 - b. Meet the anchoring requirements of section 60-897(h)(1)c.
- (i) *Recreational vehicles.* Recreational vehicles located within:
 - (1) Zones A and AE shall either:
 - a. Be on the site for fewer than 180 consecutive days,
 - b. Be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or
 - c. Be permitted in accordance with the elevation and anchoring requirements for "manufactured homes" in section 60-897(h)(1).
- (j) *Accessory structures.* Accessory structures, as defined in section 60-904, located within Zones A and AE, shall be exempt from the elevation criteria required in section 60-897(f) and (g) above, if all other requirements of Section 60-897 and all the following requirements are met. Accessory structures shall:
 - (1) Be 500 square feet or less and have a value less than \$3,000.00;
 - (2) Have unfinished interiors and not be used for human habitation;

- (3) Have hydraulic openings, as specified in section 60-897(l)(2), in at least two different walls of the accessory structure;
- (4) Be located outside the floodway;
- (5) When possible be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters and be placed further from the source of flooding than is the primary structure; and
- (6) Have only ground fault interrupt electrical outlets. The electric service disconnect shall be located above the base flood elevation and when possible outside the special flood hazard area.

(k) *Floodways.*

- (1) In Zone AE riverine areas, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted within a regulatory floodway which is designated on the community's flood insurance rate map, unless a technical evaluation certified by a registered professional engineer is provided demonstrating that such encroachments will not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
- (2) In Zones A and AE riverine areas for which no regulatory floodway is designated, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted in the floodway as determined in section 60-897(k)(3) unless a technical evaluation certified by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing development and anticipated development:
 - a. Will not increase the water surface elevation of the base flood more than one foot at any point within the community; and
 - b. Is consistent with the technical criteria contained in Chapter 5 entitled "Hydraulic Analyses," Flood Insurance Study - Guidelines and Specifications for Study Contractors, (FEMA 37).
- (3) In Zones A and AE riverine areas for which no regulatory floodway is designated, the regulatory floodway is determined to be the channel of the river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain as measured from the normal high water mark to the upland limit of the floodplain.

(l) *Enclosed areas below the lowest floor.* New construction or substantial improvement of any structure in Zones A and AE that meets the development standards of section 60-897, including the elevation requirements of section 60-897, paragraphs (f), (g), or (h) and is elevated on posts, columns, piers, piles, "stilts," or crawlspaces may be enclosed below the base flood elevation requirements provided all the following criteria are met or exceeded:

- (1) Enclosed areas are not "basements" as defined in section 60-904;
- (2) Enclosed areas shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood water. Designs for meeting this requirement must either:
 - a. Be engineered and certified by a registered professional engineer or architect; or
 - b. Meet or exceed the following minimum criteria:
 - 1. A minimum of two openings having a total net area of not less than one square inch for every square foot of the enclosed area;
 - 2. The bottom of all openings shall be below the base flood elevation and no higher than one foot above the lowest grade; and

3. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the entry and exit of flood waters automatically without any external influence or control such as human intervention, including the use of electrical and other non-automatic mechanical means;
 - (3) The enclosed area shall not be used for human habitation; and
 - (4) The enclosed areas are usable solely for building access, parking of vehicles, or storage.
- (m) Bridges - New construction or substantial improvement of any bridge in Zones A and AE shall be designed such that:
 - (1) When possible, the lowest horizontal member (excluding the pilings, or columns) is elevated to at least one foot above the base flood elevation; and
 - (2) A registered professional engineer shall certify that:
 - a. The structural design and methods of construction shall meet the elevation requirements of this section and the floodway standards of section 60-897(k); and
 - b. The foundation and superstructure attached thereto are designed to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all structural components. Water loading values used shall be those associated with the base flood.
- (n) *Containment walls.* New construction or substantial improvement of any containment wall located within:
 - (1) Zones A and AE shall:
 - a. Have the containment wall elevated to at least one foot above the base flood elevation;
 - b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and
 - c. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a flood hazard development permit, as required by section 60-894(k).
- (o) *Wharves, piers and docks.* New construction or substantial improvement of wharves, piers, and docks are permitted in Zones A and AE, in and over water and seaward of mean high tide, if the following requirements are met:
 - (1) Wharves, piers, and docks shall comply with all applicable local, state, and federal regulations; and
 - (2) For commercial wharves, piers, and docks, a registered professional engineer shall develop or review the structural design, specifications, and plans for the construction.

(Ord. No. 09-06172013, 7-1-2013)

Sec. 60-898. - Certificate of compliance.

No land in a special flood hazard area shall be occupied or used and no structure which is constructed or substantially improved shall be occupied until a certificate of compliance is issued by the planning and development department subject to the following provisions:

- (a) For new construction or substantial improvement of any elevated structure the applicant shall submit to the planning and development department an elevation certificate completed by a professional land surveyor, registered professional engineer, or architect, for compliance with section 60-897, paragraphs (f), (g), or (h).

- (b) The applicant shall submit written notification to the planning and development department that the development is complete and complies with the provisions of this division.
- (c) Within ten working days, the planning and development department shall:
 - (1) Review the elevation certificate and the applicant's written notification; and
 - (2) Upon determination that the development conforms with the provisions of this division, shall issue a certificate of compliance.

(Ord. No. 09-06172013, 7-1-2013)

Sec. 60-899. - Review of subdivisions and development proposals.

The planning board shall, when reviewing subdivisions and other proposed developments that require review under other federal law, state law or local ordinances or regulations and all projects on five or more disturbed acres, or in the case of manufactured home parks divided into two or more lots, assure that:

- (a) All such proposals are consistent with the need to minimize flood damage.
- (b) All public utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damages.
- (c) Adequate drainage is provided so as to reduce exposure to flood hazards.
- (d) All proposals include base flood elevations, flood boundaries, and, in a riverine floodplain, floodway data. These determinations shall be based on engineering practices recognized by the Federal Emergency Management Agency.
- (e) Any proposed development plan must include a condition of plan approval requiring that structures on any lot in the development having any portion of its land within a special flood hazard area, are to be constructed in accordance with section 60-897 of this division. Such requirement will be included in any deed, lease, purchase and sale agreement, or document transferring or expressing an intent to transfer any interest in real estate or structure, including but not limited to a time-share interest. The condition shall clearly articulate that the municipality may enforce any violation of the construction requirement and that fact shall also be included in the deed or any other document previously described. The construction requirement shall also be clearly stated on any map, plat, or plan to be signed by the planning board or local reviewing authority as part of the approval process.

(Ord. No. 09-06172013, 7-1-2013)

Sec. 60-900. - Appeals and variances.

The board of appeals of the City of Auburn may, upon written application of an aggrieved party, hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the code enforcement officer or planning board in the administration or enforcement of the provisions of this division.

The board of appeals may grant a variance from the requirements of this division consistent with state law and the following criteria:

- (a) Variances shall not be granted within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
- (b) Variances shall be granted only upon:
 - (1) A showing of good and sufficient cause; and

- (2) A determination that should a flood comparable to the base flood occur, the granting of a variance will not result in increased flood heights, additional threats to public safety, public expense, or create nuisances, cause fraud or victimization of the public or conflict with existing local laws or ordinances; and
- (3) A showing that the issuance of the variance will not conflict with other state, federal or local laws or ordinances; and
- (4) A determination that failure to grant the variance would result in "undue hardship," which in this sub-section means:
 - a. That the land in question cannot yield a reasonable return unless a variance is granted; and
 - b. That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood; and
 - c. That the granting of a variance will not alter the essential character of the locality; and
 - d. That the hardship is not the result of action taken by the applicant or a prior owner.
- (c) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief, and the board of appeals may impose such conditions to a variance as it deems necessary.
- (d) Variances may be issued for new construction, substantial improvements, or other development for the conduct of a functionally dependent use provided that:
 - (1) Other criteria of section 60-900 and section 60-897(k) are met; and
 - (2) The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.
- (e) Variances may be issued for the repair, reconstruction, rehabilitation, or restoration of historic structures upon the determination that:
 - (1) The development meets the criteria of section 60-900, paragraphs (a) through (d) above; and
 - (2) The proposed repair, reconstruction, rehabilitation, or restoration will not preclude the structure's continued designation as a Historic Structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- (f) Any applicant who meets the criteria of section 60-900, paragraphs (a) through (e) shall be notified by the board of appeals in writing over the signature of the chairman of the board of appeals that:
 - (1) The issuance of a variance to construct a structure below the base flood level will result in greatly increased premium rates for flood insurance up to amounts as high as \$25.00 per \$100.00 of insurance coverage;
 - (2) Such construction below the base flood level increases risks to life and property; and
 - (3) The applicant agrees in writing that the applicant is fully aware of all the risks inherent in the use of land subject to flooding, assumes those risks and agrees to indemnify and defend the municipality against any claims filed against it that are related to the applicant's decision to use land located in a floodplain and that the applicant individually releases the municipality from any claims the applicant may have against the municipality that are related to the use of land located in a floodplain.
- (g) *Appeal procedure for administrative and variance appeals.*
 - (1) An administrative or variance appeal may be taken to the board of appeals by an aggrieved party within thirty days after receipt of a written decision of the code enforcement officer or planning board.

- (2) Upon being notified of an appeal, the code enforcement officer or planning board, as appropriate, shall transmit to the board of appeals all of the papers constituting the record of the decision appealed from.
- (3) The board of appeals shall hold a public hearing on the appeal within 35 days of its receipt of an appeal request.
- (4) The person filing the appeal shall have the burden of proof.
- (5) The board of appeals shall decide all appeals within 35 days after the close of the hearing, and shall issue a written decision on all appeals.
- (6) The board of appeals shall submit to the planning and development department and code enforcement officer a report of all variance actions, including justification for the granting of the variance and an authorization for the planning and development department to issue a flood hazard development permit, which includes any conditions to be attached to said permit.
- (7) Any aggrieved party who participated as a party during the proceedings before the board of appeals may take an appeal to superior court in accordance with state laws within forty-five days from the date of any decision of the board of appeals.

(Ord. No. 09-06172013, 7-1-2013)

Sec. 60-901. - Enforcement and penalties.

- (a) It shall be the duty of the code enforcement officer to enforce the provisions of this division pursuant to Title 30-A MRSA § 4452.
- (b) The penalties contained in Title 30-A MRSA § 4452 shall apply to any violation of this division.
- (c) In addition to any other actions, the code enforcement officer, upon determination that a violation exists, may submit a declaration to the Administrator of the Federal Insurance Administration requesting a denial of flood insurance. The valid declaration shall consist of;
 - (1) The name of the property owner and address or legal description of the property sufficient to confirm its identity or location;
 - (2) A clear and unequivocal declaration that the property is in violation of a cited State or local law, regulation, or ordinance;
 - (3) A clear statement that the public body making the declaration has authority to do so and a citation to that authority;
 - (4) Evidence that the property owner has been provided notice of the violation and the prospective denial of insurance; and
 - (5) A clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

(Ord. No. 09-06172013, 7-1-2013)

Secs. 60-902. - Abrogation.

The ordinance from which this division derives repeals and replaces any municipal ordinance previously enacted to comply with the National Flood Insurance Act of 1968 (P.L. 90-488, as amended).

(Ord. No. 09-06172013, 7-1-2013)

Secs. 60-903—60-920. - Reserved.

DIVISION 3. - TAYLOR POND OVERLAY DISTRICT

Sec. 60-921. - Purpose.

- (a) The Taylor Pond Overlay District is intended to address both the present and future special circumstance of the land uses surrounding Taylor Pond. In the past, improper land use development, caused by the allowance of seasonal and year-round living within the same area, the creation of smaller sized lots, the erection of summer camps without compliance with a building code, the placement of such camps on these small lots in close proximity to each other, the use of cesspools, holding tanks, outhouses and septic tank systems installed under the old percolation test for residential waste disposal, the granting of right-of-way easements for private roads without defined widths, and the long continued use of these roads has resulted in pollution of the pond and present land use problems surrounding the pond. With the installation of public sewers, it is the intention of the city to ensure that the improper land use development that has taken place in the past will not continue into the future, while recognizing that it is impractical to attempt to correct all of the past development mistakes. To ensure that public investment in the cleaning up of Taylor Pond is protected, and that where practical, past land use practices are not continued, it is the policy of the city to guide the growth of the land uses surrounding Taylor Pond through regulations which allow for the conversion of summer camps and the erection of new dwellings on private roads provided such buildings are connected to a public sewer and that the applicable city codes are complied with.
- (b) In permitting the conversion of summer camps and the erection of new dwellings on unaccepted private roads, it is recognized by the city that these persons who wish to live at Taylor Pond on a year round basis assume certain responsibilities for maintaining and plowing their access road and realize that because such access roads are not constructed to city street standards, the travel of personal, service and maintenance vehicles over such access roads can be hindered. Nothing herein contained shall be construed as requiring additional city services to properties on unaccepted private roads not already receiving those services.

(Ord. of 9-21-2009, § 5.2A)

Sec. 60-922. - Boundaries.

The Taylor Pond Overlay District includes that limited area of the city which is 250 feet horizontal from the high-water mark of Taylor Pond plus the south easterly portion of Taylor Pond as delineated on an overlay map on file in the office of the department of community development and planning, the city clerk and the Androscoggin Country Registry of Deeds. Undersized lots which are divided by the overlay zone shall be subject to the provisions of the overlay zone. In addition, adjacent undersized lots shall also be subject to the provisions of the overlay zone.

(Ord. of 9-21-2009, § 5.2B)

Sec. 60-923. - Use regulations.

- (a) *Permitted uses.*
 - (1) Uses permitted in the underlying zoning district.
 - (2) Conversion of summer camps into year-round single-family dwellings.
 - (3) One-family detached dwelling.
 - (4) Existing private, commercial and public water-related recreational uses.

- (5) Existing summer camps.
- (b) *Standards for the conversion of summer camps into year-round dwellings and for the erection of new dwellings.*
 - (1) Connecting to public sewer is required.
 - (2) Compliance with the city zoning chapter, building code, housing code, electrical code, life safety code, plumbing code for construction, enlargements, extensions, additions, alterations, or change in use or occupancy of building and structure is required.
 - (3) A summer camp which is proposed to be converted to year-round use shall have, if one story, 600 square feet of area; if 1½ story, not less than 600 square feet on the first floor and not less than 200 square feet above the first floor; if two story, not less than 600 square feet on each floor.
 - (4) The erection of a new dwelling must meet the rear, side, and front yard setback requirements as contained in regulations for the underlying district and the shoreland overlay district, whichever is greater. The horizontal enlargement, extension or addition to an existing dwelling must meet the rear, side yard setback requirements as contained in regulations for the underlying district and a nonconforming front yard setback from the high-water mark may be extended but in no case shall the setback be reduced to a distance less than what exists. For the purposes of this provision, a nonconforming front yard setback from the high-water mark is considered to be less than the distance permitted by section 60-99285(a).
- (c) *Nonconforming dwellings and undersized lots.*
 - (1) A summer camp which was permitted to be occupied as a year-round residence pursuant to the city ordinances at the time of occupation and subsequently was occupied as a year-round residence prior to October, 1979, is not required to secure a conversion permit as specified in subsection (c)(2) of this section. Such dwelling shall be connected to public sewer. A summer camp which was occupied as a year-round residence prior to June 6, 1968 is not required to secure a conversion permit as specified in subsection (c)(2) of this section. Such dwellings shall be connected to public sewer.
 - (2) The lot area and lot width requirement of any of the underlying district shall not apply to any lot intended to be used for the erection of a dwelling if such lot was lawfully laid out and duly recorded by plan or deed prior September 14, 1960.
 - (3) Adjacent undersized lots, not separated by a private or public road, under one ownership or joint ownership shall be considered as one lot. Adjacent conforming and undersized lot not separated by a private or public road, under one ownership or joint ownership shall be considered as one lot. However, this subsection shall not prevent the division of a lot on which more than one existing dwelling or summer camp is located in two separate lots provided the rear, side and front setback requirements as contained in regulations for the underlying district are met.
- (d) *Permit required.* No person shall convert a summer camp into year-round use without first applying to the department of community development and planning for a permit to do so. A permit for such conversion shall be issued to any person who can establish that the converted building will comply with the requirements of subsection (c)(2) of this section. A processing fee in the amount provided in the city fee schedule shall accompany all requests for conversion permits.

(Ord. of 9-21-2009, § 5.2C)

Secs. 60-924—60-949. - Reserved.

DIVISION 4. - LAKE AUBURN WATERSHED OVERLAY DISTRICT

Sec. 60-950. - Purpose.

The Lake Auburn Watershed District is intended to maintain safe and healthful environmental conditions; prevent and control water pollution; protect spawning ground for fish, aquatic life, bird and other wildlife habitats; control building sites; provide visual and physical points of access to waters and natural beauty; and protect and maintain the present quality and volume of potable water supplied from the Lake Auburn Watershed to the population of the Auburn-Lewiston area.

(Ord. of 9-21-2009, § 5.3A)

Sec. 60-951. - Boundaries and definitions.

The Lake Auburn Watershed District is that section of the city 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 city water district on file in the office of the city water district, the city department of planning and permitting services and the city clerk. The Lake Auburn Watershed District shall be superimposed over underlying districts within such section. Permitted uses in the underlying districts shall continue subject to compliance with the provisions of the Lake Auburn Watershed District.

(Ord. of 9-21-2009, § 5.3B)

Sec. 60-952. - Use and environmental regulations.

- (a) *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 city water district. Such approval shall be granted upon a showing that such uses will not cause groundwater contamination or contaminate or disturb the normal course of surface water runoff.
- (b) *Residential dwellings in the agriculture and resource protection zoning district.* Notwithstanding subsections 60-145(a)(1), 60-145(b)(18) and 60-146(1)(c), one-family detached dwellings are only permitted in the Lake Auburn Watershed District on parcels containing no less than ten acres, provided that the dwelling is accessory to farming operations and subject to the following restriction: at least 50 percent of the total annual household income of the farm occupants living in the farm residence will be derived from farm uses.
- (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 (c) shall not be interpreted as permitting agricultural tillage in any zoning district in which it is not otherwise permitted.
- (d) *Municipal and manure sludge disposal.* All spreading and disposal of municipal sludge shall be accomplished in conformance with the Rules of Municipal Sludge Utilization on Land, published by the department of environmental protection in September, 1980. 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.
- (e) *Erosion control.* The following provisions shall be observed for the control of erosion in the Lake Auburn Watershed:
 - (1) Any earth cutting, moving or removal activities that will result in erosion or runoff which is likely to increase sedimentation of Lake Auburn, or any tributaries or other water bodies in the watershed are prohibited.
 - (2) 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 plan will be approved or disapproved on

the basis of its conformance with good watershed management practice for domestic water supplies.

- (3) Trees may be cleared, provided the cleared areas are covered with other vegetation, for approved construction and landscaping. Where such clearing is extended to the shoreline, a cleared opening or openings not greater than 30 feet in width for every 100 feet of shoreline (measured along the high-water mark) may be created in the strip 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 ten feet of the shoreline. 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 three acres, a plan shall be filed with the city water district indicating the changes so that a record can be maintained of watershed water yields to the system.
- (f) *Private sewage disposal systems.* The following regulations shall be adhered to in the development of private sewage disposal systems in the Lake Auburn Watershed:
- (1) Subsurface absorption areas shall not be permitted on sites on which the highest seasonal groundwater table, bedrock, 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 the subsurface absorption area.
 - (2) Within areas containing soils described as deep, loose and sandy or gravelly and which contain more than 70 percent sand as shown on table 9-3 of the state 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 city water district shall have the right to inspect any system within the Lake Auburn Watershed District during its construction and operation and may notify the health office, police chief, local plumbing inspector or housing inspector who 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 Lake Auburn Watershed District to the city water district.
 - (5) Replacement or reconstruction of private residential sewage disposal systems in existence and in use on December 17, 1983 shall not be subject to the requirements of this section but shall be required to comply with the current state plumbing code.

(Ord. of 9-21-2009, § 5.3C; Ord. No. 19-12022019, 12-9-2019)

Sec. 60-953. - Dimensional regulations; 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 inland from the normal high-water mark. Operational necessity shall include private docks, but shall not include boathouses, storage sheds, garages or other structures. Marinas and boat rental facilities shall not be permitted within 75 feet of the normal high-water mark of Lake Auburn.

(Ord. of 9-21-2009, § 5.3D)

Sec. 60-954. - Conflicts.

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

(Ord. of 9-21-2009, § 5.3E)

Secs. 60-955—60-981. - Reserved.

DIVISION 5. - SHORELAND OVERLAY DISTRICT (SLO)^[3]

Footnotes:

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Editor's note— Ord. No. 011-09072010-07, §§ 5.4A—5.4BB, adopted Sept. 7, 2010, repealed the former div. 5, §§ 60-982—60-990, and enacted a new div. 5 as set out herein. The former div. 5 pertained to similar subject matter and derived from an ordinance adopted Sept. 21, 2009, §§ 5.4A—5.4I.

Sec. 60-982. - Purposes.

The purposes of this Shoreland Overlay District (SLO) is to further the maintenance of safe and healthful conditions; to prevent and control water pollution; to protect fish spawning grounds, aquatic life, bird and other wildlife habitat; to protect buildings and lands from flooding and accelerated erosion; to protect archaeological and historic resources; to protect freshwater wetlands; to control building sites, placement of structures and land uses; to conserve shore cover, and visual as well as actual points of access to inland waters; to conserve natural beauty and open space; and to anticipate and respond to the impacts of development in shoreland areas.

(Ord. No. 011-09072010-07, § 5.4A, 9-7-2010)

Sec. 60-983. - Authority.

This SLO district has been created in accordance with the provisions of 38 M.R.S.A. §§ 435—449.

(Ord. No. 011-09072010-07, § 5.4B, 9-7-2010)

Sec. 60-984. - Applicability.

This SLO district applies to all land areas within 250 feet, horizontal distance, of those areas noted on the official shoreland zoning map for the city and all land areas within 75 feet, horizontal distance, of the normal high-water line of a stream.

This SLO district also applies to any structure built on, over or abutting a dock, wharf or pier, or other structure extending or located below the normal high-water line of a water body or within a wetland.

(Ord. No. 011-09072010-07, § 5.4C, 9-7-2010)

Sec. 60-985. - Effective date.

The SLO district has been adopted by the municipal legislative body on September 7, 2010.

(Ord. No. 011-09072010-07, § 5.4D, 9-7-2010)

Sec. 60-986. - Severability.

Should any section or provision of this division be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of the division.

(Ord. No. 011-09072010-07, § 5.4E, 9-7-2010)

Sec. 60-987. - Conflicts with other ordinances.

Whenever a provision of this division conflicts with or is inconsistent with another provision of this chapter or of any other ordinance, regulation or statute administered by the municipality, the more restrictive provision shall control.

(Ord. No. 011-09072010-07, § 5.4F, 9-7-2010)

Sec. 60-988. - Interpretation of district boundaries.

Unless otherwise set forth on the official shoreland zoning map, district boundary lines are property lines, the centerlines of streets, roads and rights-of-way, and the boundaries of the shoreland area as defined herein. The perimeters of the SLO district shall be superimposed over the underlying zoning districts. The provisions of the underlying zoning district shall be adhered to subject to compliance with the provisions of the SLO district. Where uncertainty exists as to the exact location of district boundary lines, the board of appeals shall be the final authority as to location.

(Ord. No. 011-09072010-07, § 5.4G, 9-7-2010)

Sec. 60-989. - Land use requirements.

Except as hereinafter specified, no building, structure or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, expanded, moved, or altered and no new lot shall be created except in conformity with all of the regulations herein specified for the district in which it is located, unless a variance is granted.

(Ord. No. 011-09072010-07, § 5.4H, 9-7-2010)

Sec. 60-990. - Nonconformance.

- (a) *Purpose.* It is the intent of this district to promote land use conformities, except that nonconforming conditions that existed before the effective date of this division or amendments thereto shall be allowed to continue, subject to the requirements set forth in section 60-990. Except as otherwise provided in this division, a nonconforming condition shall not be permitted to become more nonconforming.
- (b) *General.*
 - (1) *Transfer of ownership.* Nonconforming structures, lots, and uses may be transferred, and the new owner may continue the nonconforming use or continue to use the nonconforming structure or lot, subject to the provisions of this section.
 - (2) *Repair and maintenance.* This section allows, without a permit, the normal upkeep and maintenance of nonconforming uses and structures including repairs or renovations that do not

involve expansion of the nonconforming use or structure, and such other changes in a nonconforming use or structure as federal, state, or local building and safety codes may require.

(c) *Nonconforming structures.*

- (1) *Expansions.* A nonconforming structure may be added to or expanded after obtaining a permit from the same permitting authority as that for a new structure, if such addition or expansion does not increase the nonconformity of the structure and is in accordance with subparagraphs a. and b. below.
 - a. After January 1, 1989, if any portion of a structure is less than the required setback from the normal high-water line of a water body or tributary stream or the upland edge of a wetland, that portion of the structure shall not be expanded, as measured in floor area or volume, by 30 percent or more, during the lifetime of the structure. If a replacement structure conforms with the requirements of section 630-990(c)(3), and is less than the required setback from a water body, tributary stream or wetland, the replacement structure may not be expanded if the original structure existing on January 1, 1989, had been expanded by 30 percent in floor area and volume since that date.
 - b. Whenever a new, enlarged, or replacement foundation is constructed under a nonconforming structure, the structure and new foundation must be placed such that the setback requirement is met to the greatest practical extent as determined by the director of planning and permitting, basing a decision on the criteria specified in section 60-990(c)(2), relocation, below. ~~Relocation, below.~~ If the completed foundation does not extend beyond the exterior dimensions of the structure, except for expansion in conformity with section 60-990(c)(1)a. above, and the foundation does not cause the structure to be elevated by more than three additional feet, as measured from the uphill side of the structure (from original ground level to the bottom of the first floor sill), it shall not be considered to be an expansion of the structure.
- (2) *Relocation.* A nonconforming structure may be relocated within the boundaries of the parcel on which the structure is located provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the director of planning and permitting, and provided that the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of state law and the State of Maine subsurface wastewater disposal rules (rules), or that a new system can be installed in compliance with the law and said rules. In no case shall a structure be relocated in a manner that causes the structure to be more nonconforming.

In determining whether the building relocation meets the setback to the greatest practical extent, the director of planning and permitting shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of the septic system and other on-site soils suitable for septic systems, and the type and amount of vegetation to be removed to accomplish the relocation. When it is necessary to remove vegetation within the water or wetland setback area in order to relocate a structure, the director of planning and permitting shall require replanting of native vegetation to compensate for the destroyed vegetation. In addition, the area from which the relocated structure was removed must be replanted with vegetation. Replanting shall be required as follows:

- a. Trees removed in order to relocate a structure must be replanted with at least one native tree, three feet in height, for every tree removed. If more than five trees are planted, no one species of tree shall make up more than 50 percent of the number of trees planted. Replaced trees must be planted no further from the water or wetland than the trees that were removed.

Other woody and herbaceous vegetation, and ground cover, that are removed or destroyed in order to relocate a structure must be re-established. An area at least the same size as the area where vegetation and/or ground cover was disturbed, damaged, or removed must

be reestablished within the setback area. The vegetation and/or ground cover must consist of similar native vegetation and/or ground cover that was disturbed, destroyed or removed.

- b. Where feasible, when a structure is relocated on a parcel the original location of the structure shall be replanted with vegetation which may consist of grasses, shrubs, trees, or a combination thereof.

- (3) *Reconstruction or replacement.* Any nonconforming structure which is located less than the required setback from a water body, tributary stream, or wetland and which is removed, or damaged or destroyed, regardless of the cause, by more than 50 percent of the market value of the structure before such damage, destruction or removal, may be reconstructed or replaced provided that a permit is obtained within 18 months of the date of said damage, destruction, or removal, and provided that such reconstruction or replacement is in compliance with the water body, tributary stream or wetland setback requirement to the greatest practical extent as determined by the director of planning and permitting or its designee in accordance with the purposes of this section. In no case shall a structure be reconstructed or replaced so as to increase its non-conformity. If the reconstructed or replacement structure is less than the required setback it shall not be any larger than the original structure, except as allowed pursuant to subsection (c)(1) above, as determined by the nonconforming floor area and volume of the reconstructed or replaced structure at its new location. If the total amount of floor area and volume of the original structure can be relocated or reconstructed beyond the required setback area, no portion of the relocated or reconstructed structure shall be replaced or constructed at less than the setback requirement for a new structure. When it is necessary to remove vegetation in order to replace or reconstruct a structure, vegetation shall be replanted in accordance with subsection (c)(2) above.

Any nonconforming structure which is located less than the required setback from a water body, tributary stream, or wetland and which is removed by 50 percent or less of the market value, or damaged or destroyed by 50 percent or less of the market value of the structure, excluding normal maintenance and repair, may be reconstructed in place if a permit is obtained from the code enforcement officer within one year of such damage, destruction, or removal.

In determining whether the building reconstruction or replacement meets the setback to the greatest practical extent the director of planning and permitting or its designee shall consider, in addition to the criteria in section 4(3)(b) above, the physical condition and type of foundation present, if any.

- (4) *Change of use of a nonconforming structure.* The use of a nonconforming structure may not be changed to another use unless the director of planning and permitting, after receiving a written application, determines that the new use will have no greater adverse impact on the water body, tributary stream, or wetland, or on the subject or adjacent properties and resources than the existing use.

In determining that no greater adverse impact will occur, the director of planning and permitting shall require written documentation from the applicant, regarding the probable effects on public health and safety, erosion and sedimentation, water quality, fish and wildlife habitat, vegetative cover, visual and actual points of public access to waters, natural beauty, floodplain management, archaeological and historic resources, and functionally water-dependent uses.

- (d) *Nonconforming uses.*

- (1) *Expansions.* Expansions of nonconforming uses are prohibited, except that nonconforming residential uses may, after obtaining a permit from the planning board, be expanded within existing residential structures or within expansions of such structures as allowed in subsection (c)(1)a. above.
- (2) *Resumption prohibited.* A lot, building or structure in or on which a nonconforming use is discontinued for a period exceeding one year, or which is superseded by a conforming use, may not again be devoted to a nonconforming use except that the planning board may, for good cause

shown by the applicant, grant up to a one-year extension to that time period. This provision shall not apply to the resumption of a use of a residential structure provided that the structure has been used or maintained for residential purposes during the preceding five-year period.

- (3) *Change of use.* An existing nonconforming use may be changed to another nonconforming use provided that the proposed use has no greater adverse impact on the subject and adjacent properties and resources than the former use, as determined by the planning board. The determination of no greater adverse impact shall be made according to criteria listed in subsection (c)(4) above.

(Ord. No. 011-09072010-07, § 5.4I, 9-7-2010)

Sec. 60-991. - Establishment of Shoreland Resource Protection District Overlay.

- (a) *Purpose.* The purpose of this overlay zone is to further the maintenance of safe and healthful conditions; to prevent and control water pollution; to protect fish spawning grounds, aquatic life, bird and other wildlife habitat; to protect buildings and lands from flooding and accelerated erosion; to protect archaeological and historic resources; to protect freshwater wetlands; to control building sites, placement of structures and land uses; to conserve shore cover, and visual as well as actual points of access to inland waters; to conserve natural beauty and open space; and to anticipate and respond to the impacts of development in natural resource areas.

The resource protection district includes areas in which development would adversely affect water quality, productive habitat, biological ecosystems, or scenic and natural values. This district shall include the following areas:

- (1) Areas within 250 feet, horizontal distance, of the upland edge of freshwater wetlands, and wetlands associated with great ponds and rivers, which are rated "moderate" or "high" value waterfowl and wading bird habitat, including nesting and feeding areas, by the Maine Department of Inland Fisheries and Wildlife (MDIF&W) that are depicted on a Geographic Information System (GIS) data layer maintained by either MDIF&W or the department as of May 1, 2006. For the purposes of this paragraph "wetlands associated with great ponds and rivers" shall mean areas characterized by non-forested wetland vegetation and hydric soils that are contiguous with a great pond or river, and have a surface elevation at or below the water level of the great pond or river during the period of normal high water. "Wetlands associated with great ponds or rivers" are considered to be part of that great pond or river.
 - (2) Areas of two or more contiguous acres with sustained slopes of 20 percent or greater.
 - (3) Areas of two or more contiguous acres supporting wetland vegetation and hydric soils, which are not part of a freshwater wetland as defined, and which are not surficially connected to a water body during the period of normal high water.
 - (4) Land areas along rivers subject to severe bank erosion, undercutting, or river bed movement.
 - (5) Properties owned by or under development restriction easements controlled by the Lake Auburn Watershed Protection Commission that are deemed to be appropriate for resource protection zoning by a vote of the commission.
- (b) *Use regulations.*
 - (1) *Permitted uses.* The following uses are permitted subject to the requirements of article V of this chapter:
 - a. Nonintensive recreational uses not requiring structures.
 - b. Forest management activities except for timber harvesting and land management road.
 - c. Soils and water conservation practices.
 - d. Fire prevention activities.

- e. Wildlife management practices.
 - f. Surveying and resource analysis.
 - g. Emergency operations.
 - h. Structures accessory to allowed uses.
 - i. Motorized vehicular traffic on existing roads and trails.
 - j. Mineral exploration.
 - k. Individual private camp sites.
 - l. Filling and earth moving of less than ten cubic yards.
 - m. Uses similar to allowed uses.
 - n. Conversion of seasonal residences to year-round residences.
- (2) *Special exception uses.* The following uses are permitted by special exception after approval by the planning board in accordance with the provisions of article XVI, div. 3, and article XII [of this chapter]:
- a. Mineral extraction including sand and gravel extraction.
 - b. Agriculture.
 - c. Aquaculture.
 - d. Principal structures and uses including driveways.
 - e. Filling and earth moving of greater than ten cubic yards.
 - f. Uses similar to uses requiring special exception approval.
- (c) *Dimensional requirements.* All structures in this district except as noted shall be subject to the following dimensional regulations:
- (1) *Minimum lot area, width and depth.* No lot shall be created and/or no building shall be erected on a lot containing less than the minimum lot size or measuring less than the minimum lot width or lot depth required for the underlying zoning district identified for the property where any activity is proposed.
 - (2) *Density.* The density of dwelling units shall not exceed the required density for the underlying zoning district identified for the property where any activity is proposed.
 - (3) *Yard requirements.* The rear, side and front yard requirements shall not be less than that required for the underlying zoning district for the property where any activity is proposed.
 - (4) *Height.* The height of all principal or accessory structures shall be limited to 35 feet in height. This provision shall not apply to structures such as transmission towers, windmills, antennas and similar structures having no floor area.
 - (5) *Off-street parking.* Off-street parking spaces shall be provided in accordance with the requirements for specific uses as set forth in article IV of this chapter.

(Ord. No. 011-09072010-07, § 5.4J, 9-7-2010)

Sec. 60-992. - Principal and accessory structures.

- (a) All new principal and accessory structures shall be set back at least 100 feet, horizontal distance, from the normal high-water line of great ponds classified GPA and rivers that flow to great ponds classified GPA, and 75 feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland, except that in general development areas the setback from the normal high-water line shall be at least 25 feet, horizontal distance. Lots less than

1520 feet deep measured at right angles to the shoreline which were in existence on or before December 17, 1973, shall have a shoreline setback requirement of 50 percent of the lot depth. In the resource protection district the setback requirement shall be 250 feet, horizontal distance, except for structures, roads, parking spaces or other regulated objects specifically allowed in that district in which case the setback requirements specified above shall apply.

For the purpose of this section the term "general development areas" includes all areas where the underlying zoning is identified as General Business, General Business II, ~~Central Business I, Central Business II, Central Business III, Form Based Code Districts, or~~ Industrial ~~or Multi-Family Urban~~ districts, except where these districts fall within the Taylor Pond or Lake Auburn Watersheds or on the east shore of Bobbin Mill Brook.

In addition:

- (1) The water body, tributary stream, or wetland setback provision shall neither apply to structures which require direct access to the water body or wetland as an operational necessity, such as piers, docks and retaining walls, nor to other functionally water-dependent uses.
- (2) On a nonconforming lot of record on which only a residential structure exists, and it is not possible to place an accessory structure meeting the required water body, tributary stream or wetland setbacks, the code enforcement officer may issue a permit to place a single accessory structure, with no utilities, for the storage of yard tools and similar equipment. Such accessory structure shall not exceed 80 square feet in area nor eight feet in height, and shall be located as far from the shoreline or tributary stream as practical and shall meet all other applicable standards, including lot coverage and vegetation clearing limitations. In no case shall the structure be located closer to the shoreline or tributary stream than the principal structure.
- (b) Principal or accessory structures and expansions of existing structures which are permitted in the underlying zoning district, shall not exceed 35 feet in height. This provision shall not apply to structures such as transmission towers, windmills, antennas, and similar structures having no floor area.
- (c) The lowest floor elevation or openings of all buildings and structures, including basements, shall be elevated and constructed in accordance with provisions of this chapter, art. XII, div. 2, Floodplain Overlay District. Accessory structures may be placed in accordance with the standards of that division and need not meet the elevation requirements.
- (d) The total footprint area of all structures, parking lots and other non-vegetated surfaces, within the SLO district shall not exceed 20 percent of the lot or a portion thereof, located within the SLO district, including land area previously developed, except in the general development areas adjacent to rivers that do not flow to great ponds classified GPA, where lot coverage shall not exceed 70 percent.
- (e) Retaining walls that are not necessary for erosion control shall meet the structure setback requirement, except for low retaining walls and associated fill provided all of the following conditions are met:
 - (1) The site has been previously altered and an effective vegetated buffer does not exist;
 - (2) The wall(s) is(are) at least 25 feet, horizontal distance, from the normal high-water line of a water body, tributary stream, or upland edge of a wetland;
 - (3) The site where the retaining wall will be constructed is legally existing lawn or is a site eroding from lack of naturally occurring vegetation, and which cannot be stabilized with vegetative plantings;
 - (4) The total height of the wall(s), in the aggregate, are no more than 24 inches;
 - (5) Retaining walls are located outside of the 100-year floodplain on rivers, streams, and tributary streams, as designated on the Federal Emergency Management Agency's (FEMA) flood insurance rate maps or flood hazard boundary maps, or the flood of record, or in the absence of these, by soil types identified as recent floodplain soils.

- (6) The area behind the wall is revegetated with grass, shrubs, trees, or a combination thereof, and no further structural development will occur within the setback area, including patios and decks; and
- (7) A vegetated buffer area is established within 25 feet, horizontal distance, of the normal high-water line of a water body, tributary stream, or upland edge of a wetland when a natural buffer area does not exist. The buffer area must meet the following characteristics:
 - a. The buffer must include shrubs and other woody and herbaceous vegetation. Where natural ground cover is lacking the area must be supplemented with leaf or bark mulch;
 - b. Vegetation plantings must be in quantities sufficient to retard erosion and provide for effective infiltration of stormwater runoff;
 - c. Only native species may be used to establish the buffer area;
 - d. A minimum buffer width of 15 feet, horizontal distance, is required, measured perpendicularly to the normal high-water line or upland edge of a wetland;
 - e. A footpath not to exceed the standards in section 60-1004(b)(1), may traverse the buffer;
- (f) Notwithstanding the requirements stated above, stairways or similar structures may be allowed with a permit from the code enforcement officer, to provide shoreline access in areas of steep slopes or unstable soils provided: that the structure is limited to a maximum of four feet in width; that the structure does not extend below or over the normal high-water line of a water body or upland edge of a wetland, (unless permitted by the Department of Environmental Protection pursuant to the Natural Resources Protection Act, 38 M.R.S.A. § 480-C); and that the applicant demonstrates that no reasonable access alternative exists on the property.

(Ord. No. 011-09072010-07, § 5.4K, 9-7-2010)

Sec. 60-993. - Piers, docks, wharves, bridges and other structures and uses extending over or below the normal high-water line of a water body or within a wetland.

- (a) Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion.
- (b) The location shall not interfere with existing developed or natural beach areas.
- (c) The facility shall be located so as to minimize adverse effects on fisheries.
- (d) The facility shall be no larger in dimension than necessary to carry on the activity and be consistent with the surrounding character and uses of the area. A temporary pier, dock or wharf shall not be wider than six feet for non-commercial uses.
- (e) No new structure shall be built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland unless the structure requires direct access to the water body or wetland as an operational necessity.
- (f) New permanent piers and docks shall not be permitted unless it is clearly demonstrated to the planning board that a temporary pier or dock is not feasible, and a permit has been obtained from the department of environmental protection, pursuant to the Natural Resources Protection Act.
- (g) No existing structures built on, over or abutting a pier, dock, wharf or other structure extending beyond the normal high-water line of a water body or within a wetland shall be converted to residential dwelling units in any district.
- (h) Except in the general development areas, structures built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland shall not exceed 20 feet in height above the pier, wharf, dock or other structure.

(Ord. No. 011-09072010-07, § 5.4L, 9-7-2010)

Sec. 60-994. - Campgrounds.

Campgrounds shall conform to the minimum requirements imposed under state licensing procedures and the following:

- (1) Campgrounds shall contain a minimum of 5,000 square feet of land, not including roads and driveways, for each site. Land supporting wetland vegetation, and land below the normal high-water line of a water body shall not be included in calculating land area per site.
- (2) The areas intended for placement of a recreational vehicle, tent or shelter, and utility and service buildings shall be set back a minimum of 100 feet, horizontal distance, from the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and 75 feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.

(Ord. No. 011-09072010-07, § 5.4M, 9-7-2010)

Sec. 60-995. - Individual private campsites.

Individual private campsites not associated with campgrounds are allowed provided the following conditions are met:

- (1) One campsite per lot existing on the effective date of this section, or 30,000 square feet of lot area within the shoreland zone, whichever is less, may be permitted.
- (2) Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be set back 100 feet, horizontal distance, from the normal high-water line of a great pond classified GPA or river flowing to a great pond classified GPA, and 75 feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.
- (3) Only one recreational vehicle shall be allowed on a campsite. The recreational vehicle shall not be located on any type of permanent foundation except for a gravel pad, and no structure except a canopy shall be attached to the recreational vehicle.
- (4) The clearing of vegetation for the siting of the recreational vehicle, tent or similar shelter in a resource protection district shall be limited to 1,000 square feet.
- (5) A written sewage disposal plan describing the proposed method and location of sewage disposal shall be required for each campsite and shall be approved by the local plumbing inspector. Where disposal is off-site, written authorization from the receiving facility or land owner is required.
- (6) When a recreational vehicle, tent or similar shelter is placed on-site for more than 120 days per year, all requirements for residential structures shall be met, including the installation of a subsurface sewage disposal system in compliance with the State of Maine Subsurface Wastewater Disposal Rules unless served by public sewage facilities.

(Ord. No. 011-09072010-07, § 5.4N, 9-7-2010)

Sec. 60-996. - Commercial and industrial uses.

The following new commercial and industrial uses are prohibited within the shoreland zone adjacent to great ponds classified GPA, and rivers and streams which flow to great ponds classified GPA:

- (1) Auto washing facilities

- (2) Auto or other vehicle service and/or repair operations, including body shops
- (3) Chemical and bacteriological laboratories
- (4) Storage of chemicals, including herbicides, pesticides or fertilizers, other than amounts normally associated with individual households or farms
- (5) Commercial painting, wood preserving, and furniture stripping
- (6) Dry cleaning establishments
- (7) Electronic circuit assembly
- (8) Laundromats, unless connected to a sanitary sewer
- (9) Metal plating, finishing, or polishing
- (10) Petroleum or petroleum product storage and/or sale except storage on same property as use occurs and except for storage and sales associated with marinas
- (11) Photographic processing
- (12) Printing

(Ord. No. 011-09072010-07, § 5.4O, 9-7-2010)

Sec. 60-997. - Parking areas.

- (a) Parking areas shall meet the shoreline and tributary stream setback requirements for structures for the district in which such areas are located. The setback requirement for parking areas serving public boat launching facilities in districts other than the general development areas shall be no less than 50 feet, horizontal distance, from the shoreline or tributary stream if the planning board finds that no other reasonable alternative exists further from the shoreline or tributary stream.
- (b) Parking areas shall be adequately sized for the proposed use and shall be designed to prevent stormwater runoff from flowing directly into a water body, tributary stream or wetland and where feasible, to retain all runoff on-site.
- (c) In determining the appropriate size of proposed parking facilities, the following shall apply:
 - (1) Typical parking space: Approximately ten feet wide and 20 feet long, except that parking spaces for a vehicle and boat trailer shall be 40 feet long.
 - (2) Internal travel aisles: Approximately 20 feet wide.

(Ord. No. 011-09072010-07, § 5.4P, 9-7-2010)

Sec. 60-998. - Roads and driveways.

The following standards shall apply to the construction of roads and/or driveways and drainage systems, culverts and other related features.

- (1) Roads and driveways shall be set back at least 100 feet, horizontal distance, from the normal high-water line of a great pond classified GPA or a river that flows to a great pond classified GPA, and 75 feet, horizontal distance from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland unless no reasonable alternative exists as determined by the planning board. If no other reasonable alternative exists, the road and/or driveway setback requirement shall be no less than 50 feet, horizontal distance, upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream, or wetland. Such techniques may include, but are not limited to, the installation of settling

basins, and/or the effective use of additional ditch relief culverts and turnouts placed so as to avoid sedimentation of the water body, tributary stream, or wetland.

On slopes of greater than 20 percent the road and/or driveway setback shall be increased by ten feet, horizontal distance, for each five percent increase in slope above 20 percent.

Section 60-997(a) does not apply to approaches to water crossings or to roads or driveways that provide access to permitted structures and facilities located nearer to the shoreline or tributary stream due to an operational necessity, excluding temporary docks for recreational uses. Roads and driveways providing access to permitted structures within the setback area shall comply fully with the requirements of this section except for that portion of the road or driveway necessary for direct access to the structure.

- (2) Existing public roads may be expanded within the legal road right-of-way regardless of their setback from a water body, tributary stream or wetland.
- (3) New roads and driveways are prohibited in a resource protection district except that the planning board may grant a permit to construct a road or driveway to provide access to permitted uses within the district. A road or driveway may also be approved by the planning board in a resource protection district, upon a finding that no reasonable alternative route or location is available outside the district. When a road or driveway is permitted in a resource protection district the road and/or driveway shall be set back as far as practicable from the normal high-water line of a water body, tributary stream, or upland edge of a wetland.
- (4) Road and driveway banks shall be no steeper than a slope of two horizontal to one vertical, and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in section 60-1004.
- (5) Road and driveway grades shall be no greater than ten percent except for segments of less than 200 feet.
- (6) In order to prevent road and driveway surface drainage from directly entering water bodies, tributary streams or wetlands, roads and driveways shall be designed, constructed, and maintained to empty onto an unscarified buffer strip at least 50 feet plus two times the average slope, in width between the outflow point of the ditch or culvert and the normal high-water line of a water body, tributary stream, or upland edge of a wetland. Surface drainage which is directed to an unscarified buffer strip shall be diffused or spread out to promote infiltration of the runoff and to minimize channelized flow of the drainage through the buffer strip.
- (7) Ditch relief (cross drainage) culverts, drainage dips and water turnouts shall be installed in a manner effective in directing drainage onto unscarified buffer strips before the flow gains sufficient volume or head to erode the road, driveway, or ditch. To accomplish this, the following shall apply:
 - a. Ditch relief culverts, drainage dips and associated water turnouts shall be spaced along the road, or driveway at intervals no greater than indicated in the following table:

| Grade (Percent) | Spacing (Feet) |
|--------------------|-------------------|
| 0-2 | 250 |
| 3-5 | 200-135 |
| 6-10 | 100-80 |

| | |
|-------|-------|
| 11-15 | 80-60 |
| 16-20 | 60-45 |
| 21 + | 40 |

- b. Drainage dips may be used in place of ditch relief culverts only where the grade is ten percent or less.
 - c. On sections having slopes greater than ten percent, ditch relief culverts shall be placed at approximately a 30-degree angle downslope from a line perpendicular to the centerline of the road or driveway.
 - d. Ditch relief culverts shall be sufficiently sized and properly installed in order to allow for effective functioning, and their inlet and outlet ends shall be stabilized with appropriate materials.
- (8) Ditches, culverts, bridges, dips, water turnouts and other stormwater runoff control installations associated with roads and driveways shall be maintained on a regular basis to assure effective functioning.

(Ord. No. 011-09072010-07, § 5.4Q, 9-7-2010)

Sec. 60-999. - Stormwater runoff.

- (a) All new construction and development shall be designed to minimize stormwater runoff from the site in excess of the natural predevelopment conditions. Where possible, existing natural runoff control features, such as berms, swales, terraces and wooded areas, shall be retained in order to reduce runoff and encourage infiltration of stormwaters.
- (b) Stormwater runoff control systems shall be maintained as necessary to ensure proper functioning.

(Ord. No. 011-09072010-07, § 5.4R, 9-7-2010)

Sec. 60-1000. - Septic waste disposal.

All subsurface sewage disposal systems shall be installed in conformance with the State of Maine Subsurface Wastewater Disposal Rules, and the following: a) clearing or removal of woody vegetation necessary to site a new system and any associated fill extensions, shall not extend closer than 75 feet, horizontal distance, from the normal high-water line of a water body or the upland edge of a wetland and b) a holding tank is not allowed for a first-time residential use in the SLO district.

(Ord. No. 011-09072010-07, § 5.4S, 9-7-2010)

Sec. 60-1001. - Essential services.

- (a) Where feasible, the installation of essential services shall be limited to existing public ways and existing service corridors.

- (b) The installation of essential services, other than road-side distribution lines, is not allowed in a resource protection district, except to provide services to a permitted use within said district, or except where the applicant demonstrates that no reasonable alternative exists. Where allowed, such structures and facilities shall be located so as to minimize any adverse impacts on surrounding uses and resources, including visual impacts.
- (c) Damaged or destroyed public utility transmission and distribution lines, towers and related equipment may be replaced or reconstructed without a permit.

(Ord. No. 011-09072010-07, § 5.4T, 9-7-2010)

Sec. 60-1002. - Agriculture.

- (a) All spreading of manure shall be accomplished in conformance with the Manure Utilization Guidelines published by the Maine Department of Agriculture on November 1, 2001, and the Nutrient Management Law (7 M.R.S.A. §§ 4201-4209).
- (b) Manure shall not be stored or stockpiled within 100 feet, horizontal distance, of a great pond classified GPA or a river flowing to a great pond classified GPA, or within 75 feet horizontal distance, of other water bodies, tributary streams, or wetlands. All manure storage areas within the shoreland zone must be constructed or modified such that the facility produces no discharge of effluent or contaminated stormwater.
- (c) Agricultural activities involving tillage of soil greater than 40,000 square feet in surface area, within the shoreland zone shall require a conservation plan to be filed with the planning board. Nonconformance with the provisions of said plan shall be considered to be a violation of this division.
- (d) There shall be no new tilling of soil within 100 feet, horizontal distance, of the normal high-water line of a great pond classified GPA; within 75 feet, horizontal distance, from other water bodies; nor within 25 feet, horizontal distance, of tributary streams and freshwater wetlands. Operations in existence on the effective date of this division and not in conformance with this provision may be maintained.
- (e) Newly established livestock grazing areas shall not be permitted within 100 feet, horizontal distance, of the normal high-water line of a great pond classified GPA; within 75 feet, horizontal distance, of other water bodies; nor within 25 feet, horizontal distance, of tributary streams and freshwater wetlands. Livestock grazing associated with ongoing farm activities, and which are not in conformance with the above setback provisions may continue, provided that such grazing is conducted in accordance with a conservation plan.

(Ord. No. 011-09072010-07, § 5.4U, 9-7-2010)

Sec. 60-1003. - Timber harvesting (repealed).

Chapter 21, Statewide Standards for Timber Harvesting in Shoreland Areas apply.

(Ord. No. 011-09072010-07, 9-7-2010; Ord. No. 15-11182019, 12-2-2019)

Sec. 60-1004. - Clearing or removal of vegetation for activities other than timber harvesting.

- (a) In a resource protection district abutting a great pond, there shall be no cutting of vegetation within the strip of land extending 75 feet, horizontal distance, inland from the normal high-water line, except to remove safety hazards.

Elsewhere, in any resource protection district the cutting or removal of vegetation shall be limited to that which is necessary for uses expressly authorized in that district.

- (b) ~~Except in areas as described in section 60-1003(a), above, and e~~ Except to allow for the development of permitted uses, within a strip of land extending 100 feet, horizontal distance, inland from the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and 75 feet, horizontal distance, from any other water body, tributary stream, or the upland edge of a wetland, a buffer strip of vegetation shall be preserved as follows:

- (1) There shall be no cleared opening greater than 250 square feet in the forest canopy (or other existing woody vegetation if a forested canopy is not present) as measured from the outer limits of the tree or shrub crown. However, a footpath not to exceed six feet in width as measured between tree trunks and/or shrub stems is allowed provided that a cleared line of sight to the water through the buffer strip is not created.
- (2) Selective cutting of trees within the buffer strip is allowed provided that a well-distributed stand of trees and other natural vegetation is maintained. ~~For the purposes of section 60-1003(b)(2) a "well-distributed stand of trees" adjacent to a great pond classified GPA or a river or stream flowing to a great pond classified GPA, shall be defined as maintaining a rating score of 24 or more in each 25-foot by 50-foot rectangular (1,250 square foot) area as determined by the following rating system.~~

| Diameter of Tree at 4½ feet Above Ground Level (inches) | Points |
|--|-------------------|
| 2 < 4 in. | 1 |
| 4 < 8 in. | 2 |
| 8 < 12 in. | 4 |
| 12 inches or greater | 8 |

Adjacent to other water bodies, tributary streams, and wetlands, a "well-distributed stand of trees" is defined as maintaining a minimum rating score of 16 per 25-foot by 50-foot rectangular area.

The following shall govern in applying this point system:

- a. The 25-foot by 50-foot rectangular plots must be established where the landowner or lessee proposes clearing within the required buffer;
- b. Each successive plot must be adjacent to, but not overlap a previous plot;
- c. Any plot not containing the required points must have no vegetation removed except as otherwise allowed by this division;
- d. Any plot containing the required points may have vegetation removed down to the minimum points required or as otherwise allowed by this division;
- e. Where conditions permit, no more than 50 percent of the points on any 25-foot by 50-foot rectangular area may consist of trees greater than 12 inches in diameter.

~~For the purposes of section 60-1003(b)(2) "other natural vegetation" is defined as retaining existing vegetation under three feet in height and other ground cover and retaining at least five~~

~~saplings less than two inches in diameter at four and one-half feet above ground level for each 25-foot by 50-foot rectangle area. If five saplings do not exist, no woody stems less than two inches in diameter can be removed until five saplings have been recruited into the plot.~~

Notwithstanding the above provisions, no more than 40 percent of the total volume of trees four inches or more in diameter, measured at four and one-half feet above ground level may be removed in any ten-year period.

- (3) In order to protect water quality and wildlife habitat, existing vegetation under three feet in height and other ground cover, including leaf litter and the forest duff layer, shall not be cut, covered, or removed, ~~except to provide for a footpath or other permitted uses as described in section 60-1003 paragraphs (b) and (b)(1) above.~~
- (4) Pruning of tree branches, on the bottom one-third of the tree is allowed.
- (5) In order to maintain a buffer strip of vegetation, when the removal of storm-damaged, diseased, unsafe, or dead trees results in the creation of cleared openings, these openings shall be replanted with native tree species unless existing new tree growth is present.

~~Section 60-1003(b) does not apply to those portions of public recreational facilities adjacent to public swimming areas as long as cleared areas are limited to the minimum area necessary.~~

- (c) At distances greater than 100 feet, horizontal distance, from a great pond classified GPA or a river flowing to a great pond classified GPA, and 75 feet, horizontal distance, from the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland, there shall be allowed on any lot, in any ten-year period, selective cutting of not more than 40 percent of the volume of trees four inches or more in diameter, measured four and one-half feet above ground level. Tree removal in conjunction with the development of permitted uses shall be included in the 40 percent calculation. For the purposes of these standards volume may be considered to be equivalent to basal area.

In no event shall cleared openings for any purpose, including but not limited to, principal and accessory structures, driveways, lawns and sewage disposal areas, exceed in the aggregate, 25 percent of the lot area within the shoreland zone or 10,000 square feet, whichever is greater, including land previously cleared. This provision shall not apply to the general development areas.

- (d) Legally existing nonconforming cleared openings may be maintained, but shall not be enlarged, except as allowed by this section.
- (e) Fields and other cleared openings which have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions of [section Chapter 21 Statewide Standards for Timber Harvesting in the Shoreland Zone, 60-1003.](#)

(Ord. No. 011-09072010-07, § 5.4W, 9-7-2010)

Sec. 60-1005. - Erosion and sedimentation control.

- (a) All activities which involve filling, grading, excavation or other similar activities which result in unstabilized soil conditions and which require a permit shall also require a written soil erosion and sedimentation control plan. The plan shall be submitted to the permitting authority for approval and shall include, where applicable, provisions for:
 - (1) Mulching and revegetation of disturbed soil.
 - (2) Temporary runoff control features such as hay bales, silt fencing or diversion ditches.
 - (3) Permanent stabilization structures such as retaining walls or rip-rap.
- (b) In order to create the least potential for erosion, development shall be designed to fit with the topography and soils of the site. Areas of steep slopes where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible.

- (c) Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance, and shall be in operation during all stages of the activity. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion.
- (d) Any exposed ground area shall be temporarily or permanently stabilized within one week from the time it was last actively worked, by use of riprap, sod, seed, and mulch, or other effective measures. In all cases permanent stabilization shall occur within nine months of the initial date of exposure. In addition:
 - (1) Where mulch is used, it shall be applied at a rate of at least one bale per 500 square feet and shall be maintained until a catch of vegetation is established.
 - (2) Anchoring the mulch with netting, peg and twine or other suitable method may be required to maintain the mulch cover.
 - (3) Additional measures shall be taken where necessary in order to avoid siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.
- (e) Natural and manmade drainageways and drainage outlets shall be protected from erosion from water flowing through them. Drainageways shall be designed and constructed in order to carry water from a 25-year storm or greater, and shall be stabilized with vegetation or lined with riprap.

(Ord. No. 011-09072010-07, § 5.4X, 9-7-2010)

Sec. 60-1006. - Soils.

All land uses shall be located on soils in or upon which the proposed uses or structures can be established or maintained without causing adverse environmental impacts, including severe erosion, mass soil movement, improper drainage, and water pollution, whether during or after construction. Proposed uses requiring subsurface waste disposal, and commercial or industrial development and other similar intensive land uses, shall require a soils report based on an on-site investigation and be prepared by state-certified professionals. Certified persons may include Maine Certified Soil Scientists, Maine Registered Professional Engineers, Maine State Certified Geologists and other persons who have training and experience in the recognition and evaluation of soil properties. The report shall be based upon the analysis of the characteristics of the soil and surrounding land and water areas, maximum ground water elevation, presence of ledge, drainage conditions, and other pertinent data which the evaluator deems appropriate. The soils report shall include recommendations for a proposed use to counteract soil limitations where they exist.

(Ord. No. 011-09072010-07, § 5.4Y, 9-7-2010)

Sec. 60-1007. - Water quality.

No activity shall deposit on or into the ground or discharge to the waters of the state any pollutant that, by itself or in combination with other activities or substances, will impair designated uses or the water classification of the water body, tributary stream or wetland.

(Ord. No. 011-09072010-07, § 5.4Z, 9-7-2010)

Sec. 60-1008. - Archaeological site.

Any proposed land use activity involving structural development or soil disturbance on or adjacent to sites listed on, or eligible to be listed on the National Register of Historic Places, as determined by the permitting authority, shall be submitted by the applicant to the Maine Historic Preservation Commission for review and comment, at least 20 days prior to action being taken by the permitting authority. The

permitting authority shall consider comments received from the commission prior to rendering a decision on the application.

(Ord. No. 011-09072010-07, § 5.4AA, 9-7-2010)

Sec. 60-1008.1. - Installation of public utility service.

A public utility, water district, sanitary district or any utility company of any kind may not install services to any new structure located in the shoreland zone unless written authorization attesting to the validity and currency of all local permits required under this or any previous ordinance has been issued by the appropriate municipal officials or other written arrangements have been made between the municipal officials and the utility.

(Ord. No. 011-09072010-07, § 5.4BB, 9-7-2010)

DIVISION 6. - MANUFACTURED HOUSING OVERLAY DISTRICT

Sec. 60-1009. - Manufactured Housing Overlay District (MHO).

This district is intended to establish minimum standards for the placement of manufactured housing in accordance with the provisions of 30-A M.R.S.A. § 4358, Regulation of Manufactured Housing, to restrict the location of older mobile homes and trailers, to require that manufactured housing, as defined in this division, be aesthetically compatible in terms of design standards with site-built homes and to provide alternatives for the location of affordable and safe housing within the city.

(Ord. of 9-21-2009, § 5.5A)

Sec. 60-1010. - Boundaries and definitions.

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

Manufactured housing means a structural unit designed for occupancy, and constructed in a manufacturing facility and then transported by the use of its own chassis, or placed on an independent chassis, to a building site. The term "manufactured housing" includes any type of building which is constructed at a manufacturing facility and then transported to a building site where it is utilized for housing and may be purchased or sold by a dealer in the interim. For purposes of this section, two types of manufactured housing are included. They are:

- (1) Those units constructed after June 15, 1976, commonly called "newer mobile homes," which the manufacturer certifies are constructed in compliance with the United States Department of Housing and Urban Development standards, meaning structures, transportable in one or more sections, which, in the traveling mode, are 14 body feet or more in width and are 700 or more square feet, and which are built on a permanent chassis and designed to be used as dwellings on foundations when connected to the required utilities, including the plumbing, heating, air conditioning and electrical systems contained therein; except that the term "manufactured housing" includes any structure which meets all the requirements of this subsection (1) of this definition, except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the state's department of housing and urban development and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, United States Code, Title 42, section 5401 et seq.; and
- (2) Those units commonly called "modular homes," which the manufacturer certifies are constructed in compliance with the State's Manufactured Housing Act and regulations, meaning structures,

transportable in one or more sections, which are not constructed on a permanent chassis and are designed to be used as dwellings on foundations when connected to required utilities, including the plumbing, heating, air-conditioning or electrical systems contained therein.

- (b) *Overlay district boundaries.* The manufactured housing overlay districts are those sections of the city shown on an overlay map on file in the offices of the department of community development and planning and the city clerk. The manufactured housing overlay district shall be superimposed over underlying zoning districts and any use shall be subject to compliance with all applicable provisions of the underlying district. Permitted uses in the underlying districts shall continue subject to compliance with the provisions of their overlay district. Nothing in this section shall permit uses in districts where such uses are not otherwise permitted.
 - (1) *Site-built home.* A building constructed on-site which is designed to be used as a dwelling on foundations when connected to the required utilities.
 - (2) *Older mobile homes, trailers.* Any factory-built home which fails to meet the definition of manufactured housing and more specifically, any mobile constructed prior to June 15, 1976, shall be restricted to approved mobile home parks.
 - (3) *Design standards.* Shall include, but are not limited to requirements for building width, roof pitch, roof material, siding material, foundations, additions and siting that are similar in character to traditional site-built residential homes. Design standards shall not apply to manufactured housing located in approved mobile home parks.
- (c) *Siting.* Siting of a dwelling on a lot is considered to be the angle at which a dwelling is placed in relation to frontage, as defined in subsection (a) of this section.
- (d) *Design standards.* All dwelling units in this district shall be subject to the following minimum design standards:
 - (1) *Building dimensions.* No building shall be less than 14 body feet in width and shall contain not less than 700 square feet of habitable living space.
 - (2) *Roof construction.* All roofs shall be covered with standard asphalt shingles and have a minimum pitch of 3.5 to 12. Roofs covering manufactured housing shall provide certified engineering data to show that roof additions will meet the performance criteria of the Auburn Building Code for snow and wind loads; the roof shall extend for the full length of the structure.
 - (3) *Exterior walls.* Exterior walls shall have traditional site-built appearance and may be materials such as clapboards, shingles and shakes, including synthetic or metal siding manufactured to closely resemble clapboards, shingles and shakes. Walls may also include masonry, wood, board-and-batten, and Texture 111 exterior plywood, but shall not include artificial masonry or fake board-and-batten made from metal.
 - (4) *Skirting.* Skirting is required except for dwellings placed on a frost wall or full foundations. Skirting shall meet the following criteria:
 - a. The material used is consistent with the materials permitted by subsection (b) of this section;
 - b. The skirting is extended either to the foundation or as close to the slab as possible that will still permit proper ventilation;
 - c. The skirting shall totally enclose the unit and be permanently affixed and fully supported by suitable framing to the unit.
 - (5) *Foundations.* The foundation shall be a permanent concrete reinforced six inches slab; concrete or masonry frost wall, wood or full basement. All foundations shall meet the performance criteria of the Auburn Building Code.
 - (6) *Enclosed additions.* Additions shall have the same exterior wall material as permitted by subsection (b) of this section, except that glass may be used for greenhouse additions. All additions shall have an asphalt shingled roof with a minimum pitch of 3.5 to 12.

- (7) *Anchoring.* All mobile homes shall be anchored to the foundation or slab by attaching the frame to six-inch eye bolts, set at the four corners of the foundation or slab, with one-quarter inch steel cable or equivalent. All mobile homes shall be anchored to the foundation and elevated as required by section 60-668.
- (8) *Transportation components.* Appendages required for transportation, which shall include but not limited to the tongue, axles and wheels shall be removed or enclosed so as not to be visible.
- (9) *Siting.* Dwellings shall be sited on the lot subject to the following conditions:
- a. Dwellings less than 24 feet in width.
 1. Dwellings sited in excess of 15 degrees but less than 30 degrees shall have an enclosed addition equal to 15 percent of the floor area of the structure. The addition shall project out not less than 20 percent of the length of the structure at not greater than a 60 degree angle. Additions shall not be permitted attached to and extended from the narrow side of the dwelling.
 2. Dwellings sited in excess of 30 degrees but less than 45 degrees shall meet all of the criteria set forth in subsection (9)a1 of this section provided that such addition be located on the street side area of the lot.
 3. No dwellings less than 24 feet in width shall be allowed to be sited on a lot in excess of 45 degrees unless it is sited a minimum of 100 feet from the front yard setback and screened from view of the public right-of-way.
 - b. Dwellings 24 feet or greater in width shall not be subject to siting standards.
 - c. Additions shall include enclosed structures such as breezeways, garages and extensions to the interior living space. Carports, open breezeways, decks and patios shall not be counted as an addition.
 - d. Angles of siting are based upon the lot frontage being the horizontal or parallel line.
 - e. Dwellings to be located on a curve shall have the angle of siting determined by locating a tangent point at the midpoint of the curve arc. Lines shall then be drawn parallel and perpendicular to such point.
- (10) *Fuel storage tank.* Any fuel storage tank must be placed either in the basement, crawl space or in an attached addition or be screened so as not to be visible from adjacent properties or any street, within one year of installation.

(Ord. of 9-21-2009, §§ 5.5B, 5.5C)

Secs. 60-1011—60-1033. - Reserved.

ARTICLE XIII. - ENVIRONMENTAL PERFORMANCE STANDARDS

DIVISION 1. - GENERALLY

Sec. 60-1034. - Purpose.

The purpose of the standards in this article relating to smoke, noise, vibration, odors, air pollution and electrical disturbance of infrastructure is to ensure that no new development occurs which may have an environmental impact that could be detrimental to the city or property owners or that may have a direct impact to property caused by nuisances directly or indirectly associated with the above environmental issues. The standards provided in this article shall apply to all nonresidential uses in the city.

(Ord. of 9-21-2009, § 5.6A)

Sec. 60-1035. - Applicability.

No land use, facility, or activity shall be exempt from complying with the environmental performance standards contained in this article because of grandfathering or because of being an existing use, facility, or activity at the time the standards were enacted. The standards apply to all existing and future sources, land uses, facilities, and activities in the non-residential uses of the city, except as otherwise provided herein.

(Ord. No. 09-05202019, 9-9-2019)

Editor's note— Ord. No. 09-05202019 created a new § 60-1035 and renumbered §§ 60-1035—60-1040 as §§ 60-1036—60-1041.

Sec. 60-1036. - Smoke.

- (a) For the purposes of determining the density of equivalent opacity of smoke, the Ringlemann Chart, as adopted and published by the United States Department of Interior, Bureau of Mines Information Circular 8333, May 1967, shall be used. The Ringlemann number referred to in this section refers to the number of the area of the Ringlemann Chart that coincides most nearly with the visual density of equivalent opacity of the emission of smoke observed. For example, a reading of Ringlemann No. 1 indicates a 20 percent density of the smoke observed.
- (b) All measurements shall be taken as close to the point emission of the smoke as reasonably possible.
- (c) In all zones, no development may emit from a vent, stack, chimney or combustion process any smoke that exceeds a density or equivalent capacity of Ringlemann No. 1, except that an emission does not exceed a density or equivalent capacity of Ringlemann No. 2, is permissible for a duration of not more than four minutes during any eight-hour period if the source of such emission is not located within 250 feet of a residential district.
- (d) In the industrial zone, no development use may emit from a vent, stack, chimney or combustion process any smoke that exceeds a density or equivalent capacity of Ringlemann No. 2, except that an emission that does not exceed a density or equivalent capacity of Ringlemann No. 3 is permissible for a duration not more than four minutes during any eight-hour period if the source of emission is not located within 500 feet of a residential district.

(Ord. of 9-21-2009, § 5.6B; Ord. No. 09-05202019, 9-9-2019)

Note— Formerly § 60-1035. See editor's note for § 60-1035.

Sec. 60-1037. - Noise.

- (a) A decibel is a measure of a unit of sound pressure. Since sound waves having the same decibel level sound louder or softer to the human ear depending upon the frequency of the sound wave in cycles per sound (i.e., whether the pitch of the sound is high or low) and A-weighted filter constructed in accordance with the specifications of the American National Standards Institute, which automatically takes account of the varying effect on the human ear of different pitches, shall be used on any sound level meter taking measurements required by this section. And accordingly, all measurements are expressed in dB(A) to reflect the use of this A-weighted filter.
- (b) The standards established in the table set forth in subsection (c) of this section are expressed in terms of the equivalent sound level (Leq), which must be calculated by taking 100 instantaneous A-weighted sound levels at then-second intervals and computing the Leq.

- (c) Except as provided in subsection (d) of this section, the following table establishes the maximum permissible noise levels for nonresidential uses. Measurements shall be taken at the boundary line of the lot where the nonresidential use is located, and, as indicated, the maximum permissible noise levels vary according to the zoning of the lot adjacent to the lot on which the use is located.

| | Zoning of Adjacent Lot | | |
|---------------------|------------------------|-------------------------|-------------------------|
| | <i>Residential</i> | <i>General Business</i> | <i>Light Industrial</i> |
| Maximum sound level | 50 | 60 | 70 |

- (d) Impact noises are sounds that occur intermittently rather than continuously. Impact noises generated by sources that do not operate more than one minute in any one-hour period are permissible up to a level of ten dB(A) in excess of the figures listed in the table, except that this higher level of permissible noise shall not apply from 7:00 p.m. to 7:00 a.m. when the adjacent lot is zoned residential. The impact noise shall be measured using the fast response of the sound level meter.
- (e) Noise resulting from temporary construction activity that occurs between 7:00 a.m. and 7:00 p.m. shall be exempt from the requirements of this section.

(Ord. of 9-21-2009, § 5.6C; Ord. No. 09-05202019, 9-9-2019)

Note— Formerly § 60-1036. See editor's note for § 60-1035.

Sec. 60-1038. - Vibration.

- (a) No development in any zone may generate any ground-transmitted vibration that is perceptible to the human sense of touch measured at:
- (1) The outside boundary of the immediate space occupied by the enterprise generating the vibration if the enterprise is one of several located on a lot; or
 - (2) The lot line if the enterprise generating the vibration is the only enterprise located on a lot.
- (b) No development in any zone may generate any ground-transmitted vibration in excess of the limits set forth in subsection (e) of this section. Vibration shall be measured at any adjacent lot line or residential district line as indicated in the table set forth in subsection (e) of this section.
- (c) The instrument used to measure vibrations shall be a three-component measuring system capable of simultaneous measurement of vibration in three mutually perpendicular directions.
- (d) The vibration maximums set forth in subsection (e) of this section are stated in terms of particle velocity, which may be measured directly with suitable instrumentation or computed on the basis of displacement and frequency. When computed, the following formula shall be used:

$$PV = 6.28 F \times D$$

Where: ;b0;[W1] PV = Particle velocity, inches-per-second

F = Vibration frequency, cycles-per-second

D = Single amplitude displacement of the vibration, inches

The maximum velocity shall be the vector sum of the three components recorded.

(e) Table of maximum ground-transmitted vibration:

| Particle velocity, inches-per-second | |
|--------------------------------------|-----------------------------|
| <i>Adjacent Lot Line</i> | <i>Residential District</i> |
| 0.020 | 0.02 |

- (f) The values stated in subsection (e) of this section may be multiplied by two for impact vibrations, i.e., discrete vibration pulsations not exceeding one second in duration and having a pause of at least one second between pulses.
- (g) Vibrations resulting from temporary construction activity that occurs between 7:00 a.m. and 7:00 p.m. shall be exempt from the requirements of this section.
- (h) Vibration resulting from the railroads passing through the city shall be exempt from these standards.

(Ord. of 9-21-2009, § 5.6D; Ord. No. 09-05202019, 9-9-2019)

Note— Formerly § 60-1037. See editor's note for § 60-1035.

Sec. 60-1039. - Odors.

- (a) For purposes of this section, the term "odor threshold" is defined as the minimum concentration in air of a gas, vapor, or particulate matter than can be detected by the abutters of the property in question.
 - (1) No development in any non-residential use may generate any odor that reaches the odor threshold, measured at the lot line of the enterprise generating the odor of a "dilution-to-threshold", D/T, of seven or less using a field olfactometer.
 - (2) Whether or not an odor emission interferes with the reasonable and comfortable use and enjoyment of a property shall be measured against the objective standards of a reasonable person of normal sensitivity. The use of a field olfactometer meter may be used for documentation, verification and enforcement as needed. A measurement reading of seven D/T or less shall be maintained at the property line.
 - (3) Odor observation shall be undertaken to arrive at a determination that an objectionable odor exists at the property line, or beyond the property line if a public space where people live, work or assemble is impacted.
 - (4) If complaints are received regarding farming operations, and the farm is using best management practices as outlined in state and federal standards, the Right-to-Farm, MRSA, Title 7, Chapter 6, Statute 153, shall prevail.
- (b) Administration and enforcement. The code enforcement officer, and/or their official designee, of the city shall administer and enforce this article. The CEO will follow section 2-639 in determining time limits for corrective actions based on the level of risk or nuisance posed by the issue.
 - (1) Upon receiving three different complaints the CEO shall investigate the issue. If the CEO detects and/or the operator indicates that management provisions installed within the facility are not being followed, the CEO shall provide verbal notice of violation with instructions to comply with the

standards within ten business days, and to inform the officer of efforts or completion within that time. The officer may use electronic meters or devices to measure and quantify the issue for comparative and/or enforcement purposes.

- (2) If complaints persist and/or the issues are not resolved after the ten-day period described above, a written notice of violation, as specified under chapter 2, article VIII, citation system of code enforcement, with the requirement that the owner/operator prepare a mitigation plan that meets the requirements of this ordinance, along with a time table for implementation within 30 days. If the installed mitigations fail to bring the facility into compliance, a specialist may be required to design a remedy, and the city may use contracted staff or peer review escrow fees to review the mitigation plan.
- (3) If the operator has not submitted the required report or made efforts to comply within 45 days the CEO shall issue a second written notice of violation and assess additional fines as specified under chapter 2, article VIII.
- (4) If the operator has not submitted the required report or if the operator has not provided substantial evidence of attempted compliance within 60 days of the first written notice of violation, the city manager may consider temporarily suspending the business license (if a business license was issued), under the provisions of chapter 14, ~~article 11~~, business license, in addition to issuing further citations and penalties under chapter 2, article VIII. If the issue, complaints, or matter remains unresolved or addressed by the owner/operator within 90 days of the written notice of violation, the city manager may ask the city council to permanently revoke the business license, and/or further penalties and citations will be issued until the matter is resolved.

(Ord. of 9-21-2009, § 5.6E; Ord. No. 09-05202019, 9-9-2019)

Note— Formerly § 60-1038. See editor's note for § 60-1035.

Sec. 60-1040. - Air pollution.

- (a) Any development that emits an air contaminant as defined by the state department of environmental protection shall comply with applicable state standards concerning air pollution.
- (b) No zoning or special exception permit may be issued with respect to any new development covered by subsection (a) of this section until the state department of environmental protection has certified to the city that the appropriate state permits have been received by the developer, or that the developer will be eligible to receive such permits and that the development is otherwise in compliance with applicable air pollution laws.

(Ord. of 9-21-2009, § 5.6F; Ord. No. 09-05202019, 9-9-2019)

Note— Formerly § 60-1039. See editor's note for § 60-1035.

Sec. 60-1041. - Electrical disturbance or interference.

No use may:

- (1) Create any electrical disturbance that adversely affects any operations or equipment other than those of the creator of such disturbance; or
- (2) Otherwise cause, create or contribute to the interference with electronic signals (including television and radio broadcasting transmissions) to the extent that the operation of any equipment not owned by the creator of such disturbance is adversely affected.

(Ord. of 9-21-2009, § 5.6G; Ord. No. 09-05202019, 9-9-2019)

Note— Formerly § 60-1040. See editor's note for § 60-1035.

Sec. 60-1042. - Authorization, enforcement and severability.

- (a) *Authorization.* This article is adopted pursuant to title 30-A M.R.S.A. § 3001 and the city's home rule powers as provided for in article VII-A of the Maine Constitution and title 30-A M.R.S.A. §§ 2101 through 2109 and in accordance with the authority of the city to seek judicial remedies in order to protect the inhabitants of the city, the city as a municipal corporation, and individual residents of the city as provided for by the laws of the state, including, but not limited to title 17 M.R.S.A. §§ 2702, 2705 and 2706; title 30-A M.R.S.A. § 2002 and at common law.
- (b) *Severability.* If any section, subsection, sentence, clause, phrase, or portion of this article is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions.

(Ord. No. 09-05202019, 9-9-2019)

Secs. 60-1043—60-1063. - Reserved.

DIVISION 2. - PHOSPHORUS CONTROL

Sec. 60-1064. - Purpose.

- (a) The purpose of this division is to provide protection against additional phosphorus export to Taylor Pond and Lake Auburn from new land uses and changes in existing land uses by ensuring that development within the watersheds does not generate more phosphorus than the water bodies can handle and by eliminating or reducing existing sources of phosphorus.
- (b) Phosphorus, a nutrient, stimulates algal growth, the main cause of water quality decline. The primary source of new and increasing phosphorus loading in the state lakes is land development: residential, commercial and industrial.

(Ord. of 9-21-2009, § 5.7A)

Sec. 60-1065. - Definitions.

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

Acceptable increase in lake phosphorus concentration (C) is based upon water quality and the city's selected level of protection. For Taylor Pond the number is 0.75; for Lake Auburn the number is 0.5.

Direct watershed means any land area which contributes storm-water runoff by either surface or subsurface flow to Taylor Pond or Lake Auburn without such runoff first passing through an upstream lake.

Future area to be developed (D) means an estimate of the acreage in the city's share of the direct watersheds that will be developed during the planning period of 50 years. For Taylor Pond, the estimated future developed acreage is 715.3; for Lake Auburn, the estimated future developed acreage is 1,180.0.

Lake Auburn means the Lake Auburn Watershed regulated by this chapter is all land areas within the direct watershed of Lake Auburn as defined on the attached map entitled Lake Auburn Watershed Map.

Per-acre phosphorus allocation (P) means the acceptable increase of phosphorus export per acre in the watershed as determined by solving the following equation $(P) = (FC)/(D)$. For Taylor Pond, the phosphorus allocation is 0.036; for Lake Auburn, the phosphorus allocation is 0.047.

Phosphorus export coefficient (F) means the amount of phosphorus export from the watershed each year that will produce a one ppb increase in the lake's phosphorus concentration. For Taylor Pond, the phosphorus coefficient is 35.26 lbs/ppb/year; for Lake Auburn, the phosphorus coefficient is 109.9 lbs/ppb/year.

Taylor Pond means the Taylor Pond Watershed regulated by this chapter is all land areas within the direct watershed of Taylor Pond as defined on the attached map entitled "Taylor Pond Watershed Map".

(Ord. of 9-21-2009, § 5.7B)

Sec. 60-1066. - Applicability.

This division shall apply to all land areas within the direct watersheds of Taylor Pond and Lake Auburn. The following land uses shall be required to obtain a phosphorus control permit and conform to the standards contained in this division:

- (1) Any new building or structure with more than 575 square feet of ground floor area.
- (2) Any expansions or series of expansions of ground floor area of any existing building which increases the area of the ground floor by more than 30 percent of that which exists at the time of adoption of the ordinance from which this division is derived.
- (3) Any earth moving, brush and tree cutting which impacts 10,000 square feet or more whether accomplished as a single activity or as a series of activities beginning on the date of adoption of the ordinance from which this division is derived shall only meet the criteria contained in section 60-1069.
- (4) Road or driveway construction and reconstruction and parking area construction which affects more than 1,500 square feet of land area whether accomplished as a single activity or as a series of activities beginning on the date of adoption of the ordinance from which this division is derived shall only meet the criteria contained in section 60-1069.
- (5) All projects for which special exception, site plan and subdivision review is required.

(Ord. of 9-21-2009, § 5.7C)

Sec. 60-1067. - Exemptions.

This division shall not apply to the following:

- (1) Changes of use within an existing structure where no ground floor expansion and/or road, driveway and parking area expansion is planned.
- (2) Timber management or harvesting operations conducted according to a management plan prepared and supervised by a registered forester (unless required by division 4 of article XII of this chapter) or the city water district.
- (3) Agricultural uses conducted according to a soil and water conservation plan approved by the Androscoggin County Soil and Water Conservation District.

(Ord. of 9-21-2009, § 5.7D)

Sec. 60-1068. - Best management practices.

Agriculture, silviculture, mining, chemical use and storage and waste disposal activities should be conducted in accordance with the best management practices (BMPs) as recommended by the department of environmental protection, the state soil and water conservation commission, the cooperative extension service or other appropriate public service agency. New roads and the reconstruction of existing roads, driveways, drainage diversions, ditches and roadside buffers should be designed for the worst storm conditions in accordance with the best management practices (BMPs) recommended by the department of environmental protection, the state soil and water conservation commission, the cooperative extension service or other appropriate public service agency.

(Ord. of 9-21-2009, § 5.7E)

Sec. 60-1069. - Erosion and sedimentation controls.

A comprehensive erosion and sedimentation control plan, including a proposed program for the maintenance and periodic inspection of all control facilities which will remain after the project is completed and a designation of the responsible party, shall be submitted as follows:

- (1) *Taylor Pond Watershed*. A plan designed in accordance with the applicable sections of chapter 8 of the DEP Phosphorous Control and Lake Watersheds: A Technical Guide to Evaluating New Development, the latest edition of the Maine Erosion and sediment Control Handbook and all building and environmental protection requirements of this Code.
- (2) *Lake Auburn Watershed*. A plan designed in accordance with the applicable sections of chapter 8 of the DEP Phosphorous Control and Lake Watersheds: A Technical Guide to Evaluating New Development, the latest edition of the Maine Erosion and Sediment Control Handbook, and all building and environmental protection requirements of this Code and criteria of the city water district or commission.

(Ord. of 9-21-2009, § 5.7F)

Sec. 60-1070. - Submission requirements.

All projects subject to review under the provisions of this division shall submit a phosphorus control plan and maintenance provisions meeting the standards set forth in the manual MAINE STORMWATER MANAGEMENT DESIGN MANUAL Phosphorus Control Manual Volume II MARCH 2016 Phosphorus Control and Lake Watersheds A Technical Guide to Evaluating New Development (Maine DEP et al., September 1989, with the Simple Review Method revised in May 1990).

- (1) *Plan submission*. Plans shall be submitted and processed in accordance with article XVI of this chapter. In addition to the requirements for submission under this article, the following instructions shall be provided:
 - a. A long-term maintenance plan for all phosphorus control measures including provisions for inspection and repair, designation of responsible parties, contractual obligations and proposed deed restrictions.
 - b. Hydrologic soil class of all areas to be cleared or where clearing will be permitted, with the area indicated in square feet of each lot using the appropriate method as described in the phosphorus control manual.
 - c. All calculations and worksheets in the format of those contained in the phosphorus control manual and detailed construction specifications and diagrams for all control measures.
 - d. A comprehensive erosion and sedimentation control plan, designed in accordance with the MAINE EROSION AND SEDIMENT CONTROL BEST MANAGEMENT PRACTICES (BMPs) Manual for Designers and Engineers October 2016 Maine Erosion and Sediment

~~Control Handbook for Construction: Best Management Practices, March 1991,~~ and ~~and~~ all building and environmental protection requirements of this Code.

(2) *Review method.*

- a. All projects shall use the standard review method and shall conform to the Phosphorus Allocation standard set forth in this division including the following: Expansions of four lot subdivisions which were previously approved using the simple review method.
- b. Projects meeting the following criteria may employ the simple review method:
 1. Minor subdivisions with four or fewer lots provided that these developments contain less than 200 feet of new or upgraded roads and/or all driveways serving residential uses are less than 150 feet in length.
 2. Activity which includes less than 200 feet of new or upgraded road construction.

- (3) *Commercial and industrial development and expansions.* Commercial and industrial development and expansions of commercial and industrial developments and the expansion of multifamily dwelling units, which involve less than 15,000 square feet of disturbed area. All other subdivisions including expansions of previously approved four-lot subdivisions which were reviewed using the simple review method and all other projects shall utilize the standard review method.

(Ord. of 9-21-2009, § 5.7G)

Secs. 60-1071—60-1093. - Reserved.

ARTICLE XIV. - HISTORIC AND ARCHAEOLOGICAL RESOURCES

Sec. 60-1094. - Purpose.

The provisions set forth in this article are intended to protect the public health and safety, promote the general welfare of the community and conserve the environment by assuring that all projects requiring planning board review are designed and developed in a manner which ensures that adequate provisions are made for protection of historic and archaeological resources; minimizing the adverse impacts on adjacent properties; and fitting the project harmoniously into the fabric of the community.

(Ord. of 9-21-2009, § 5.8A)

Sec. 60-1095. - Submission requirements.

The location of historic and/or archaeological resources, must be indicated on the plans if the area is located within identified historic or archaeological areas shown on the Maine Historic Preservation Commission Maps in the Community Development Office.

(Ord. of 9-21-2009, § 5.8B)

Sec. 60-1096. - Standards of approval.

The plan for the development will reflect the natural capabilities of the site to support development. Building lots and support facilities will be clustered in those portions of the site that have the most suitable conditions for development. The development shall include appropriate measures for protecting these resources including, but not limited to, modification of the proposed design of the site, time of construction, and limiting the extent of excavation.

(Ord. of 9-21-2009, § 5.81C)

Secs. 60-1097—60-1115. - Reserved.

ARTICLE XV. - BOARD OF APPEALS

DIVISION 1. - GENERALLY

Secs. 60-1116—60-1129. - Reserved.

DIVISION 2. - ORGANIZATION

Sec. 60-1130. - Membership.

There shall be a board of appeals consisting of seven members and two associate members appointed by the city council. Each member shall be at all times a resident of the city.

(Ord. of 9-21-2009, § 6.1A)

Sec. 60-1131. - Term of office.

The members and associate members of the board shall serve no more than three consecutive three-year terms.

(Ord. of 9-21-2009, § 6.1B)

Sec. 60-1132. - Associate members.

An associate member shall have a vote only in the event that one or more regular members of the board are absent or are disqualified from serving on a particular matter because of a conflict of interest.

(Ord. of 9-21-2009, § 6.1C)

Sec. 60-1133. - Jurisdiction.

The board of appeals shall have jurisdiction over:

- (1) Interpretation of provisions of the zoning chapter called into question;
- (2) Administrative appeals from decisions or lack thereof of the building inspector or code enforcement officer in regard to an application for a permit under the zoning chapter;
- (3) The granting of variances from the requirements of the zoning chapter would cause undue hardship.

(Ord. of 9-21-2009, § 6.1D)

Sec. 60-1134. - Board rules.

The board shall adopt, and may from time to time amend, rules and regulations to govern the conduct of its business. The tape recording of the board's proceedings, the transcript of testimony, if any, and exhibits, together with all papers and requests filed in the proceedings, shall constitute the record. All

decisions shall become a part of the record and shall include a statement of findings and conclusion and the appropriate order, relief or denial thereof.

(Ord. of 9-21-2009, § 6.1E)

Sec. 60-1135. - Quorum.

Five members shall constitute a quorum at any meeting.

(Ord. of 9-21-2009, § 6.1F)

Secs. 60-1136—60-1150. - Reserved.

DIVISION 3. - APPEALS PROCEDURE

Sec. 60-1151. - Petition.

Written petitions for appeal signed by any party in interest shall be filed in duplicate in the office of the municipal officer charged with enforcement of the zoning ordinance, together with the fee in the amount provided in the city fee schedule, within 30 days from the date of the decision or order. The municipal officer shall forward to the board of appeals, planning director, the chairman of the planning board and the city solicitor, one copy of such petition. The planning director, 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 and legal information is received, it shall be summarized at the public hearing and an opportunity afforded for comment by those interested in the appeal.

(Ord. of 9-21-2009, § 6.2A)

Sec. 60-1152. - Public hearing.

- (a) On each such petition, the board shall hold a public hearing, within 65 days of the filing of the appeal petition. Notice of the time, date, place, appellant name and subject of each such hearing shall be given by publication in a newspaper of general circulation in the city on two separate dates not more than 12 nor less than three days before the date of such hearing. Notification of the public hearing shall also be sent to the appellant, the planning director, the building inspector, the city manager and all owners of abutting property and property located directly across the street from the site of the property which is the subject of the appeal by mailing to them copies of such notice as published. Notices shall be mailed to such property owners at the addresses appearing for them in the then current property tax listing of the city. 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.
- (b) The chairman, or in his absence the acting chairman, shall preside at the public hearing. All hearings of the board of appeals shall be open to the public.
- (c) The chairman shall open the hearing and determine whether a quorum of the board of appeals is present. For each appeal heard, the chairman shall summarize the nature of the appeal, identify all relevant information submitted, determine the board's jurisdiction and the appellant's standing, determine the parties to the action and proceed to accept oral and written testimony from the appellant

and the public for and against the appeal. When all parties have been heard, the chairman shall close the hearing or, if additional time is needed, continue it to a later date.

- (d) The chairman shall determine that the appellant has standing, that is, the right to appear as an appellant before the board. An appellant must hold title to the land, be part owner or have an option to buy or lease property and/or building, in order to have standing.
- (e) The chairman shall determine the parties to the action. The appellant, municipal officers, planning board, abutting property owners, individuals who might be adversely affected by any decision and any member of the general public attending the meeting who has made specific statements concerning terms of the appeal, may be made party to the action.

(Ord. of 9-21-2009, § 6.2B)

Sec. 60-1153. - Decision.

- (a) The decision of the board shall be made as soon as possible, but not later than 30 days of the public hearing, unless extended by mutual agreement of the board and appellant. Failure of the board to act within 30 days shall be deemed to be the denial of the petition sought, subject to judicial appeal.
- (b) The board of appeals may by an affirmative vote of a majority of those members present amend or revise a decision of the building inspector, code enforcement officer or of any other municipal officer acting under the zoning ordinance. The board of appeals may permit variances from literal application of the zoning ordinance in accordance with the principles, conditions and procedures set forth in this chapter, subject to the duty of the board to promote the public health, safety, convenience and welfare and to adhere to the central intents and purposes of this chapter. Approval may be subject to conditions, modifications and restrictions as the board of appeals may deem necessary.
- (c) The board shall keep a record of each appeal entertained, noting the date when received from the building inspector or code enforcement officer, the date of hearing, the applicant or appellant and the date of the decision. The board shall record by resolution the final disposition of every appeal. All of the foregoing shall be public records filed with the office charged with enforcement of the zoning ordinance. Notice of the decision shall be mailed within seven days to the applicant or appellant. Each notice shall specify that judicial appeals shall be made pursuant to the terms of section 60-1208.
- (d) The right to proceed under any variance or petition granted under the terms of this chapter, voted by the board of appeals, or under change in a decision of the building inspector, code enforcement officer 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. If such right is not exercised within six months of the date of the vote, the board may grant a six-month extension without having to make another finding of hardship provided that:
 - (1) Conditions upon which the appeal was granted have not changed; and
 - (2) The appellant can show just cause for the delay in beginning the project.

(Ord. of 9-21-2009, § 6.2C)

Secs. 60-1154—60-1184. - Reserved.

DIVISION 4. - POWERS AND DUTIES

Sec. 60-1185. - Interpretation.

- (a) Except as otherwise provided in this chapter, the board of appeals shall interpret provisions of the zoning ordinance which are called into question. Only persons with standing may appeal the denial of a permit which was based on provisions of the zoning ordinance.

- (b) Where there is no evidence to the contrary, zoning ordinance language should be given its ordinary meaning. Statements of purpose may provide a key to the intent of zoning provision. In interpreting the ordinance, the board may request the advice of the city solicitor, the planning director or qualified experts in zoning law.

(Ord. of 9-21-2009, § 6.3A)

Sec. 60-1186. - Administrative appeals.

- (a) The board of appeals may hear appeals in the administration of the zoning chapter in order to determine if the building inspector or code enforcement officer erred in granting or denying a permit. An applicant who is given no decision on a permit request, or who is denied a permit may appeal.
- (b) If the board of appeals finds that the building inspector or code enforcement officer acted in error, it should order the error to be corrected.

(Ord. of 9-21-2009, § 6.3B)

Sec. 60-1187. - Variance.

- (a) The board of appeals may grant a variance from the dimensional regulations and supplementary district regulations contained in the zoning chapter where the strict application of the ordinance, or a provision thereof, to the petitioner or property would cause undue hardship based on:
 - (1) The land in question cannot yield a reasonable return unless the variance is granted;
 - (2) The need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
 - (3) The granting of a variance will not alter the essential character of the locality; and
 - (4) The hardship is not the result of action taken by the appellant or a prior owner.

Variances granted under this subsection (a) shall be the minimum necessary to relieve hardship. The burden of proof is on the applicant to prove undue hardship.

- (b) The board of appeals may grant a variance for the expansion, extension or enlargement of nonconforming buildings or uses provided that:
 - (1) The use being requested shall be approved by a majority of those members present (not less than a quorum being present).
 - (2) The board of appeals shall make findings that the requirements of subsection (a) of this section have been met.
- (c) In addition to the criteria in this section, in determining whether or not to grant a variance, the board shall also take into consideration the following:
 - (1) Fire, electrical and police safety requirements;
 - (2) The adequacy of the traffic circulation system in the immediate vicinity;
 - (3) The availability of an adequate water supply;
 - (4) The availability of adequate sewerage facilities;
 - (5) Would not violate the environmental standards or criteria contained in the Overlay Zoning Districts;
 - (6) Would not adversely affect property adjoining the premises under appeal or nearby in the same neighborhood or in the same zoning district;

- (7) Would not endanger the public health, safety or convenience; and
- (8) Would not impair the integrity of the zoning chapter.
- (d) Wherever necessary to meet the criteria or consideration listed in this division, the board, when granting a variance, may attach such conditions or restrictions as are in accordance with the objectives and purposes of this zoning chapter.
- (e) The planning director, or his representative, shall be responsible for reviewing the records of hearings of the board of appeals. Such review shall be conducted on a monthly basis and shall be for the purpose of maintaining the zoning ordinance. The ordinance may be deemed to be in need of amendment when variances for identical purposes or reasons are applied for in a single zoning district or regarding a specific section of this chapter on three or more occasions within a given calendar year. In any case in which the zoning ordinances are deemed to be in need of amendment, the planning director or his representative shall prepare a report indicating whether the variances applied for suggest that the ordinance or the description of the zoning districts should be amended. Such reports shall be forwarded to the planning board for its review and recommendation.

(Ord. of 9-21-2009, § 6.3C)

Secs. 60-1188—60-1207. - Reserved.

DIVISION 5. - JUDICIAL APPEAL

Sec. 60-1208. - Superior court.

Appeals from decisions of the city planning board or of the city zoning board of appeals or on account of the failure of any municipal official or board to comply with the order of the board of appeals shall be taken to the superior court within 30 days of such decision or action in accordance with Rule 80B of the Maine Rules of Civil Procedure and 30-A M.R.S.A. § 2691(3). Except as otherwise provided by statute, every person shall have the right to inspect and copy any record of the board's proceedings, provided that, the inspection be scheduled to occur during regular hours and at such a time as will not inconvenience the regular activities of the office having custody of the record and provided further that the cost of copying the recorded or, if necessary, the translation of mechanical or electronic data compilations into some other form, shall be paid by the person requesting the copy.

(Ord. of 9-21-2009, § 6.4)

Secs. 60-1209—60-1234. - Reserved.

DIVISION 6. - SPECIAL APPEAL

Sec. 60-1235. - Floodplain district variances.

The board of appeals may grant a variance from strict compliance with requirements of division 2 of article XII of this chapter after public notice and public hearing as provided in this article, provided the following conditions are met:

- (1) The applicant can show that a failure to grant a variance would result in undue hardship as defined in 30-A M.R.S.A. § 4353.
- (2) A determination made by the board with a certification from a registered professional engineer provided by the applicant, if need be, that the granting of the variance will not result in increased flood heights. The professional engineer shall include the following information within their certification: criteria on which the certification was based; any assumptions that were made; source of data for those assumptions; and references to the research material that was relied

upon in making the certification. In addition, the board shall determine as a condition for the granting of the variance that it will not result in threats to public safety, extraordinary public expense, create a nuisances, causes fraud on or victimization of the public or conflict with existing local laws or ordinances.

- (3) A determination by the board that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (4) The applicant shall be notified in writing that the issuance of a variance to building a structure below the base flood level will result in increased premium rates for flood insurance and such construction below the base flood level increases risks to life and property.

(Ord. of 9-21-2009, § 6.5A)

Sec. 60-1236. - Shoreland zone variance.

When by reasons of extraordinary physical conditions peculiar to the land or building 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 chapter), the board of zoning appeals may grant a variance from strict compliance with the requirements of division 2 of article XII of this chapter after notice and public hearing as provided in this article. 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. 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.

(Ord. of 9-21-2009, § 6.5B)

Sec. 60-1237. - Lake Auburn Watershed zone variance.

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 chapter, the board of zoning appeals may grant a variance from strict compliance with the requirements of division 4 of article XII of this chapter after notice and public hearing as provided in this article. 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 city water district 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 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.

(Ord. of 9-21-2009, § 6.5C)

Secs. 60-1238—60-1255. - Reserved.

ARTICLE XVI. - ADMINISTRATION AND ENFORCEMENT

DIVISION 1. - GENERALLY

Secs. 60-1256—60-1275. - Reserved.

DIVISION 2. - SITE PLAN REVIEW

Subdivision I. - In General

Sec. 60-1276. - Purpose.

The purpose of site plan review is to ensure that the design and layout of certain developments permitted by special exceptions, or other developments noted herein, will constitute suitable development and will not result in a detriment to city, neighborhood or the environment.

(Ord. of 9-21-2009, § 7.1A)

Sec. 60-1277. - Objective.

In considering a site plan, the planning board shall make findings that the development has made provisions for:

- (1) Protection of adjacent areas against detrimental or offensive uses on the site by provision of adequate surface water drainage, buffers against artificial and reflected light, sight, sound, dust and vibration; and preservation of light and air;
- (2) Convenience and safety of vehicular and pedestrian movement within the site and in relation to adjacent areas;
- (3) Adequacy of the methods of disposal for wastes; and
- (4) Protection of environment features on the site and in adjacent areas.

(Ord. of 9-21-2009, § 7.1B)

Sec. 60-1278. - Applicability.

A site plan review shall be required for the following projects:

- (1) All uses permitted by special exception.
- (2) Any other uses for which site plan review is required by any other provision contained in this or other ordinances.

(Ord. of 9-21-2009, § 7.1C)

Secs. 60-1279—60-1299. - Reserved.

Subdivision II. - Procedure

Sec. 60-1300. - File for site plan review.

An applicant for site plan review shall file with the department of community development and planning a completed site plan application along with an original and 1529 copies of the site plan and the required processing fee. Such plans shall be filed not less than 30 days prior to a regularly scheduled meeting. Plans shall be folded at a size not to exceed 8½ inches by 11 inches.

(Ord. of 9-21-2009, § 7.1D(1))

Sec. 60-1301. - Scale; required information.

The original plan shall be drawn on reproducible Mylar at a scale of no more than 100 feet to the inch. Each site plan shall contain the following information:

- (1) Name and address of owner and developer and interest of the applicant if other than the owner or developer.
- (2) Name of development, scale and meridian arrow, with specific definition of representation, date of plan and legend.
- (3) Names and addresses of all owners of record of all adjacent property as appear on assessor's records.
- (4) Current zoning boundaries and 100-year floodplain boundaries including surrounding areas to a distance of 300 feet from the perimeter of the site.
- (5) Easements; rights-of-way, existing, planned or proposed; or other reservations adjacent to or intersecting the property.
- (6) Topographic map of the site, containing the following:
 - a. Existing contours, where the slope of existing ground surface is generally two percent or more, the topographic map shall show contours at intervals of five feet of elevation (or lesser intervals as the planning board or engineering department may prescribe). Where the slope of the existing ground surface is generally less than two percent, contour intervals of one foot shall be shown. These contours shall not be copied from the city topographic maps and shall be determined from an on-site survey certified by a registered land surveyor.
 - b. Proposed contours shall be shown at intervals to be determined by the city engineer.
- (7) Location of watercourses, wetlands, marshes, surface water, rock outcroppings, wooded areas, single trees with a diameter of ten inches measured three feet from the base of the trunk.
- (8) Location of buildings existing on the tract to be developed and on adjacent tracts within a distance of 100 feet from the property line, indicating whether existing buildings on the tract are to be retained, modified or removed.
- (9) Locations of water mains, sewer mains, wells, fire hydrants, culverts, drains, pipe sizes, grades and direction of flow, existing within 200 feet of the subject property.
- (10) Existing soil conditions and soil suitability test results.
- (11) Locations of proposed buildings and uses thereof.
- (12) Proposed traffic circulation system including streets, parking lots, driveways and other access and egress facilities, curblines, sidewalk lines and existing streets, including the projected traffic flow patterns into and upon the site for both vehicles and pedestrians and an estimate of the projected number of motor vehicle trips to and from the site for an average day and for peak hours.
- (13) Location of existing and proposed public utility lines, indicating whether proposed lines will be placed underground.
- (14) Site developments requiring stormwater permits pursuant to 38 M.R.S.A. § 420-D shall include the required plan and to the extent permitted under 38 M.R.S.A. § 489-A, be reviewed under the procedures of article XVI of this chapter; and they shall meet and comply with 38 M.R.S.A. § 484(4-A) and those Rules promulgated by the Maine Department of Environmental Protection pursuant to the Site Law and section 420-D, specifically Rules 500, 501 and 502, as last amended August 12, 2015. If a project proposes infiltration and the standards in Rule 500, appendix D are not met, then a waste discharge license may be required from the Maine Department of

Environmental Protection. An infiltration system serving a development regulated under the Site Location of Development Act may be required to meet standards in addition to those in appendix D.

- (15) Location and design of proposed off-street parking and loading areas indicating number and size of stalls.
- (16) Proposed location and direction of and time of use of outdoor lighting.
- (17) Existing and proposed planting, fences and walls, including all landscaping and screening and indicating existing trees to be retained and areas to be left undisturbed, including design features intended to integrate the proposed new development into the existing landscape to enhance aesthetic assets and to screen objectionable features from neighbors.
- (18) Location, size, design and manner of illumination of signs.
- (19) Disposal of sewage, trash, solid waste, oil waste, hazardous waste or radioactive waste showing disposal facilities, receptacles or areas.
- (20) Perimeter boundaries of the site giving complete descriptive lot data by bearings, distances and radii of curves including the name and seal of the registered land surveyor who prepared the plan.
- (21) Description and plan of capacity and location of means of sewage disposal together with approval of sewer district engineer or evidence of soil suitability for such disposal (test pit locations shall be shown on the plans) similarly approved by the city engineer department.
- (22) A statement of the amount of area of land involved in the site, the percentage of the site proposed to be covered by buildings, the total number of dwelling units proposed per acre, the area proposed to be devoted to open space, the area proposed to be paved for parking, driveways, loading space and sidewalks, the total number of parking spaces required by the zoning chapter for the uses proposed, the number of employees expected per shift and the total floor area of proposed commercial or industrial uses.
- (23) Description and plan of a phase development concept detailing the areas and sequence of phasing.
- (24) A statement by the developer assuring that he has the financial capabilities to fully carry out the project and to comply with the conditions imposed by the planning board.

(Ord. of 9-21-2009, § 7.1D(2); Ord. No. 10-10172016, 11-7-2016)

Sec. 60-1302. - Exemption for information.

Upon request, the planning board, or the planning director, acting for the board, may waive the necessity of providing any of the foregoing planning information which is not relevant to the proposed development. The planning board or the planning director, acting for the board, may waive the site plan review fee if the purpose of the site plan review is to determine the adaptive reuse of a structure of community significance.

(Ord. of 9-21-2009, § 7.1D(3); Ord. No. 05-04032017, § 3, 4-24-2017)

Sec. 60-1303. - Approval—Time line for review.

The planning director shall, within five days of receipt, transmit copies of the application and site plan to the department that in his view requires such information. The agencies receiving these copies shall have up to 15 days to make recommendations to the planning board.

(Ord. of 9-21-2009, § 7.1D(4))

Sec. 60-1304. - Same—Public hearing; findings.

The planning board shall, within 30 days of receipt of a completed application, hold a public hearing. Notice of a hearing shall be given in the manner provided for in division 3 of article XVII of this chapter. The planning board will take final action on the site plan within 60 days of receiving a completed application, or within such other time limit as may be mutually agreed to. Such final action shall consist of either:

- (1) A finding and determination that the proposed project will constitute a suitable development and will not result in a detriment to the neighborhood or the environment; or
- (2) A written denial of the application stating the reasons for such denial, upon a finding that:
 - a. The provisions for vehicular loading, unloading and parking and for vehicular and pedestrian circulation on the site and onto adjacent public streets will create hazards to safety.
 - b. The bulk, location or operation of proposed buildings and structures will be detrimental to and adversely affect the use and values of existing development in the neighborhood or the health or safety of persons residing or working therein.
 - c. The provisions for on-site landscaping are inadequate to screen neighboring properties from unsightly features of the development.
 - d. The site plan does not adequately provide for the soil and drainage problems which the development may give rise to in accordance with section 60-1301(14).
 - e. The provisions for exterior lighting create safety hazards for motorists traveling on adjacent streets, or are inadequate for the safety or occupants or users of the site, or will create a nuisance affecting adjacent properties.
 - f. The proposed development will unduly burden off-site sewer drainage or water systems.
 - g. The proposed development will create a fire hazard by failing to provide adequate access to the site, or to buildings on the site, for emergency vehicles.
 - h. The proposed development violates provisions of the zoning regulations applicable to the site or other applicable laws, regulations or ordinances.
 - i. The proposed development will unduly impact the ability to provide municipal services.

(Ord. of 9-21-2009, § 7.1D(5))

Sec. 60-1305. - Same—Subject to conditions, modification, restrictions, etc.

Approval may be made subject to conditions, modifications and restrictions as the planning board may deem necessary; and any construction, reconstruction, alteration or addition shall be carried on only in conformity to such conditions, modifications or restrictions and in conformity with the application and site plan.

(Ord. of 9-21-2009, § 7.1D(6))

Sec. 60-1306. - Signed copies.

If no action is taken within 60 days after submittal of a completed application, the site plan shall be deemed to have been approved. An original of the approved plan signed by the planning board and one signed copy shall be delivered to the applicant, the assessor's department, the engineering department and to the building inspector on which basis building permits may be issued when all other required plans have been approved.

(Ord. of 9-21-2009, § 7.1D(7))

Sec. 60-1307. - Findings in writing.

The findings of the planning board shall be in writing with a copy being forwarded to the applicant. The planning board's written report shall also include a statement as to how any deficiencies in the site plan might be resolved and what conditions, modifications and restrictions are to be complied with in executing the plan.

(Ord. of 9-21-2009, § 7.1D(8))

Sec. 60-1308. - Expiration of approval.

Approval of a site plan shall expire one year after the date of approval unless all building permits have been obtained to begin construction in accordance with the approved site plan. If a development is contested with litigation, the approval period of this section shall not commence until a final court judgment is issued or until the litigation has been dismissed with prejudice. This provision shall apply retroactively to all projects approved after January 1, 2007. Any site plan that contains a phase concept approved by the planning board shall not be required to obtain all building permits within the time sequence established for completion of each phase. No building permits or other permits shall be issued until all improvements are substantially completed for the preceding phase. A single one-year extension may be given upon a showing of good cause in writing by the applicant to the planning board not less than 30 days before the expiration of approval of his existing plan. The planning board shall approve or disapprove the requested extension at its next regular meeting.

(Ord. of 9-21-2009, § 7.1D(9); Ord. No. 02-04012013, att. D, 4-16-2013)

Sec. 60-1309. - No building permitted without approval.

No permit shall be issued for the construction of any building in an area included in the site plan or in any development for which a site plan is required until such site plan has been approved by the planning board and unless the construction plans and specifications presented to the building inspector with the application for the permit are consistent with the approved site plan.

(Ord. of 9-21-2009, § 7.1D(10))

Sec. 60-1310. - Certificate of occupancy.

No certificate of occupancy shall be issued with respect to any building until all construction called for by the site plan is completed, except by special permission of the planning board granted upon a showing of special circumstances warranted the issuance of the certificate and that the remaining construction will be completed within a reasonable time.

(Ord. of 9-21-2009, § 7.1D(11))

Sec. 60-1311. - Deposit of surety.

The planning board may require the applicant with the submission of the site plan to tender a certified check payable to the city and issued by a surety company or secured by deposits issued by institutions authorized to issue the same by the laws of the state or the United States or irrevocable letters of credit issued by said banking institutions in an amount of money determined by the city planner, with

the advice of the various city departments and agencies concerned, to be sufficient to ensure compliance with the approved site plan.

(Ord. of 9-21-2009, § 7.1D(12))

Sec. 60-1312. - Review of planning board needed for variance.

For those developments subject to site plan review (division 2 of article XVI of this chapter) the relaxation of the dimensional requirements of any use district shall be reviewed by the planning board. The modifications of the dimensional requirements shall be allowed as the planning board may deem necessary to carry out the objectives and intent of site plan review as specified in division 2 of article XVI of this chapter.

(Ord. of 9-21-2009, § 7.1D(13))

Sec. 60-1313. - Correction of off-site deficiencies.

The planning board shall have the right to require the developer, at his expense, to correct any off-site deficiencies either created or aggravated by the developer's proposed project.

(Ord. of 9-21-2009, § 7.1D)

Secs. 60-1314—60-1334. - Reserved.

DIVISION 3. - SPECIAL EXCEPTION

Sec. 60-1335. - Approval required.

The planning board may approve for development those land uses listed as special exceptions under the terms of the zoning ordinance. The determinations of the board shall be in harmony with the expressed intent of the zoning ordinance and with the expressed major purpose of the city master development plan. Special exceptions shall be allowed only when they will substantially serve public convenience and welfare and will not involve dangers to health or safety.

(Ord. of 9-21-2009, § 7.2A)

Sec. 60-1336. - Conditions.

- (a) As conditions prerequisite to the granting of any special exceptions, the board shall require evidence of the following:
- (1) That the special exception sought fulfills the specific requirements, if any, set forth in the zoning ordinance relative to such exception.
 - (2) That the special exception sought will neither create nor aggravate a traffic hazard, a fire hazard or any other safety hazard.
 - (3) That the special exception sought will not block or hamper the master development plan pattern of highway circulation or of planned major public or semipublic 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 application.

- (5) That reasonable provisions have been made for adequate land space, lot width, lot area, stormwater management in accordance with section 60-1301(14), green space, driveway layout, road access, off-street parking, landscaping, building separation, sewage disposal, water supply, fire safety, and where applicable, a plan or contract for perpetual maintenance of all the common green space and clustered off-street parking areas to ensure all such areas will be maintained in a satisfactory manner.
- (6) That the standards imposed are, in all cases, at least as stringent as those elsewhere imposed by the city building code and by the provisions of this chapter.
- (7) That essential city services which will be required for the project are presently available or can be made available without disrupting the city's master development plan.
- (b) As part of the granting or the denial of any such petition for a special exception, the board shall show by written statements filed in its records of such application and by a statement in the minutes of the board how the special exception sought fulfills the foregoing conditions. An applicant may request the board to make a statement as to how the special exception may be granted without danger to health and safety and without substantially derogating from the essential intents and purposes of the zoning ordinance or of the city master development plan.
- (c) Approval of a special exception may be made subject to such conditions, modifications and restrictions on the proposed land use as the planning board may deem necessary to carry out the foregoing objectives and conditions. Any development of the land uses allowed by special exception shall be carried out only in conformity to such conditions, modifications and restrictions in addition to those that may be called for by an approved site plan for the same site and shall be enforced by the municipal officer charged with enforcement in the same manner as specified for approved site plans. Any change, addition or enlargement of a use allowed by special exception shall require approval of the planning board in the same manner as specified for the original special exception.

(Ord. of 9-21-2009, § 7.2B)

Sec. 60-1337. - Procedures.

Special exceptions shall be subject to the site plan review procedure specified in subdivision II of division 2 of article XVI of this chapter. The planning board shall, within 30 days of receipt of a completed application, hold a public hearing. Notice of a hearing shall be given in the manner provided for in division 3 of article XVII of this chapter. The planning board will take final action on the special exception within 60 days after its submittal or within such other time limit as may be mutually agreed to. The applicant shall accompany the application with the required fee in the amount provided in the city fee schedule.

(Ord. of 9-21-2009, § 7.2C)

Secs. 60-1338—60-1358. - Reserved.

DIVISION 4. - SUBDIVISION

Sec. 60-1359. - Guidelines.

When reviewing any subdivision for approval, the planning board shall consider the following criteria, and before granting either approval or denial, shall determine that the proposed subdivision:

- (1) Will not result in undue water, air or noise pollution. In making this determination it shall at least consider:
 - a. The elevation of land above sea level and its relation to the floodplains, the nature of soils and subsoils and their ability to adequately support waste disposal;

- b. The slope of the land and its effect on effluents;
 - c. The availability of streams for disposal of effluents; and
 - d. The applicable state and local health and water resources regulations, including stormwater management requirements in accordance with section 60-1301(14);
- (2) Has sufficient water available for the reasonably foreseeable needs of the subdivision;
 - (3) Will not cause an unreasonable burden on an existing water supply, if one is to be utilized;
 - (4) Will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result;
 - (5) Will not cause unreasonable highway or public road congestion or unsafe conditions with respect to use of the highways or public roads existing or proposed;
 - (6) Will provide for adequate sewage waste disposal;
 - (7) Will not cause an unreasonable burden on the ability of a municipality to dispose of solid waste and sewage if municipal services are to be utilized;
 - (8) Will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites or rare and irreplaceable natural areas;
 - (9) Is in conformance with a duly adopted subdivision regulation or ordinance, comprehensive plan, development plan, or land use plan, if any;
 - (10) Is funded by a subdivider has adequate financial and technical capacity to meet the standards of this section;
 - (11) Will not adversely affect the character of the surrounding neighborhood and will not tend to depreciate the value of property adjoining the neighboring property under application;
 - (12) Has provisions for on site landscaping that are adequate to screen neighboring properties from unsightly features of the development;
 - (13) Will not create a fire hazard and has provided adequate access to the site for emergency vehicles;
 - (14) Will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of groundwater;
 - (15) Does not have long-term cumulative effects of the proposed subdivision will that unreasonably increase a great pond phosphorus concentration during the construction phase and life of the proposed subdivision.

(Ord. of 9-21-2009, § 7.3A)

Sec. 60-1360. - Procedure—For minor subdivision.

- (a) *Generally.* The planning board may require where it deems it necessary for the protection of public health, safety and welfare, that a minor subdivision comply with all or any of the requirements specified for major subdivision.
- (b) *Procedure.*
 - (1) The subdivider shall submit an application for approval of a minor subdivision plan at least 30 days prior to a scheduled meeting of the planning board.
 - (2) The applicant shall secure approval from the tax assessor for a lot numbering sequence to ensure compatibility with the existing tax system. The numbering system will not be construed to indicate anything more than identification of parcels for taxation purposes.

- (3) All applications for plan approval for minor subdivision shall be accompanied by a fee in the amount per lot provided in the city fee schedule, payable by check to the city.
- (4) The subdivider or his duly authorized representative, shall attend the meeting of the planning board to discuss the plan.
- (5) Upon receiving an application, the municipal reviewing authority shall notify by mail all abutting property owners of the proposed subdivision, specifying the location of the proposed subdivision and a general description of the project. After the municipal reviewing authority has determined that a complete application has been filed, it shall notify the applicant and begin its full evaluation of the proposed subdivision.
- (6) The planning board shall, within 30 days of receiving the complete application, hold a public hearing on such plan. Notification shall comply with division 3 of article XVII of this chapter.
- (7) Upon receipt of a complete application, the planning board shall take final action within 30 days or within such other time limits which may be mutually agreed to by the developer. Such final action shall consist of approval, approval with conditions or disapproval of the final plan. The planning board shall specify its reasons for any such conditions or approval by its approved minutes. The planning board shall convey in writing to the developer their final action.

(Ord. of 9-21-2009, § 7.3B)

Sec. 60-1361. - Same—Major preliminary subdivision.

- (a) The application for approval of the preliminary plan shall be accompanied by a fee in the amount per lot, up to 100 lots, provided in the city fee schedule, payable by check to the city.
- (b) The applicant shall secure approval from the tax assessor for a lot numbering sequence that is compatible with the existing system.
- (c) The subdivider, or his duly authorized representative shall attend the meeting of the planning board to discuss the preliminary plan.
- (d) Upon receiving an application, the planning department shall issue to the applicant a dated receipt. Upon receiving an application, the planning department shall notify by mail all abutting property owners of the proposed subdivision, specifying the location of the proposed subdivision and a general description of the project.
- (e) The planning board shall within 30 days of receiving the completed application, hold a public hearing on the preliminary plan. The city shall publish a public hearing notice in conformance with section 60-1474. Abutters shall also be specifically notified of this hearing by the municipality. Failure of any petitioner or property owner 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 property owner and shall not invalidate any recommendation by the planning board.
- (f) When granting preliminary approval to the preliminary plan, the planning board shall state the conditions of such approval, if any, with respect to:
 - (1) The specific changes which it will require in the final plan;
 - (2) The character and extent of the required improvements for which waivers may have been requested and which in its opinion may be waived without jeopardy to the public health, safety and general welfare.
- (g) Preliminary approval of a preliminary plan shall not constitute approval of the final plan, but rather it shall be deemed an expression of approval of the design submitted on the preliminary plan as a guide to the preparation of the final plan. The final plan shall be submitted for approval of the planning board and for recording upon fulfillment of the requirements of these standards and the conditions of the preliminary approval, if any. Prior to approval of the final subdivision plan, the planning board may

require additional changes as a result of new information obtained at the public hearing. The board by majority vote may determine if a public hearing is necessary at this time for final plan review.

(Ord. of 9-21-2009, § 7.3C)

Sec. 60-1362. - Same—Major subdivision final plan.

- (a) The subdivider shall, within six months after the preliminary approval of the preliminary plan, file with the planning board an application for approval of the final subdivision plan in the form described herein. If the final plan is not submitted to the planning board within six months after the approval of the preliminary plan, a single six-month extension may be given upon a showing of good cause in writing by the applicant to the planning board not less than 30 days before the expiration of approval of his existing plan. The planning board shall approve or disapprove the requested extension at its next regular meeting. The planning board may refuse without prejudice to act on the final plan and require resubmission of the preliminary plan. All applications for final plan approval for major subdivisions shall be accompanied by a fee in the amount provided in the city fee schedule, payable by check to the city.
- (b) The planning board shall, within 30 days after the public hearing on a final plan, conditionally approve, approve, approve with conditions, or disapprove the final plan. Any such decision of the planning board shall include findings of fact, and any approval with conditions or disapproval shall be accompanied by the reasons therefor in writing.
- (c) In reviewing a subdivision, the planning board shall consider previous subdivision of the same applicant, subdivider or principals of such application. If the developer has failed to complete the public improvements shown on an approved plan to the satisfaction of the planning board, then this shall constitute conclusive evidence of technical capabilities of the applicant or developer to comply with the terms of this chapter or to complete work required by a plan.

(Ord. of 9-21-2009, § 7.3D)

Sec. 60-1363. - Final approval and filing.

(a) *Final approval.*

- (1) One ~~computer aided drafting disk~~electronic copy, ~~three reproducible Mylar copies~~ and 1520 paper prints of each diagram plan and each sheet of all accompanying information shall be submitted by the subdivider or his agent to the planning board not less than 30 days prior to a regular monthly meeting of the planning board. Any lack of required information or other deficiencies must be completed before such final plan can be reviewed by the planning board.
- (2) The planning board, after such public hearing, may require the subdivider to incorporate in the final plan such changes as they deem advisable. The planning board may then vote final approval of such final plan. Notice of the date and substance of such vote shall be entered on the Mylar drawing of such final map, if one sheet, or on the sheet containing the index map, if more than one sheet; on the reproducible master of any subsequent sheets there shall be entered a reference to the notice on the index sheet. The reproducible master drawings, so endorsed, shall be returned to the subdivider at the time that the performance bonds have been submitted to the city engineering department.
- (3) Such final approval of a final plan shall not be deemed the laying out or acceptance by the city of any way, easement or utility or other public area shown on such plan, nor shall such approval be deemed to constitute by itself any acceptance of liability by the city for the use or maintenance of any streets, ways or other public areas indicated on such a final plan.

(b) *Filing.*

- (1) As promptly as may be, and not more than 30 days after the date of the vote of final approval, the subdivider at his expense shall furnish the planning board with ~~three~~six reproductions ~~on~~

~~Mylar~~ of each sheet of the endorsed original ~~Mylar drawing of the~~ final plan as approved ~~together with three paper prints of each sheet thereof~~, and each reproduction or print shall show any endorsement made on its original.

- (2) The city clerk shall attest and seal each of the aforesaid ~~three~~six master reproductions ~~and each of the aforesaid three paper prints~~. The city planner shall transmit one set of such paper prints, so attested, to the city engineer, one to the water district, and one set to the sewer district if the subdivision be within the sewer district limits, otherwise to the planning and permitting services department. In addition, the city planner shall send one of the ~~three~~six sets of attested copies to the planning board, one set to the assessor and one set to the subdivider to be recorded by him in the Androscoggin County Register of Deeds, and a CAD disk to information services.
- (c) *Plan revisions after approval.* No changes, erasures, modifications, or revisions shall be made in any final plan after approval has been given by the planning board and endorsed in writing on the plan, unless the plan is first resubmitted and planning department staff approves any modifications. In the event that a final plan is recorded without complying with this requirement, the same shall be considered null and void, and the board shall institute proceedings to have the plan stricken from the records of the municipal officers and the registry of deeds and/or to enjoin any development attempted or commenced pursuant to said plan, and for other appropriate relief.
- (d) *Improvement completion time.* All required improvements shall be completed no later than two years after approval of the final plan. Should the subdivider request an extension it shall be made in writing to the planning board. Should the planning board grant an extension it shall be for a period not to exceed six months. Only one extension shall be granted. Should the subdivider not complete the required improvements within the time specified the subdivider shall be in violation of this chapter. If a development is proposed to be phased then specific requirements for each phase shall be complete prior to issuing Building Permits for that phase. If a development is contested with litigation, the two year completion requirement shall not commence until a final court judgment is issued or until the litigation has been dismissed with prejudice. This provision shall apply retroactively to all projects approved after January 1, 2007.

(Ord. of 9-21-2009, § 7.3E; Ord. No. 02-04012013, att. D, 4-16-2013)

Sec. 60-1364. - Enforcement.

- (a) No plan of a subdivision of land within the city which would constitute a subdivision as defined herein shall hereafter be filed or recorded in the registry of deeds until a final plan thereof shall have been approved by the planning board in accordance with all of the requirements, design standards, and construction specifications set forth elsewhere in this chapter, in this Code, nor until such approval shall have been entered on such final plan by the planning board.
- (b) No person may convey, offer or agree to convey any land in a subdivision which has not been approved by the planning board and recorded in the registry of deeds.
- (c) Any person, firm, corporation or other legal entity who conveys, offers or agrees to convey any land in a subdivision which has not been approved as required by this section shall be punished by a fine as set forth by state law or in this Code for each such conveyance, offering or agreement. The attorney general, district attorney or the city or the appropriate municipal officers may institute proceedings to enjoin the violation of this section.
- (d) No public utility, water district, sanitary district or any utility company of any kind shall serve any lot in a subdivision for which a final plan has not been approved by the planning board.
- (e) Not only is making a subdivision without planning board approval a violation of law, but so also within such a subdivision is grading or construction of roads, grading of land or lots, or construction of buildings until such time as a final plan of such subdivision shall have been duly prepared, submitted, reviewed, approved and endorsed as provided in these standards, and until the original copy of the

final plan so approved and endorsed has been duly recorded in the Androscoggin County Registry of Deeds.

- (f) In the event that the subdivider shall fail to comply with the requirements of article XVI of this chapter, the city engineer may issue a stop work order directing cessation of all work in the subdivision, or the planning board, after notice and hearing, may revoke its approval of the final plan, or both such steps may be taken.

(Ord. of 9-21-2009, § 7.3F)

Sec. 60-1365. - General requirements.

In reviewing applications for the subdivision of land, the board shall consider the following general requirements. In all instances the burden of proof shall be upon the persons proposing the subdivision.

- (1) *Subdivision plan shall conform to the comprehensive plan.* Any proposed subdivision shall be in conformity with the comprehensive plan of the city and with the provisions of all pertinent state and local codes and ordinances.
- (2) *Preservation of natural and historic features.* The board may require that a proposed subdivision design include a landscape plan that will show the preservation of existing trees and vegetation, graded contours, streams and the preservation of scenic, historic or environmentally desirable areas. The street and lot layout shall be adapted to the topography. Extensive grading and filling shall be avoided as far as possible.
- (3) *Lots.*
 - a. The lot size, width, depth, shape and orientation and the minimum building setback lines shall be appropriate for the location of the subdivision and for the type of development and use contemplated.
 - b. Depth and width of properties reserved or laid out for all purposes shall be adequate to provide for off-street parking and service facilities for vehicles required by the type of use and development contemplated.
 - c. No person shall make a subdivision within the city unless all lots of the proposed subdivision have frontage, as regulated by the zoning ordinance, upon a way granting legal access. The following ways shall constitute legal access to a lot:
 1. A way accepted by or established as belonging to the city, provided access is not specifically prohibited.
 2. A public way shown on a plan approved in accordance with the provision of this chapter and in this Code.
 3. A private way (unaccepted street) existing prior to October 6, 1968, which way is shown on a plan recorded in the registry of deeds prior to such date and is deemed adequate by the planning board as evidenced by the board's endorsement on a final plan for the subdivision of land. In its approval of an existing private way, the board may make whatever requirements it feels necessary to improve the way commensurate with the projected use of same.
 4. A person issued a permit pursuant to this subchapter in a great pond watershed shall have a copy of the permit on the site while work authorized by the permit is being conducted.

(Ord. of 9-21-2009, § 7.3G)

Sec. 60-1366. - Staff approvals and waivers.

- (a) Where plans need to be modified after planning board approval due to changes beyond the developer's control, the planning and permitting services department staff will have the authority to approve any amendments that staff feels may be approved without detriment to the health, safety and welfare of the community. If staff feels the amendments must go back to the planning board the subdivision approval process must be followed.
 - (1) A paper copy of the plan shall be submitted to the planning and permitting services department staff marked with all proposed changes in red ink. An accompanying letter shall also be attached requesting all changes.
 - (2) Staff shall circulate the plan to the proper departments for review.
 - (3) Once all review has been completed, planning and permitting services department staff shall write a letter to the developer explaining how to proceed with the proposed amendments.
- (b) If staff determines the amendments must go back to the planning board, the subdivision approval process must be followed.
- (c) Where planning board finds that extraordinary, unnecessary and financial hardships may result from strict compliance with the standards of a particular plan, it may vary these standards so that substantial justice may be done and the public interest secured; provided that such variations will not have the effect of nullifying the intent and purpose of the official map, the comprehensive plan or the zoning ordinance. Any variances or waivers granted by the planning board must be noted on the face of the recording plat.
- (d) Where the planning board finds that, due to special circumstances of a particular plan, provisions of certain required improvements are not requisite in the interest of public health, safety and welfare or are inappropriate because of inadequacy of lack of connecting facilities adjacent or in proximity to the proposed subdivision, it may waive such requirements, subject to appropriate conditions.

(Ord. of 9-21-2009, § 7.3H)

Sec. 60-1367. - Recreation area/open space standards.

- (a) Every developer of a single-family residential subdivision shall include as part of a subdivision proposal a provision for recreational and open space which is adequate to meet the reasonably foreseeable needs of the residents of the subdivision. The standard established by the city to satisfy this purpose is an area of not less than 43,560 contiguous square feet or one acre of land for the first ten lots or units. The amount of land required is increased at a rate of 5,000 square feet per unit for each unit over ten units. The standard noted in section 60-1365 shall be used as a guideline by the planning board and may be varied for low impact developments.
- (b) In any case in which the developer chooses to develop in total or in part land area that could be used to satisfy the recreational land dedication for units/house lots of it is not feasible to dedicate rights and land to meet the requirements due to topography, location or other limiting factors or if the developer can satisfy the planning board that a dedication of land is not required for recreational and open space needs, the developer may contribute to the city, or to a condominium or homeowners' association, a fee-in-lieu amount in cash which is essentially equivalent to the value which such dedicated land rights in the area where the proposed subdivision is located would have had. This fee will be capped at and based on the average market value of similarly zoned land in the immediate area of the proposed development at the time of final subdivision approval as determined by the city tax assessor.
- (c) In reviewing the amount of money requested, the board shall review the adequacy of existing facilities available to the inhabitants of the subdivision, improvements that may be needed by the existing facilities to make them adequate for the additional impact being created by the added units and any other factors which may influence the need for land dedication for a fee-in-lieu of.

- (d) A developer may choose to use both the land dedication provision and fee-in-lieu of land dedication provision in conjunction with each other. Any fee-in-lieu of amount of money used with a land dedication shall be used to develop, enlarge or enhance this recreational facility.
- (e) In determining the adequacy of land dedication and/or fee-in-lieu of land dedication, the board shall assess the projected needs of the inhabitants of the subdivision. If the planning board determines that full land dedication is necessary, then they may require such land dedication with no fee-in-lieu of land dedication.
- (f) In the situation when a fee-in-lieu of land dedication is supplied by the developer, then the developer may choose to request what uses or equipment the money will be used for. The planning board shall request an assessment of the developer's desires from the parks and recreation advisory board and if they agree with the developer, then all monies received will be earmarked for the purposes so chosen.
- (g) The proposal for land dedication may be in the form of a deed of a parcel of land within or contiguous to the subdivision, or contiguous to an existing public recreational facility within reasonable proximity of the subdivision. The planning board shall use the recreational/open space district map, made a part of the ordinance as a guide. Alternatively, the land dedication may be part of a condominium or homeowners' association or proposed in any other form acceptable to the planning board provided it serves the needs of the residents of the subdivision.
- (h) The planning board may decline to accept a proposed dedication of rights in land to serve the recreational needs of the residents of the subdivision in any case in which it determines that the public expense of maintaining the same would unduly burdensome compared to the recreational benefit which would be conferred or where the planning board determined that such recreational needs can more efficiently be served by applying a cash contribution from the developer to enlarge or enhance an existing recreational facility.
- (i) All funds contributed to the parks and recreation open space dedication will be allocated to the development of facilities located within zones as shown on the recreational/open space district map, made a part of this chapter, unless the planning board and/or developer have determined that a contribution to a facility which lies outside the zoned area would better serve the needs of the subdivision. Such funds shall be used within a five-year period. Funds not used after five years shall be returned to the developer with interest. The interest amount shall be the average of yearly interest rates established by local banks. If for unforeseen reasons monies accumulated are not used as previously agreed upon within the five-year period, the recreation advisory board may request the planning board to reallocate the funds for other recreational uses. Notice to the developer shall be given and input from the developer shall be used to determine whether or not these monies may be reallocated.
- (j) Before making any final determination about the recreational needs of the subdivision's residents, or how they can best be met, the planning board shall solicit input from the parks and recreation advisory board and shall carefully consider any recommendations in this regard which it received in response.
- (k) If a project is either proposed to be phased in, is a part of a unified development or is developed by the same developers on adjacent land to previously developed land, it shall be considered as one development and will be required to participate in the recreation open space dedication.
- (l) The approval by the planning board of a residential subdivision plan shall not be deemed to constitute an acceptance by the city of any open space shown on such plan. The planning board may also require the filing of a written agreement between the developer and the city covering future deed and title, dedication and provisions for the costs of grading, developing, equipping and maintaining recreation areas.

(Ord. of 9-21-2009, § 7.3I)

Sec. 60-1368. - Appeals.

An appeal from a decision of the planning board on any final plan may be taken to the superior court.

(Ord. of 9-21-2009, § 7.3J)

Secs. 60-1369—60-1380. - Reserved.

DIVISION 5. - APPEALS AND APPLICABILITY

Sec. 60-1381. - Appeals.

Appeals from decisions of the city planning board or of the city zoning board of appeals shall be taken to the superior court in accordance with Rule 80b of the state rules of civil procedure. Where a record of the board's proceedings has been kept, the board shall, at the request of the appealing party and at his expense, furnish him with a transcript of the record for use in connection with the appeal.

(Ord. of 9-21-2009, § 7.4A)

Sec. 60-1382. - Applicability.

The provisions of this article shall apply to any development subject to review under division 2 of article XVI of this chapter, the construction of which has not been commenced on the date on which they become effective.

(Ord. of 9-21-2009, § 7.4B)

Secs. 60-1383—60-1400. - Reserved.

DIVISION 6. - ENFORCEMENT

Sec. 60-1401. - Permit required.

No building shall be erected, altered or moved in the city without first filing an application in writing with the building inspector. Such permits shall be applied for 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 uses thereof in all respects fulfill the provisions of this chapter and all other applicable city ordinance provisions.

(Ord. of 9-21-2009, § 7.5A)

Sec. 60-1402. - Plan required.

Each application for a permit to build, enlarge, alter 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, altered 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. Upon request, the building inspector may waive the necessity of providing any of the foregoing information which is not relevant to the proposed project. One copy of each such application and plot plan shall be kept on file in the office to 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.

(Ord. of 9-21-2009, § 7.5B)

Sec. 60-1403. - Enforcement.

- (a) This chapter shall be enforced by the director of land use planning and enforcement and his duly authorized agents.
- (b) The director, building inspector, code enforcement officer or police chief, on their individual initiative, or on the request of any other municipal official or upon any well founded information in writing indicating possible violation of this chapter, shall make or cause to be made an investigation of facts and an inspection of the premises where such violation is said to exist.
- (c) Whenever the municipal official charged with enforcement determines that there are reasonable grounds to believe that there has been a violation of any provisions of this chapter, he shall initiate enforcement proceedings in accordance with the citation system established in article VIII of chapter 2. Alternatively, he may initiate a land use complaint pursuant to state law in which case the penalties there provided shall apply.

(Ord. of 9-21-2009, § 7.5C)

Secs. 60-1404—60-1424. - Reserved.

ARTICLE XVII. - AMENDMENTS

DIVISION 1. - GENERALLY

Secs. 60-1425—60-1444. - Reserved.

DIVISION 2. - AMENDMENT TO THE ZONING ORDINANCE OR ZONING MAP

Sec. 60-1445. - Purpose.

Amendments to the zoning ordinance, including the zoning map, may be initiated by the planning board on its own initiative or upon request by the city council or by a petition signed by not less than 25 registered voters of the city.

(Ord. of 9-21-2009, § 8.1A)

Sec. 60-1446. - Proposal made in writing.

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 a black line print of a diagram drawn to scale showing and stating clearly the dimensions in feet, the area, metes and bounds of the land proposed for a change and 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 the city. Petitions shall be filed not less than 30 days prior to a regularly scheduled meeting.

(Ord. of 9-21-2009, § 8.1B)

Sec. 60-1447. - Change of text.

Each proposal to change any zoning ordinance text (other than a change of zoning district name or 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.

(Ord. of 9-21-2009, § 8.1C)

Sec. 60-1448. - Submittal of completed petition.

Within 45 days of submittal of a completed petition to amend the zoning ordinance text or map, the planning board shall hold a public hearing thereon.

(Ord. of 9-21-2009, § 8.1D)

Sec. 60-1449. - Notice.

Notice of hearings shall be given in the manner provided for in division 3 of article XVII of this chapter.

(Ord. of 9-21-2009, § 8.1E)

Secs. 60-1450—60-1472. - Reserved.

DIVISION 3. - PUBLIC HEARING

Sec. 60-1473. - Definitions.

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

Abutters means owners of property within 500 feet of the land under consideration are considered to be abutters.

(Ord. of 9-21-2009, § 8.2C)

Sec. 60-1474. - Public notice.

The city shall publish in a newspaper having general circulation in the city, two public notices, the first notice at least 12 days before the hearing and the second notice at least seven days before the hearing. Each notice shall state the time, date, place and general subject to be heard.

(Ord. of 9-21-2009, § 8.2A)

Sec. 60-1475. - Notice to abutters.

Abutters, as defined in section 60-1473⁶, shall be mailed a notice of a public hearing on an application for subdivision, site plan and/or special exception approval and amendments for this chapter at least 14 days prior to the hearing. The applicant, developer or petitioner shall be responsible for the cost associated with all mailed notices to abutters. The notice shall state the time, date, place, the general subject to be heard and a responsible party to be contacted for information. Notices shall be mailed to the address appearing on the city property tax listing. Failure of any abutter to receive such mailed notice of any such public hearing shall not necessitate another hearing and shall not constitute grounds for objections by such abutter or petitioner and shall not invalidate any action by the planning board. The applicant, developer or petitioner shall provide a list of abutters and their addresses at the time of application, plan or petition submission.

(Ord. of 9-21-2009, § 8.2B)

Secs. 60-1476—60-1495. - Reserved.

DIVISION 4. - PLANNING BOARD RECOMMENDATION

Sec. 60-1496. - Report in writing.

The planning board shall, within 30 days of the conclusion of the public hearing, report in writing the results of the hearing and recommendations of the board on the amendment to the city council.

(Ord. of 9-21-2009, § 8.3)

Secs. 60-1497—60-1500. - Reserved.

ARTICLE XVIII - SOLAR ENERGY GENERATING SYSTEMS^{[4](#)}

Footnotes:

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Editor's note— Ord. No. 02-02242020, adopted March 2, 2020, set out provisions intended for use as art. XVIII, §§ 60-1425—60-1432. To preserve the style of this Code, at the editor's discretion, these provisions have been included here as art. XVIII, §§ 60-1501—60-1508.

Sec. 60-1501. - Definitions.

Abandonment means the date at which any part of a solar energy generating system has been out of service for a continuous period of 12 months.

Airport overlay zone means the area that lays within a two-nautical-mile radius of the centerline of the nearest runway of the Auburn Lewiston Airport.

Dual-use systems means solar energy systems where photo-voltaic panels are attached to structures or buildings without any impact on the primary use (e.g. photo-voltaic panels on structures cantilevered over parked cars or benches; solar panels located on a piece of infrastructure such as a sign or light).

Ground mounted solar energy generating system (also known as free-standing solar energy systems) means a solar energy system that is structurally mounted to the ground. The panels may be stationary or revolving and of any size.

Operations and maintenance plan means a plan outlining the operations and maintenance of a solar energy system, to include safety measures and procedures for maintenance.

Roof mounted and building integrated solar energy generating systems means a solar energy system in which solar panels are mounted on top of the roof of a structure either as a flush-mounted system or as modules fixed to frames which can be tilted toward the south at an optimal angle. The definition also includes a solar energy system that is an integral part of a principal or accessory building and include, but are not limited to, photovoltaic or hot water systems that are contained within roofing materials, windows, walls, skylights and awnings.

Solar access means space open to the sun and clear of overhangs or shade, including orientation of streets and lots to the sun, so as to permit the use of active and/or passive solar energy generating systems on individual properties.

Solar energy generating system means a complete assembly consisting of one or more solar collectors and associated mounting hardware or equipment, intended to provide for the collection, storage and distribution of solar energy for heating or cooling, electricity generation, or solar/thermal hot water systems, these may be ground-mounted, dual-use, roof-mounted and building-integrated systems.

Surface area means the total airspace projected over the ground, footprint of accessways and any appurtenant structures associated with the solar energy generating system.

Total height of solar energy system means the total vertical distance as measured from the average elevation of the finished grade adjacent to the fixed base of the support structure, to the highest part of the system.

Total land area of the system means the total area of a parcel(s) physically occupied by the solar energy generating system installation.

Total rated capacity means the maximum rated output of electrical power production of the photovoltaic system in watts of direct current (DC).

(Ord. No. 02-02242020, 3-2-20)

Sec. 60-1502. - Purpose.

The purpose of this section is to allow for the construction and operation of private and public solar energy generating systems designed to produce energy for use on site or off site, by establishing appropriate standards to ensure safe, effective and efficient use of solar energy systems compatible with surrounding uses.

(Ord. No. 02-02242020, 3-2-20)

Sec. 60-1503. - Applicability.

This section shall apply to all solar energy generating systems except the following:

- (1) Solar energy generating systems for municipal use.
- (2) Building integrated and roof-mounted solar energy generating systems which are permitted by right in all zoning districts in accordance with applicable FAA regulations if within the airport overlay zone.
- (3) Non-structural maintenance, like-kind repair or reconstruction of equipment, provided that it does not constitute an expansion of a solar energy generating system. For the purposes of this section, expansion of a solar energy generating system means a change in the total land area of the system or its associated equipment.
- (4) Ground-mounted solar energy generating systems intended to satisfy the electricity needs of the principal use of the lot provided the owner or operator completes FAA requirements if within the airport overlay zone.

(Ord. No. 02-02242020, 3-2-2020)

Sec. 60-1504. - Administrative procedures.

- (a) The installation of ground-mounted and dual-use solar energy generating systems or devices occupying greater than one acre in total land area shall be permitted by special exception in the

industrial district and agriculture and resource protection district after approval by the planning board in accordance with the provisions of division 3 of article XVI of this chapter as well as the supplemental provisions described in these regulations.

- (b) Unless subject to the provisions of subsection (a) of this section or listed as an exempt activity in section 60-1503, any other solar energy generating systems, including the replacement and repair of equipment, physical modifications to an existing and permitted solar energy generating systems provided they do not alter the total land area of the system and its associated equipment as defined under subsection 60-45(a) shall be permitted by right in the industrial district and agriculture and resource protection district and subject to review and approval in accordance with subsection 60-1506(b).

(Ord. No. 02-02242020, 3-2-2020; Ord. No. 04-05182020, 6-1-2020)

Sec. 60-1505. - Application requirements.

- (a) *Solar energy generating systems permitted by special exception.* In addition to the submission requirements of site plan review, an application for a solar energy generating systems permitted as a special exception shall contain the following information:
 - (1) All solar energy generating systems permitted by special exception shall be subject to the special exception and site plan review procedures specified in article XVI, divisions 2 and 3 of this chapter.
 - (2) A narrative describing the proposed solar energy generating system, including an overview of the project; the project location; the total rated capacity of the solar energy system; dimensions of all components and respective manufacturers; and a description of associated facilities and how the system and associated facilities comply with the standards of this article.
 - (3) An accurate scaled site plan of the subject property showing the planned location of the proposed solar energy generating system and all associated facilities; property lines, adjoining streets and access; topographic contour lines; existing and proposed buildings; fencing; structures; potential shade from nearby trees and structures; vegetation; driveways, parking and curb cuts on the subject property; specifications for all proposed electrical cabling/transmission lines, accessor equipment and landscaping, including the tallest finished height of the solar collectors and name, address, phone number and signature of the project proponent, as well as co-proponents or property owners, if any, the names, contact information and signature of any agents representing the project proponent. The site plan shall show any proposed off-site modifications to provide grid connections, access the installation, or to maintain the proposed solar energy system.
 - (4) Information on any connections to the grid including evidence of meeting the local electric utility's transmission and distribution interconnection requirements (this may be a condition of approval if a copy of the application for interconnection with the electric utility provider is submitted).
 - (5) Documentation that the solar generation equipment has been approved under the UL certification program and that the system complies with all applicable local, state and federal codes/regulations with the standards regarding signal interference. Electrical component and connection information shall be in sufficient detail to allow for a determination that it meets state electrical codes.
 - (6) All parcels within a two-nautical-mile radius of the Auburn Lewiston Municipal Airport, as measured based on the runway centerline closest to the location in question, shall submit a solar glare hazard analysis tool (SGHAT) report, outlining solar panel glare and ocular impacts, for each point of measurement approved by the airport manager at the time of application to the planning board.

(Ord. No. 02-02242020, 3-2-2020)

Sec. 60-1506. - Approval.

- (a) *Solar energy generating systems permitted by special exception.* The planning board is authorized to retain experts at the applicant's expense to evaluate technical information or conduct studies that it finds necessary in order to determine whether these standards will be met. In addition to the criteria in sections 60-1277 and 60-1336, the planning board shall consider the following standards:
- (1) *Yard requirements.* The setbacks for solar energy generating system installations in the industrial district, including appurtenant structures and parking areas, shall be subject to the following yard requirements:
 - a. *Rear.* There shall be behind every structure associated with a solar energy generating system a rear yard having a minimum depth of 50 feet or 20 percent of the average depth of the lot, whichever is less.
 - b. *Side.* There shall be a distance of five feet between any structure associated with a solar energy generating system and the side property line, plus the side yard setback shall be increased one foot for every three feet or part thereof increased in street frontage over 60 feet to a maximum of 35 feet for side yard setback.
 - c. *Front.* There shall be in front of every structure associated with a solar energy generating system a front yard having a minimum depth of 35 feet or 15 percent 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 more than 35 feet shall be considered as having a front yard of 35 feet.
 - (2) *Lot coverage.* The paved, mounting block, or otherwise impervious areas of sites on which ground mounted solar energy systems are installed shall comply with the lot coverage standards as defined in section 60-579(2). For the purposes of this section, photovoltaic cells, panels, arrays, and inverters shall not be considered impervious areas provided the soil underneath the collector is not compacted and remains vegetated in accordance with the standards applicable to vegetation established in Chapter 500, Appendix A(6) Permanent Stabilization.
 - (3) *Height regulations.* The total height of the solar energy generating system and all appurtenant structures, including but not limited to, equipment shelters, storage facilities, transformers, and substations shall not exceed 30 feet.
 - (4) *Technical and safety.* A copy of the as-built site plan for the solar energy generating system shall be provided to the local fire prevention officer. All means of shutting down the solar energy generating system shall be clearly marked.
 - (5) *Maintenance.* The owner or operator of the solar energy generating system shall maintain the facility in good condition. Proper maintenance of the facility means that it is operating as designed and approved. Maintenance shall include, but not be limited to, painting, structural repairs, repairing damaged panels and integrity of security measures. The solar energy generating system must be properly maintained and kept free from all hazards, including, but not limited to, faulty wiring, loose fastenings, being in an unsafe condition or detrimental to public health, safety or general welfare. Site access shall be maintained to a level acceptable by the local fire prevention officer for emergency response. The owner or operator shall be responsible for the cost of maintaining the solar energy generating system and any access road(s), unless accepted as a public way.
 - (6) *Glare.* Solar panels are designed to absorb (not reflect) sunlight and are generally less reflective than other varnished or glass exterior materials. However, solar panel placement should minimize or negate any solar glare impacting nearby properties or roadways, without unduly impacting the functionality or efficiency of the solar energy system. Parcels located within a two-nautical-mile radius of the Auburn Lewiston Municipal Airport, as measured based on the runway centerline closest to the location in question shall comply with subsection 60-1505(a)(6).

- (7) *Visual impact.* An Applicant shall make reasonable efforts, as determined by the planning board, to minimize visual impacts associated with the installation of a solar energy generating system. The board shall consider the size, location and topography of the site, the characteristics of the surrounding property and the amount and type of development on said properties in determining the amount and type of screening and buffering that it deems appropriate.
- (8) *Lighting.* Ground-mounted solar energy generating system lighting shall be consistent with local, state and federal law. Lighting of other parts of the installation, such as appurtenant structures, shall be limited to that required for safety and operational purposes, and shall be reasonably shielded from abutting properties. Where feasible, lighting of the solar energy system shall be directed downward and shall incorporate full cutoff fixtures to reduce light pollution.
- (9) *Unbuilt areas.* Where possible, in unbuilt areas, solar energy generating system installations shall maintain the permeability of the ground. Clearing of natural vegetation shall be limited to what is necessary for the construction, operation and maintenance of the solar energy generating system or as otherwise prescribed by applicable laws, regulations and bylaws/ordinances.
- (10) *Operation and maintenance plan.* The owner or operator shall submit a plan for the operation and maintenance of ground-mounted and dual-use solar energy systems, which shall include measures for maintaining safe access to the installation, stormwater controls, as well as general procedures for operational maintenance of the installation.
- (11) *Standard compliance.* All solar energy generating system installations shall be installed in compliance with the photovoltaic systems standards of the latest edition of the National Fire Protection Association (NFPA) 1, Fire Prevention Code. All wiring shall be installed in compliance with the photovoltaic systems standards identified in the latest edition of the National Electrical Code (NFPA 70).
- (b) *Solar energy generating systems permitted by right.* An application for a solar energy generating system permitted by right shall require review and approval by the following departments: planning, engineering, fire, code enforcement, Auburn Lewiston Municipal Airport and a representative of Lewiston-Auburn 911 committee.

(Ord. No. 02-02242020, 3-2-2020; Ord. No. 04-05182020, 6-1-2020)

Sec. 60-1507. - Abandonment or decommissioning.

- (a) *Abandonment and removal of ground mounted and dual use solar energy systems.*
 - (1) The owner or operator shall, at their expense, complete the removal of the solar energy system within six months of the end of the useful life of the solar energy system or within six months of the date of abandonment as defined in section 60-1501. The owner or operator shall notify the economic and community development department by certified mail of the proposed date of discontinued operations and plans for removal. decommissioning shall consist of:
 - a. Physical removal of all ground-mounted solar energy generating systems including solar photovoltaic installations, structures, equipment, security barriers and transmission lines from the site.
 - b. Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.
 - c. Stabilization or re-vegetation of the site as necessary to minimize erosion. The economic and community development department, in conformance with applicable regulations, may allow the owner or operator to leave existing landscaping or specifically designated below-grade foundations in place in order to minimize erosion and disruption to vegetation.
 - (2) The city may revoke any approvals and/or pursue removal of the solar energy system at the owner or operator's expense in the following circumstances:

- a. The solar energy system is not installed and functioning within 24-months from the date of approval under this ordinance; or
 - b. The solar energy system is at any time left in an unsafe condition in respect to federal, state or local safety standards (as determined by the city); or
 - c. The solar energy system has not been brought back to a safe condition/operation or removed from the site within the required timeframe; or
 - d. The solar energy system is defective or abandoned and has not been removed from the site within required timeframe.
- (3) *Financial surety.* Before the start of construction, the owner or operator of a solar energy system shall provide a form of surety, either through escrow account, performance bond or letter of credit from a creditable financial institution, in an amount sufficient to cover the cost of decommissioning in the event the city determines the solar energy system to be abandoned in accordance with subsection (a)(2) above. The financial guarantee shall include a provision granting and guaranteeing the city the authority to access the funds and property and perform the decommissioning should the facility be abandoned and the owner or operator fails to meet their obligations to remove the solar energy system. This amount shall be based upon a fully inclusive estimate of the costs associated with removal, prepared by a qualified engineer, and submitted to the planning board at the time of application. The amount shall include a mechanism for calculating increasing removal costs due to inflation.
- (4) If the owner or operator of the solar energy generating system fails to remove the installation in accordance with requirements of this section within six months of abandonment or the end of the useful life or date of abandonment, the city retains the right to use the performance guarantee and all other available means to cause an abandoned, hazardous or decommissioned solar energy generating system to be removed.

(Ord. No. 02-02242020, 3-2-2020; Ord. No. 04-05182020, 6-1-2020)

Sec. 60-1508. - Appeals.

- (a) An appeal from a decision of the planning board on a solar energy generating system permitted by special exception shall be in accordance with the provisions of division 5 of article XVI of this chapter.
- (b) An appeal from a decision of the staff review committee on a solar energy generating system permitted by right shall be to the board of appeals. The board of appeals is authorized to retain experts at the applicant's expense to evaluate technical information or conduct studies that the board of appeals determines may be necessary in order to render a decision on the appeal.

(Ord. No. 02-02242020, 3-2-2020)



Auburn Police Department


Jason D. Moen | Chief of Police

Timothy A. Cogle | Deputy Chief of Police

www.AuburnPD.com | 207.333.6650

60 Court Street | Auburn, Maine 04210

MEMORANDUM

Date: January 12, 2021
To: Phillip L. Crowell Jr., City Manager
From: Chief Jason D. Moen 

RE: CHAPTER 52 PROPOSED STRIKE OF ORDINANCES

A vast majority of the ordinances in Chapter 52 – Traffic were last updated in 1967. The following list of ordinances are recommended for striking as the topic area is covered by superceding state law or are just impossible to enforce.

Sec. 52-5 - Applicability to nonmotorized vehicles: *Every person propelling any pushcart or riding any animal upon a roadway, and any every person driving any animal-drawn vehicle, shall be subject to the provisions of this chapter, except those provisions which by their very nature can have no application.*

Recommend to strike: State Statue 29-A §2055 Animals on a public way applies

Sec. 52-33. - Authority of police and fire department officials to direct traffic: Officers of the police department or such officers as are assigned by the police chief are hereby authorized to direct all traffic by voice, hand or signal in conformance with traffic laws, provided that in the event of a fire or other emergency or to expedite traffic or to safeguard pedestrians, officers of the police department may direct traffic as conditions may require, notwithstanding the provisions of this chapter. Members of the fire department, when at the scene of a fire, may direct or assist the police in directing traffic in the immediate vicinity.

Recommend to strike: State Statue 29-A §2078 Emergency rule and §2091 Control of vehicular traffic at emergency scenes applies

Sec. 52-36. - Truck routes authorized: *Truck traffic routes, to be identified by signs and markings erected and maintained as directed by the city manager, may be established within the city limits. When established and posted, all persons driving motor vehicles into the city limits for the transportation of property through the city shall drive such vehicle over and along such established truck traffic routes.*

Recommend to strike: The state allows municipalities to restrict certain roads prohibiting truck travel. Given today's current GPS technology utilized by trucking companies, the use of truck routes is simply unenforceable by police.

Sec. 52-62. - Obedience; placement required for enforcement of certain provisions:

- (a) No provisions of this chapter for which official traffic control devices are required shall be enforced against an alleged violator if at the time and place of the alleged violation an official device is not in proper position and sufficiently legible to be seen by an ordinarily observant person.*
- (b) Whenever official traffic control devices are placed in position approximately conforming to the requirements of this chapter, such devices shall be presumed to have been placed by the official act or direction of lawful authority.*
- (c) Any official traffic control device placed pursuant to the provisions of this chapter and purporting to conform to the lawful requirements pertaining to such devices shall be presumed to comply with the requirements of this chapter.*
- (d) The driver of any vehicle, the operator of a bicycle, and pedestrians shall obey the instructions of any official traffic control device applicable thereto placed in accordance with the provisions of this chapter, unless otherwise directed by a police officer.*

Recommend to Strike: Various Title 29-A sections cover this ordinance including authority for municipalities to place traffic control devices. Traffic infractions involving traffic control devices are Title 29-A violations.

Sec. 52-121. - Leaving key in unattended vehicle: *No person shall leave an unattended vehicle on a public street with an ignition key in the vehicle. In any such case, any police officer may, for the protection of the vehicle, remove the keys and leave written notice in or attached to the vehicle that the keys are being held for the driver at the city police station.*

Recommend to Strike: Absence of criminal offense where an officer has probable cause, a law enforcement officer cannot enter a motor vehicle to remove keys. This would constitute an illegal search in violation of the Fourth Amendment.

Sec. 52-148. - Adequate tires: *No person shall cause an obstruction to traffic by reason of inability to move a vehicle being operated by him on any public street because of accumulations of snow, ice or freezing rain, when such vehicle has not been equipped with adequate tires.*

Recommend to strike: State Statue 29-A §1917 Tires and wheels, 1918 Regrooved tires, and §1919 Studded tires apply

Sec. 52-172. - *Obstructing traffic: No person shall stop, park or leave his vehicle on any street in such a manner or under such conditions so as to obstruct the free passage of other vehicles in either direction unless specifically permitted by a police officer, or so as to leave available less than ten feet of the width of the roadway for free movement of vehicular traffic.*

Recommend to strike: State Statue 29-A 2068 Parking and 17-A §505 Obstructing public ways apply

Sec. 52-173. - *Parking in alleys: No person shall park a vehicle within an alley in such a manner or under such conditions as to leave available less than ten feet of the width of the roadway for the free movement of vehicular traffic, and no person shall stop or park a vehicle within an alley in such position as to block the driveway entrance to any abutting property.*

Recommend to strike: State Statue 29-A §2068 Parking applies

Sec. 52-178. - *Lights on parked vehicles: Whenever a vehicle is parked or stopped upon a roadway or shoulder adjacent thereto, whether attended or unattended, and there is not sufficient light to reveal any person or vehicle within a distance of 500 feet, such vehicle so parked or stopped shall be equipped with lights, which lights shall be displayed. Any lighted headlamps upon a parked or stopped vehicle shall be depressed or dimmed.*

Recommend to strike: no longer enforceable

Sec. 52-205. - *Failure to comply with citation: If a violator of the restrictions on stopping or parking under the traffic laws or ordinances does not appear in response to a traffic citation affixed to a motor vehicle within a period of seven days, the chief of police may send to the owner of the motor vehicle to which the traffic citation was affixed a letter informing him of the violation and warning him that, if such letter is disregarded for a period of five days from the date of postmark, a court summons will be issued.*

Recommend to strike: Prosecution of traffic citations falls under state law. Parking citations that remain unpaid after 48 hours double in fines. This change reflects current police practices.

Sec. 52-238. - *Limitation of 8,000 pounds: No vehicle weighing more than 8,000 pounds, vehicle and load combined, nor any vehicle imparting to the road surface a pressure exceeding 400 pounds per inch of tire width (manufacturer's rating) shall be permitted on the streets, roads and highways of the city listed in a schedule on file and available in the city clerk's office between March 1 and May 31 of each year, except when the surface of the road is solidly frozen, in which case permission from the highway superintendent shall be obtained.*

Recommend to strike: State Statue 29-A §2395 Ways requiring special protection applies, giving municipalities the authority to post weight restrictions on roads.

Sec. 52-239. - *Limitation of 16,000 pounds: No vehicle weighing more than 16,000 pounds, vehicle and load combined, nor any vehicle imparting to the road surface a pressure exceeding 400 pounds*

per inch of tire width (manufacturer's rating) shall be permitted on the streets, roads and highways of the city listed in a schedule on file and available in the city clerk's office, between March 1 and May 31, except when the surface of the road is solidly frozen, in which case permission from the highway superintendent shall be obtained.

Recommend to strike: State Statue 29-A §2395 Ways requiring special protection applies, giving municipalities the authority to post weight restrictions on roads.

Sec. 52-240. – Posting: Prior to March 1 in each year, a notice shall be in place in a conspicuous location at each end of the roads mentioned in this article, stating the periods of closing and the restrictions imposed.

Recommend to strike: State Statue 29-A §2395 Ways requiring special protection applies, giving municipalities the authority to post weight restrictions on roads.

Sec. 52-259. - Parent's responsibility: The parent of any child and the guardian of any ward shall not authorize or knowingly permit any such child or ward to violate any provision of this article.

Recommend to strike: State Juvenile Law is very specific on parental responsibility

Sec. 52-260. - Bicycle equipment: No person shall ride or propel a bicycle upon any public street in the city unless the bicycle is equipped in accordance with 29-A M.R.S.A. §§ 2062 and 2084.

Recommend to strike: State Statue 29-A §2084 Bicycles and scooters applies. 29-A §2062 does not apply

Sec. 52-261. - Parking of bicycles: No person shall park a bicycle upon a street other than upon the roadway against the curb or upon the sidewalk in a rack to support the bicycle or against a building or at the curb, in such manner as to afford the least obstruction to pedestrian traffic.

Recommend to strike: State statue 17-A §505 Obstructing public ways applies to sidewalks

Sec. 52-262. - Riding bicycle on sidewalk.

(a) (a)Whenever any person is riding a bicycle upon a sidewalk, such person shall yield the right-of-way to any pedestrian and shall give audible signal before overtaking and passing such pedestrian.

(b) Law enforcement and fire rescue/emergency medical technician (EMT) personnel, while in the performance of their duties with respect to bicycle patrol and EMT/rescue patrol operations, are exempt from the provisions of this section.

Recommend to strike: State Statue 29-A §2084 Bicycles and scooters applies.

Sec. 52-263. - Applicability of traffic regulations to persons riding bicycles: Every person propelling or riding a bicycle upon a public street in the city shall be subject to the provisions of this chapter

applicable to the driver of every vehicle, except those provisions of this chapter which by their very nature can have no application.

Recommend to strike: State Statute 29-A §2084 Bicycles and scooters applies.

Sec. 52-264. - Speed limitation for persons riding bicycles: No person shall operate a bicycle at a speed greater than is reasonable and prudent under the conditions then existing.

Recommend to strike: Ordinance is unenforceable

Sec. 52-265. – Motorcycles: No person shall operate a motorcycle except in accordance with the provisions of 29-A M.R.S.A. § 2062.

Recommend to strike: State Statute 29-A §2062. Motorcycles applies



Ordinance Review Form – Charter

Review 2020

Current Ordinance

Ordinance Section: Sec. 52-34. - Parades; funeral processions.

Current Language:

- (a) Persons organizing funeral processions may obtain from the chief of police, as provided with respect to parades in subsection (b) of this section, a permit, except that, in the case of funeral processions containing less than 25 cars, no such permit shall be required, but the chief of police shall be given at least one hour's notice of the estimated size of the funeral procession, of the route it is to take, and of the estimated time of the procession's departure.
- (b) It shall be unlawful for any person to parade on the streets of the city unless permission has been obtained from the chief of police, and they shall first present to the chief of police a request in writing for permission to use the streets of the city for the purpose of parading, together with the designated route the parade is to follow, and the time and duration of the parade. The chief of police may grant the permit provided it will not unreasonably interfere with traffic and will not create a disturbance upon the streets. The request for such permit shall be accompanied by a permit fee in the amount provided in the city fee schedule.
- (c) A funeral composed of a procession of vehicles shall be identified as such by the display upon the outside of each vehicle of a pennant or other identifying insignia.
- (d) No driver of a vehicle shall drive between the vehicles comprising a funeral or other authorized procession while they are in motion and when such vehicles are conspicuously designated as required in this chapter. This provision shall not apply at intersections where traffic is controlled by traffic control signals or police officers.

Proposed Ordinance

Ordinance Section: Sec. 52-34. - Parades; funeral processions.

New Language:

- (a) ~~Persons organizing funeral processions may obtain from the chief of police, as provided with respect to parades in subsection (b) of this section, a permit, except that, in the case of funeral processions containing less than 25 cars, no such permit shall be required, but the chief of police shall be given at least one hour's notice of the estimated size of the funeral procession, of the route it is to take, and of the estimated time of the procession's departure.~~
- (~~b~~a) It shall be unlawful for any person to parade on the streets of the city unless permission has been obtained from the chief of police, and they shall first present to the



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chief of police a request in writing for permission to use the streets of the city for the purpose of parading, together with the designated route the parade is to follow, and the time and duration of the parade. The chief of police may grant the permit provided it will not unreasonably interfere with traffic and will not create a disturbance upon the streets. The request for such permit shall be accompanied by a permit fee in the amount provided in the city fee schedule.

(~~e~~b) A funeral composed of a procession of vehicles shall be identified as such by the display upon the outside of each vehicle of a pennant or other identifying insignia.

(~~d~~c) No driver of a vehicle shall drive between the vehicles comprising a funeral or other authorized procession while they are in motion and when such vehicles are conspicuously designated as required in this chapter. This provision shall not apply at intersections where traffic is controlled by traffic control signals or police officers.

Reason for proposed change

Recommended to strike paragraph (a) to reflect current practice. A funeral procession permit process is unnecessary and is not currently in place.



Ordinance Review Form – Charter

Review 2020

Current Ordinance

Ordinance Section: Sec. 52-93. - Applicability.

Current Language:

- (a) This division shall apply to all private contractors, vendors or service providers who operate within the public rights of way noted herein. The city and related public agencies are exempt from this division. Private contractors, vendors and service providers hired by a public agency are also subject to the provisions of this division. Private entities working in concert with a public agency may be exempt from this division at the discretion of the hiring public agency. For the purposes of this division public agencies include, but are not limited to, the city, Auburn Water and Sewer District, and Lewiston Water and Sewer Division.
- (b) This division shall apply, but not be limited to, construction, repair, improvement, alteration, adjustment, excavation or demolition of property (private or public) within the publicly owned right-of-way. Examples of these activities include, but are not limited to, telephone, cable television, electrical, water, sewer, gas, or stormwater facilities and infrastructure maintenance or construction.
- (c) This policy shall apply to the following streets, roads and intersections:
 - 1) Academy Street (Main to High).
 - 2) Broad Street (South Bridge to South Main).
 - 3) Center Street (Union Street to townline).
 - 4) Court Street.
 - 5) Elm Street at Spring Street.
 - 6) Great Falls Plaza Drive.
 - 7) Hampshire Street (Turner to Union).
 - 8) High Street (Academy to Minot).
 - 9) Hotel Road at Steven Mills Road.
 - 10) Hotel Road at Young's Corner Road.
 - 11) Hotel Road at Kittyhawk Avenue.
 - 12) Main Street.
 - 13) Manley Road at Rodman Road.
 - 14) Mill Street (Broad to Main).
 - 15) Minot Avenue.
 - 16) Mount Auburn Avenue (Center to Gracelawn).
 - 17) Turner Street (Court to Center) (Mt. Auburn to Auburn Mall).
 - 18) Union Street.



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Review 2020

19) Washington Street (north and south)

- (d) The public works director and police chief or their designees may require the use of police department personnel for activities on streets or roads not specifically designated in or authorized by this division if, in their opinion, the nature of the activity, road characteristics or traffic volumes indicate a need for city supervised traffic control. Conversely, if the public works director or police chief determine that the nature of the activities, road characteristics or traffic volumes do not require city supervised traffic control then they may waive the application of this policy for the streets and roads listed in subsection (c) of this section.

Proposed Ordinance

Ordinance Section: Sec. 52-93. - Applicability.

New Language:

- (a) This division shall apply to all private contractors, vendors or service providers who operate within the public rights of way noted herein. The city ~~and related public agencies are-is~~ exempt from this division. Private contractors, vendors and service providers hired by ~~a public agency~~ the city are also subject to the provisions of this division. Private entities working in concert with ~~a public agency~~ the city may be exempt from this division at the discretion of the ~~hiring public agency~~ city. ~~For the purposes of this division public agencies include, but are not limited to, the city, Auburn Water and Sewer District, and Lewiston Water and Sewer Division.~~
- (b) This division shall apply, but not be limited to, construction, repair, improvement, alteration, adjustment, excavation or demolition of property (private or public) within the publicly owned right-of-way. Examples of these activities include, but are not limited to, telephone, cable television, electrical, water, sewer, gas, or stormwater facilities and infrastructure maintenance or construction.
- (c) This policy shall apply to the following streets, roads and intersections:
- 1) Academy Street (Main to High).
 - 2) Broad Street (South Bridge to South Main).
 - 3) Center Street / Turner Road (Union Street to town line).
 - 4) Court Street.
 - 5) Elm Street at Spring Street.
 - 6) Great Falls Plaza Drive.
 - 7) Hampshire Street (Turner to Union).
 - 8) High Street (Academy to Minot).
 - 9) Hotel Road at Steven Mills Road.
 - 10) Hotel Road at Young's Corner Road.



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- 11) Hotel Road at Kittyhawk Avenue.
- 12) Main Street.
- 13) Manley Road at Rodman Road.
- 14) Mill Street (Broad to Main).
- 15) Minot Avenue.
- 16) Mount Auburn Avenue (Center to ~~Gracelawn~~Youngs Corner).
- 17) Turner Street (Court to ~~Center~~Joline) (~~Mt. Auburn to Auburn Mall~~).
- 18) Union Street.

19) Washington Street (North & South)

- (d) The public works director and police chief or their designees may require the use of police department personnel for activities on streets or roads not specifically designated in or authorized by this division if, in their opinion, the nature of the activity, road characteristics or traffic volumes indicate a need for city supervised traffic control. Conversely, if the public works director or police chief determine that the nature of the activities, road characteristics or traffic volumes do not require city supervised traffic control then they may waive the application of this policy for the streets and roads listed in subsection (c) of this section.

Reason for proposed change

The proposed ordinance change reflects the increased of traffic volume on the roads added in the proposed ordinance. The proposed change also gives the city more control and authority on traffic control and safety on non-city projects and repairs.



Ordinance Review Form – Charter

Review 2020

Current Ordinance

Ordinance Section: Sec. 52-150. - Parking prohibitions during snow emergencies.

Current Language: Whenever the chief of police or, in his absence, his designated representative, declares that an emergency exists because of existing snow or ice conditions, or that an emergency is imminent because of developing snow or ice conditions, all parking on city streets except by authorized city or emergency vehicles is prohibited beginning 30 minutes after the emergency is officially declared until the police chief or his designee announces that the emergency is over. All local radio stations shall be contacted promptly after the emergency is declared and requested to broadcast frequent announcements that the emergency is in effect. In addition to the other penalties provided for violations of this chapter, vehicles which have been parked or have not been removed in violation of this section may be towed away in the same manner and subject to the same conditions as are provided in section 52-204.

Proposed Ordinance

Ordinance Section: Sec. 52-150. - Parking prohibitions during snow emergencies.

New Language: Whenever the chief of police or, in his absence, his designated representative, declares that an emergency exists because of existing snow or ice conditions, or that an emergency is imminent because of developing snow or ice conditions, all parking on city streets except by authorized city or emergency vehicles is prohibited ~~beginning 30 minutes after the emergency is officially declared until the police chief or his designee announces that the emergency is over~~pursuant to a parking ban issued with specific start and end times. ~~All local radio stations shall be contacted promptly after the emergency is declared and requested to broadcast frequent announcements that the emergency is in effect.~~Notification will also be sent out on all available social media platforms. In addition to the other penalties provided for violations of this chapter, vehicles which have been parked or have not been removed in violation of this section may be towed away in the same manner and subject to the same conditions as are provided in section 52-204.

Reason for proposed change

The proposed change in language reflects current practice.



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Review 2020

Current Ordinance

Ordinance Section: Sec. 52-174. - Bus stops and taxistands.

Current Language:

- (a) The city council is hereby authorized to establish bus stops, taxicab stands, and combinations thereof on such public streets, in such places and in such number as it shall determine to be of the greatest benefit and convenience to the public. The police chief shall cause such spaces to be designated by appropriate signs or curb markings or both.
- (b) No person shall stop or park a vehicle other than a bus or a taxicab in any such space when the space has been officially designated and appropriately marked. However, stopping or parking such vehicles in bus zones used exclusively by local city buses, but excepting combination bus and taxi zones, is permissible on Sundays and on other days at the conclusion of the last run by the local buses according to the prevailing schedule, if otherwise permitted by city ordinances.
- (c) Notwithstanding subsection (b) of this section, the driver of a passenger vehicle may temporarily stop at a bus stop, taxistand, or combination thereof for the purpose of and while actually engaged in loading or unloading passengers when such stopping does not interfere with any bus or taxicab waiting to enter or about to enter such zone.

Proposed Ordinance

Ordinance Section: Sec. 52-174. - Bus stops

New Language:

- (a) The city council is hereby authorized to establish bus stops, ~~taxicab stands, and combinations thereof on such~~ on public streets, in such places and in such number as it shall determine to be of the greatest benefit and convenience to the public. The police chief shall cause such spaces to be designated by appropriate signs or curb markings or both.
- (b) No person shall stop or park a vehicle other than a bus ~~or a taxicab~~ in any such space when the space has been officially designated and appropriately marked. However, stopping or parking such vehicles in bus zones used exclusively by local city buses, ~~but excepting combination bus and taxi zones, is permissible on Sundays and on other days at the conclusion of the last run by the local buses according to the prevailing schedule, if otherwise permitted by city ordinances~~ is not permitted.
- (c) Notwithstanding subsection (b) of this section, the driver of a passenger vehicle may temporarily stop at a bus stop, ~~taxistand, or combination thereof~~ for the purpose of and while actually engaged in loading or unloading passengers when such stopping does not interfere with any bus ~~or taxicab~~ waiting to enter or about to enter such zone.



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Reason for proposed change

Recommended to strike as taxistands from the ordinance as they no longer exist.



Ordinance Review Form – Charter

Review 2020

Current Ordinance

Ordinance Section: Sec. 52-175. - Stopping and parking of buses and taxicabs.

Current Language:

- (a) The driver of a bus or a taxicab is hereby authorized to park the bus or taxicab in any such space established under section 52-174 without restriction as to time.
- (b) The driver of a bus shall not stop or park the bus upon any street in any built-up area at any place other than at such a space, when the space has been officially designated and appropriately marked, except that this provision shall not prevent the driver of any such vehicle from temporarily stopping in accordance with other stopping or parking regulations at any place for the purpose of and while actually engaged in loading or unloading passengers.
- (c) The driver of a taxicab shall remain in the driver's seat of the taxicab, except while actually engaged in admitting or discharging passengers or transporting their luggage, while the taxicab is in such a space.

Proposed Ordinance

Ordinance Section: Sec. 52-175. - Stopping and parking of buses and taxicabs.

New Language:

- (a) The driver of a bus ~~or a taxicab~~ is hereby authorized to park the bus ~~or taxicab~~ in any such space established under section 52-174 without restriction as to time.
- (b) The driver of a bus shall not stop or park the bus upon any street in any built-up area at any place other than at such a space, when the space has been officially designated and appropriately marked, except that this provision shall not prevent the driver of any such vehicle from temporarily stopping in accordance with other stopping or parking regulations at any place for the purpose of and while actually engaged in loading or unloading passengers.
- (c) The driver of a taxicab shall remain in the driver's seat of the taxicab, except while actually engaged in admitting or discharging passengers or transporting their luggage, while the taxicab is in such a space.

Reason for proposed change

Recommend striking Taxicab from paragraph (a) as taxistands were eliminated in Sec 52.-174



Ordinance Review Form – Charter

Review 2020

Current Ordinance

Ordinance Section: Sec. 52-181. - Parking in city-owned lots.

Current Language:

- a) All or portions of the following parking lots are designated as permit parking areas:
 - 1) Great Falls Plaza parking lot.
 - 2) Miller Street parking lot.
 - 3) Main Street parking lot.
 - 4) Phoenix Block parking lot.
 - 5) Mechanics Row parking lot.
 - 6) Court Street parking lot.
 - 7) Mechanics Row parking garage.
 - 8) Troy Street parking lot.
- b) The monthly fee for permit parking shall be in the amount provided in the city fee schedule payable in advance at the location designated by the city manager. All monthly permits must be paid by the tenth of each month. Permit holders will be restricted to park within their designated area. Any permit which has not been paid by the tenth of each month or permitted vehicles not parked within their designated area, the owner will be subject to enforcement provisions set forth in section 52-181(c).
- c) No car shall be parked in an area restricted to permit parking between the hours of 7:00 a.m. and 6:00 p.m. Monday through Friday, except pursuant to a valid permit which shall be affixed to the front window of the vehicle in question. Any car parked in violation of this section may be towed pursuant to section 52-204 and its owner shall be subject to the enforcement provisions set forth in section 52-203. The fact that a car is parked in a permit parking section without a valid permit displayed shall be prima facie evidence that the car in question has been illegally parked. The person in whose name the car is registered shall be responsible for any such illegally parked vehicle.
- d) Nothing in this section shall be construed as prohibiting the city from restricting parking in permit parking areas during special events or from providing free temporary parking in permit areas.
- e) Any person parking his vehicle in a space limited to two- or four-hour parking in any city-owned parking lot shall not thereafter park the vehicle in any other parking space in that parking lot during the ensuing 12-hour period other than in a space as to which parking is limited to one hour or less.



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- f) No person shall park a vehicle in any city-owned lot between the hours of 12:01 a.m. and 6:00 a.m. from November 15 to April 15, except in spaces designated as winter relief parking areas.
- g) No person shall park a vehicle which is not identified with a handicapped registration plate in a parking space in a city-owned lot which is limited to handicapped parking, nor shall any vehicle be parked in a handicapped parking space longer than the time limit applicable to that space.

Proposed Ordinance

Ordinance Section:

New Language:

- h) All or portions of the following parking lots are designated as permit parking areas:
 - 1) Great Falls Plaza parking lot.
 - 2) Miller Street parking lot.
 - 3) Main Street parking lot.
 - 4) Pleasant Street (Court St – Hampshire St)~~Phoenix Block parking lot.~~
 - 5) Mechanics Row parking lot.
 - 6) Court Street parking lot.
 - 7) Mechanics Row parking garage.
 - 8) ~~Troy Street parking lot.~~
- a) The monthly fee for permit parking shall be in the amount provided in the city fee schedule payable in advance at the location designated by the city manager. All monthly permits must be paid by the tenth of each month. Permit holders will be restricted to park within their designated area. Any permit which has not been paid by the tenth of each month or permitted vehicles not parked within their designated area, the owner will be subject to enforcement provisions set forth in section 52-181(c).
- b) No car shall be parked in an area restricted to permit parking between the hours of 7:00 a.m. and 6:00 p.m. Monday through Friday, except pursuant to a valid permit which shall be affixed to the front window of the vehicle in question. Any car parked in violation of this section may be towed pursuant to section 52-204 and its owner shall be subject to the enforcement provisions set forth in section 52-203. The fact that a car is parked in a permit parking section without a valid permit displayed shall be prima facie evidence that the car in question has been illegally parked. The person



Ordinance Review Form – Charter

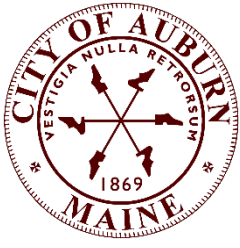
Review 2020

in whose name the car is registered shall be responsible for any such illegally parked vehicle.

- c) Nothing in this section shall be construed as prohibiting the city from restricting parking in permit parking areas during special events or from providing free temporary parking in permit areas.
- d) Any person parking his vehicle in a space limited to two- or four-hour parking in any city-owned parking lot shall not thereafter park the vehicle in any other parking space in that parking lot during the ensuing 12-hour period other than in a space as to which parking is limited to one hour or less.
- e) No person shall park a vehicle in any city-owned lot between the hours of 12:01 a.m. and 6:00 a.m. from November 15 to April 15, except in spaces designated as winter relief parking areas.
- f) No person shall park a vehicle which is not identified with a handicapped registration plate in a parking space in a city-owned lot which is limited to handicapped parking, nor shall any vehicle be parked in a handicapped parking space longer than the time limit applicable to that space.

Reason for proposed change

Changes in paragraph (a) reflect current permit parking locations.



**City of Auburn
City Council Information Sheet**

Council Workshop or Meeting Date:

Author: Jason Moen, Police Chief

Subject: 52-183.-Median Ordinance

Information:

Over the past few years and to a greater extent more recently, the department has received complaints from motorists regarding pedestrians and individuals standing and sitting on city medians. This activity puts motorists uncomfortably close to pedestrians, sometimes nearly causing accidents as vehicles try to swerve to provide more room. Specifically, the complaints have been at some of the city's most narrow medians that are designed and intended to divide two-way traffic and are not designed for safe pedestrian staging or standing.

This ordinance is modeled after an ordinance from Sandy City, Utah. The Sandy City ordinance simply prohibits pedestrians from sitting or standing on any unpaved median that is less than 36 inches for any period of time. The ordinance was enacted and then challenged in court on the basis that it was somehow targeting pan handling rather than the safety and welfare of the community. The ordinance was upheld by the Tenth Circuit Court of Appeals in part because it did not attempt to prohibit pan handling or protesting but simply restricted the location due to safety concerns. The Plaintiff in the Sandy City case went on to petition the United State Supreme Court, but that petition was denied as recently as October of 2020, allowing the ordinance to stand.

City Budgetary Impacts:

None

Staff Recommended Action:

Approve the new ordinance as written.

Previous Meetings and History:

None

City Manager Comments:

I concur with the recommendation. Signature: _____

Attachments:

Draft of Ordinance

Sec. 52-183.- Medians

It shall be illegal for any individual to sit or stand, in or on any unpaved median, or any median of less than 36 inches for any period of time.



Ordinance Review Form – Charter

Review 2020

Current Ordinance

Ordinance Section: New Ordinance Proposed

Current Language: None

Proposed Ordinance

Ordinance Section: Section 14, Article XIX

New Language:

ARTICLE XIX. - DAY TREATMENT CENTERS/RESIDENTIAL TREATMENT CENTERS

Sec. 14-701. - Purpose.

The city council recognizes that day treatment/ residential treatment centers are a valuable component of our health care system. The city council finds that with the reasonable and necessary siting restrictions listed herein, there remain sufficient suitable areas within the city to site these treatment centers. Licensing of these facilities will enhance community relations with the providers of such centers and will establish lines of communications with them. Licensing of these facilities is appropriate and consistent with the city's policies and practices to review and license business activities that impact its citizens. The licensing is not meant to duplicate the licensing done at the state level pursuant to state law and rules but to provide separate and additional requirements as necessitated by the above findings.

Sec. 14-702. - Applicability.

This article shall apply to any day treatment/ residential treatment center that is located within the city.

Sec. 14-703. – Definitions

"Day treatment services" includes psychoeducational, physiological, psychological and psychosocial concepts, techniques and processes to maintain or develop functional skills of clients, provided to individuals and groups for periods of more than 2 hours but less than 24 hours per day.

Residential facility" means a boarding home, nursing home, foster home, group home or halfway house licensed by the Department of Health and Human Services or used by the Department of Health and Human Services.



Ordinance Review Form – Charter

Review 2020

Sec. 14-704. - Application requirements.

All applications for licenses under this article shall be filed with, and in a form satisfactory to, the city clerk. Such application shall include, but is not limited to, the following:

(1) Name, address and contact information including a phone number of the applicant and all other persons having a legal interest in the center, property, and the individuals hired by the applicant to manage operation of the facility, if any.

(2) The location of the premises for which a license is sought by identification of city tax map number and street address.

(3) The dimensions and acreage of the property upon which the center is to be located.

(4) A copy of an approved site plan, drawn to a scale of 50 feet or less to the inch, that contains the following information:

- a. The boundary lines of the property for which a license is sought.
- b. The location of all existing and proposed buildings and structures.
- c. The location of all existing and proposed parking areas and walkways and any other site improvements.
- d. The location and characteristics of all vehicular entrances and exits serving the property.
- e. The signature of the chairman of the city planning board after a finding by the board that the site plan meets the requirements of city building and zoning regulations.

(5) A site location map at a scale of not greater than one inch to 100 feet showing all adjoining residential uses and any schools, churches, family day care homes, small day care facilities, day care centers and public parks and playgrounds.

(6) A detailed description of the proposed day treatment/ residential treatment centers to include the following: population to be served, client services, staffing requirements, security provisions, hours of operation, anticipated parking demand, peak hour traffic, identification of other required licenses, etc.

(7) Identification of any other approvals required the city, by any state agency or department or of any federal agencies.

Sec. 14-705. - Review procedure; conditions of approval.

(a) License applications for day treatment/ residential treatment centers shall be filed with the city clerk or designee and the clerk will order a background check from the police department for the applicant, individuals with a legal interest in the facility and any individuals hired to manage operation of the facility. The license application with the background check will then be reviewed by the city clerk or designee to determine if the application is complete. If the application is not deemed



Ordinance Review Form – Charter

Review 2020

complete, the license shall be denied. If the application is deemed to be complete, it shall be scheduled for a public hearing before the city council.

(b) The city council may impose conditions on the approval of any license application under this Article to ensure compliance with the provisions of this article or any other provision of law. Such conditions may include, but are not limited to, the following:

- (1) That the applicant provides documentation to the city clerk or designee of the receipt of all approvals required by any federal or state agency or department pursuant to federal or state law prior to clinic operations.
- (2) That the applicant provides documentation to the city clerk or designee of the receipt of any approvals required by any city board pursuant to this Code prior to the issuance of any license under this article.
- (3) That any screening and or other requirements imposed by the city council pursuant to the provisions of this article or by the planning board upon site plan and special exception review, shall be installed, completed, and approved by staff prior to the issuance of any license under this article.

Sec. 14-706. – Licensing Fees

- A. 1-5 Clients \$100.00 Annually
- B. 5-15 Clients \$150.00 Annually
- C. 15-50 Clients \$200.00 Annually
- D. 50-100 Clients \$250.00 Annually

Sec. 14-707. – Additional Charges

The purpose of this section is to provide administrative and civil remedies against responsible persons who allow or fail to prevent recurring police calls for service.

Any Day Treatment Center or Residential Treatment center that creates an undue burden, within a 30-day period, on the Auburn Police Department will be subject to the following addition charges:

- A. There is no charge for the first two calls for service within a 30-day period.
- B. Third and fourth calls for service: \$30.00 service charge per occurrence.
- C. Fifth and Sixth call for service: \$50.00 service charge per occurrence.
- D. Seventh and subsequent calls for service: \$100.00 service charge per occurrence.

Sec. 14-708. - Annual meetings with the police chief.

A minimum of one meeting per calendar year will be conducted at the center to allow the applicant and city staff the opportunity to discuss issues with the police chief or designee. The purpose of the meetings is to establish a good working relationship between the police department and the owner and operators of centers.



Ordinance Review Form – Charter Review 2020

Sec. 14-709. - Location criteria.

Applicants for licenses must demonstrate to the satisfaction of the city council that all the standards contained in this section are met, in order to approve a license to operate day treatment/ residential treatment center.

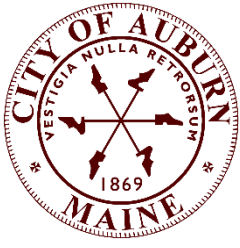
Sec. 14-710. - Nonconforming facilities.

Any day treatment/ residential treatment centers in lawful existence on the effective date of the ordinance from which this article is derived may remain in operation in its present location.

Secs. 14-711—14-722. - Reserved.

Reason for proposed change

The high call volume and demand for public safety resources these facilities require has created an undue burden on the City of Auburn. The need to assess additional fees and charges is similar to that of the Alarm Billing process that has already been implemented.



**City of Auburn
City Council Information Sheet**

Council Workshop or Meeting Date: February 1, 2021

Order: 09-02012021

Author: Jason D. Moen, Chief of Police

Subject: Confirm Chief Moen's appointment of Logan Rossignol as a Constable with firearm for the Auburn Police Department.

Information: The Auburn Police Department requests City Council appointment of Logan Rossignol as a Constable with firearm for the City of Auburn.

City Budgetary Impacts: N/A

Staff Recommended Action: Motion to confirm Chief Moen's appointment of Logan Rossignol as a Constable with firearm for the Auburn Police Department.

Previous Meetings and History: None

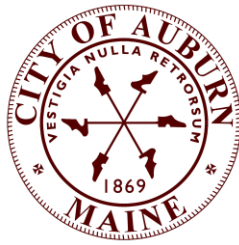
City Manager Comments:



I concur with the recommendation. Signature:

Attachments:

N/A



ORDER 09-02012021

City Council Resolve

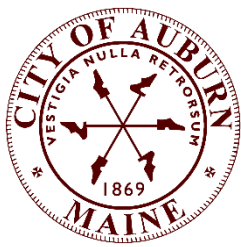
IN CITY COUNCIL

ORDERED, that the City Council hereby names Logan Rossignol as a Constable with firearm for the Auburn Police Department.

Holly C. Lasagna, Ward One
Brian S. Carrier, Ward Four
Belinda A. Gerry, At Large

Timothy B. MacLeod, Ward Two
Leroy G. Walker, Ward Five
Jason J. Levesque, Mayor

Stephen G. Milks, Ward Three
Katherine E. Boss, At Large
Phillip L. Crowell, Jr., City Manager



**City of Auburn
City Council Information Sheet**

Council Workshop or Meeting Date: February 1, 2021

Order: 10-02012021

Author: Sue Clements-Dallaire, City Clerk

Subject: Proposed date change for the second Regular City Council meeting of February 2021

Information: Recommend changing the second Regular City Council meeting date to Tuesday, February 16, 2021. The second meeting falls on a holiday and rather than pushing the meeting out another week, we are recommending that the meeting be held the Tuesday after the holiday (change from February 22, 2021 to February 16, 2021).

City Budgetary Impacts: None.

Staff Recommended Action: Approve moving the second regular meeting of January to Tuesday, February 16, 2021.

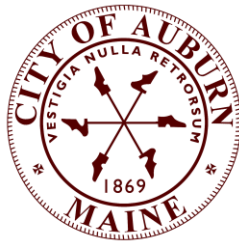
Previous Meetings and History: In past years, we have held meetings that would have fallen on a holiday on the Tuesday immediately following that date.

City Manager Comments:

Phillip Crowell Jr.

I concur with the recommendation. Signature:

Attachments:



ORDER 10-02012021

City Council Order

IN CITY COUNCIL

ORDERED, that the City Council hereby authorizes changing the second regular meeting of the City Council from Monday, February 22, 2021 to Tuesday, February 16, 2021.

Holly C. Lasagna, Ward One
Brian S. Carrier, Ward Four
Belinda A. Gerry, At Large

Timothy B. MacLeod, Ward Two
Leroy G. Walker, Ward Five
Jason J. Levesque, Mayor

Stephen G. Milks, Ward Three
Katherine E. Boss, At Large
Phillip L. Crowell, Jr., City Manager

IN COUNCIL REGULAR MEETING JANUARY 19, 2021 VOL. 36 PAGE 107

Mayor Levesque called the meeting to order at 7:00 P.M. in the Council Chambers of Auburn Hall and led the assembly in the salute to the flag. All Councilors were present. A moment of silence was held in memory of Brian Sicknick who was a member of the Capital Hill Police Force. Officer Sicknick was killed during the Capital building riots on January 6, 2021.

I. Consent Items

1. Order 04-01192021

Setting the time to open the polls for all 2021 election for 7:00 A.M.

2. Order 05-01192021

Accepting the transfer of \$4,535.00 forfeiture assets in Rem in U.S. Currency to the Auburn Police Department (Unified Criminal Court Docket No. CR-20-1787 David Cochran).

3. Order 06-01192021

Accepting the transfer of \$2,480.00 forfeiture assets in Rem in U.S. Currency to the Auburn Police Department (Unified Criminal Court Docket No. CR-20-1787 Lloyd Lyttle).

Motion was made by Councilor MacLeod and seconded by Councilor Walker for passage of the three consent items.

Passage 7-0.

II. Minutes – January 4, 2021 Regular Council Meeting

Motion was made by Councilor Carrier and seconded by Councilor Walker to approve the minutes of the January 4, 2021 Regular Council Meeting.

Passage 7-0.

III. Communications, Presentations and Recognitions

- Mayor Levesque delivered his State of the City Address which was pre-recorded
- Council Communications (about and to the community)

Councilor Lasagna took a moment to reflect on the events that happened on January 6, 2021 at the Capital Building noting that while it is important look outwardly at the cracks in our democracy and our government, which led to the violence, we should also look inwardly at the cracks that may exist in our own community and the potential cracks within ourselves and do what we can to ensure equity and commitment to each other.

IV. Open Session

Larry Pelletier, New Auburn resident, commented on litter and dog waste in the City.

V. Unfinished Business

4. Order 01-01042021

Approving the Packgen TIF District #26.

Motion was made by Councilor Carrier and seconded by Councilor Boss for passage.

Public comment – no one from the public spoke.

Motion was made by Councilor Milks and seconded by Councilor MacLeod to postpone this item indefinitely.

Passage 7-0.

5. Order 03-01042021

Authorizing staff to enter into an agreement with FB Environmental Associates for the evaluation of ordinances applicable to the protection of the Lake Auburn Watershed.

Motion was made by Councilor Boss and seconded by Councilor Walker for passage.

Public comment - no one from the public spoke.

Passage 7-0.

VI. New Business

1. Order 07-01192021

Approving the liquor license for El tequila Restaurant located at 245 Center Street. Public hearing.

Motion was made by Councilor MacLeod and seconded by Councilor Boss for passage.

Public hearing - no one from the public spoke.

Passage 7-0.

2. Order 08-01192021

Authorizing the reallocation \$150,000 originally allocated for the Auburn Lewiston Airport main terminal parking lot to be used for the Eastside Aircraft Apron Reconstruction Project.

Motion was made by Councilor Carrier and seconded by Councilor MacLeod for passage.

Public comment – no one from the public spoke.

Passage 7-0.

VII. Open Session – No one from the public spoke.

VIII. Reports (from sub-committees to Council)

Mayor Levesque – announced that the Comp Plan ad hoc review committee has been meeting actively and the next meeting is scheduled for January 21st.

Councilor Carrier – provided a School Committee update.

Councilor Walker – reminded everyone about the upcoming Valentine's Day (February 14, 2021) spaghetti dinner that the Age Friendly Committee will be putting on. The dinner is a take-out dinner, there is no charge, orders must be called in in advance. He also expressed some concerns about the Sopers Mill Road bid on underground piping and the pond in that area.

Councilor Milks – provided an update on the Sewer District meeting held earlier in the afternoon adding that the Water District Trustee meeting will be held tomorrow.

Councilor MacLeod – provided an update on the LATC meeting, and the Comp Plan ad hoc committee meeting.

Councilor Lasagna – asked for an update on the ad hoc committee on Boards & Committees and provided an update on the School Building Committee.

Councilor Boss – reported that she has been hearing from residents about their excitement about the newly opened Holy Donuts as well as some traffic concerns in that area.

Manager Crowell – provided the Council with some upcoming items slated for future Council meetings. He provided an update on COVID vaccinations.

Jill Eastman, Finance Director – December 2020 Final Monthly Report

Motion was made by Councilor Carrier and seconded by Councilor Milks to accept and place on file the December 2020 final monthly finance report.

Passage 7-0

IX. Executive Session

- Personnel matter, pursuant to 1 M.R.S.A. Sec. 405 (6) (A).
This executive session was taken up during the workshop.
- Personnel matter, pursuant to 1 M.R.S.A. Sec. 405 (6) (A).
Motion was made by Councilor Milks and seconded by Councilor Carrier to enter into executive session.

Passage 7-0. Time 7:52 PM.

Council was declared out of executive session at 8:15 PM.

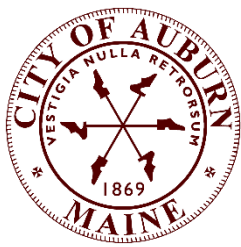
X. Adjournment

Motion was made by Councilor Walker and seconded by Councilor Milks to adjourn.
Unanimously approved, adjourned 8:15 PM.

A TRUE COPY

ATTEST *Susan Clements-Dallaire*

Susan Clements-Dallaire, City Clerk



**City of Auburn
City Council Information Sheet**

Council Workshop or Meeting Date: February 1, 2021

Ordinance: 01-02012021

Author: Eric Cousens, Director of Planning and Permitting

Subject: 186 Main Street Zoning Map Amendment

Information: In February of 2018, the City Council chose not to move forward with a zoning amendment that would expand the boundary of the T.5.1 Traditional Downtown Center Form Based Code District to include the parcel at 186 Main Street. The Planning Board recommended unanimously (7/0) that the boundary be revised as shown on the attached maps and more recently, at the January 12, 2021 Planning Board meeting, asked that the City Council reconsider the proposed zoning map amendment. The implications for development at the site are economically significant if we want the downtown to grow at this key riverfront location, but relatively minor as far as total land area in each district. The Current zone, T.4.2, allows 3-story structures plus an attic story. The proposed zone, T.5.1, allows for 4 stories plus an attic story. The increased building height will help make a mixed-use project, with an elevator, viable according to interested developers. This is the first reading and we are preparing public notices for a second reading and public hearing on February 16, 2021.

City Budgetary Impacts: Increased potential for a larger tax base at the site.

Staff Recommended Action: Approve first reading and allow staff to schedule second reading with a public hearing for February 16, 2021.

Previous Meetings and History: February 5, 2018 Council Meeting, January 25, 2021 Workshop.

City Manager Comments:

I concur with the recommendation. Signature:

Attachments: Previous 2018 staff report to Council, Images of development potential with the proposed change(2), T.4.2 Standards:

https://library.municode.com/me/auburn/codes/code_of_ordinances?nodeId=PTIICOOR_CH60ZO_ARTIVDIRE_DIV14FOBACO_SDIINGE_S60.549TRDONE2 ,

T.5.1 Standards:

https://library.municode.com/me/auburn/codes/code_of_ordinances?nodeId=PTIICOOR_CH60ZO_ARTIVDIRE_DIV14FOBACO_SDIINGE_S60-550DOTRCE1



**City of Auburn
City Council Information Sheet**

Council Workshop Date: 1-22-2018

Ordinance: 01-02052018

Author: Zach Mosher, City Planner

Subject: Zoning Map Amendment at 186 Main St.

Information: 186 Main St, a city-owned property, has been selected by the City as a valuable downtown redevelopment site. During the Staff review period it was determined that the existing zoning of T-4.2 is not the appropriate zoning for a more urban type redevelopment of 186 Main Street. The zoning amendment would change the zoning at 186 Main St (PID: 231-020) from Traditional Downtown Neighborhood (T-4.2) to Traditional Downtown Center (T-5.1). The Traditional Downtown Center (T-5.1) zoning for the proposed property will be a positive incentive for redevelopment by taking advantage of the increased density and building size that the Form Based Code allows. 186 Main St is located on the boundary between the T-4.2 and T-5.2 zoning districts and staff opines that it makes sense to extend the T-5.1 district to include this parcel and continue the visual character of the properties at 178 Main Street and other properties further to the north on Main Street.

The Planning Board voted unanimously (7-0) to forward a recommendation of APPROVAL on to the City Council. The required Planning Board report is attached with this information sheet.

Advantages: The T-5.1 zoning will allow for a denser, more urban type development than the T-4.2 zoning district.

Disadvantages: None.

City Budgetary Impacts: None

Staff Recommended Action: First reading and recommend passage.

Previous Meetings and History: January 9, 2018 Planning Board meeting- A public hearing was held (no public response) and the Planning Board voted 7-0 to forward a positive recommendation to the City Council. All Planning Board materials and maps are attached. Workshop presentation on 1/22/2018.

City Manager Comments:

I concur with the recommendation. Signature:

A handwritten signature in blue ink, appearing to read "Peter J. Cusick".

Attachments:

1. Staff Report for the Planning Board's January 9, 2018 meeting.
2. Planning Board report to the City Council.

**Attachment 2
Existing Zoning**

**Downtown City Center
T-5.2**

**Downtown Traditional Center
T-5.1**

**Conservation/Open Space
C/OS**

**T-4.1
Traditional Mainstreet Neighborhood**

**Traditional Downtown Neighborhood
T-4.2**

186 Main St.

DE DOWNTOWN ENTERPRISE

High

Mechanics

Main

Miller

Riverwalk

Drummond

Vine



**Attachment 3
Proposed Zoning**

**Downtown City Center
T-5.2**

**Downtown Traditional Center
T-5.1**

**Conservation/Open Space
C/OS**

**Traditional Mainstreet Neighborhood
T-4.1**

**T-4.2
Traditional Downtown Neighborhood**

**Proposed Zoning for
186 Main St.**

DE DOWNTOWN ENTERPRISE

Holly C. Lasagna, Ward One
Robert P. Hayes, Ward Two
Andrew D. Titus, Ward Three
Alfreda M. Fournier, Ward Four



Leroy G. Walker, Ward Five
Belinda A. Gerry, At Large
David C. Young, At Large

Jason J. Levesque, Mayor

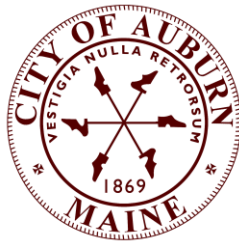
IN CITY COUNCIL

ORDINANCE 01-02052018

BE IT ORDAINED, that the City Council hereby amends the City of Auburn Zoning Ordinance for the property located at 186 Main Street (PID # 231-020) from Traditional Downtown Neighborhood (T-4.2) to Downtown Traditional Center (T-5.1) as shown on the attached map, pursuant to Chapter 60, Article XVII, Division 2 of the Ordinances of the City of Auburn.







City Council Ordinance

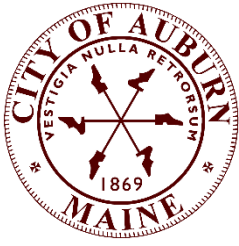
IN CITY COUNCIL

Be it ordained, that the Auburn City Council amend the zoning map in the vicinity of 186 Main Street. Specifically, adjusting the boundary to remove the parcel at 186 Main Street from the T.4.2 Form Based Code District and include the parcel in the T.5.1 Form Based Code District as shown in the attached map labeled Attachment 3 Proposed Zoning.

Holly C. Lasagna, Ward One
Brian S. Carrier, Ward Four
Belinda A. Gerry, At Large

Timothy B. MacLeod, Ward Two
Leroy G. Walker, Ward Five
Jason J. Levesque, Mayor

Stephen G. Milks, Ward Three
Katherine E. Boss, At Large
Phillip L. Crowell, Jr., City Manager



**City of Auburn
City Council Information Sheet**

Council Workshop or Meeting Date: February 1, 2021

Ordinance: 02-02012021

Author: Megan Norwood, City Planner and Eric Cousens, Director of Planning and Permitting

Subject: Form-Based Code Expansion – New Auburn Area

Information: At the October 5th meeting City Council directed the Planning Board to make a recommendation on whether the City should expand the Form-Based Code (“FBC”) to several predominantly residential areas surrounding the City’s urban core. Due to the number of parcels involved and COVID-19 related limitations, staff chose to split up the neighborhoods being considered into three separate public hearings. At the January 12, 2021 meeting, the Planning Board reviewed the Multifamily Urban District in the New Auburn neighborhood consisting of the streets from Riverside Drive to Ninth Street and portions of Broad and South Main Street. As a result of the public hearing the Planning Board has made the following recommendations:

- Expand the T-4.2 Traditional Downtown Neighborhood, to replace the current zoning in the Multifamily Urban District in the New Auburn neighborhood consisting of the streets from Riverside Drive to Ninth Street and portions of Broad and South Main Street.

City Staff will have maps available to display how the existing building setbacks better match the proposed zone.

City Budgetary Impacts: None.

Staff Recommended Action: Consider the zoning ordinance changes recommended by the Planning Board, approve first reading and schedule for a Public Hearing and Second Reading on March 1, 2021.

Previous Meetings and History: October 5, 2020 – City Council Workshop, November 10, 2020 – Planning Board Meeting, December 8, 2020 – Planning Board Meeting, January 12, 2021 – Planning Board Meeting - Council Workshop January 19, 2021.

City Manager Comments:

Phillip Crowell Jr.

I concur with the recommendation. Signature:

Attachments: Zoning map.

Sec. 60.549. - Traditional Downtown Neighborhood T-4.2.

Illustrative View of T-4.2 (Spring Street)



**Intent and Purpose:
Traditional Downtown Neighborhood (T-4.2)**

The Traditional Downtown Neighborhood district is characterized by a small to medium sized buildings with smaller front yards and stoops in a more compact urban environment, and includes and traditional neighborhood sized storefronts. The smaller minimum and maximum building set-backs form a moderately dense street-wall pattern, diverse architectural styles and pedestrian friendly streets and sidewalks.

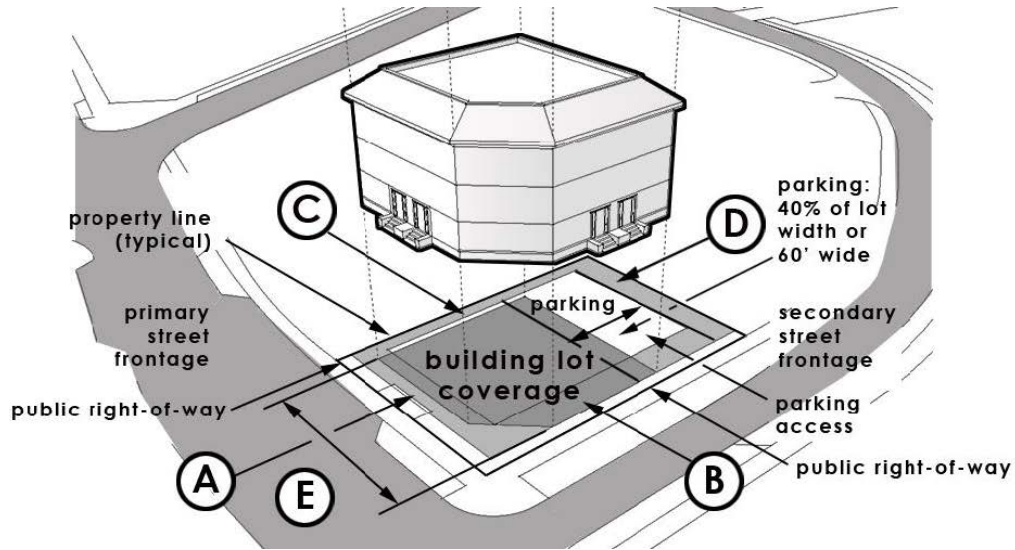


Characteristic Features

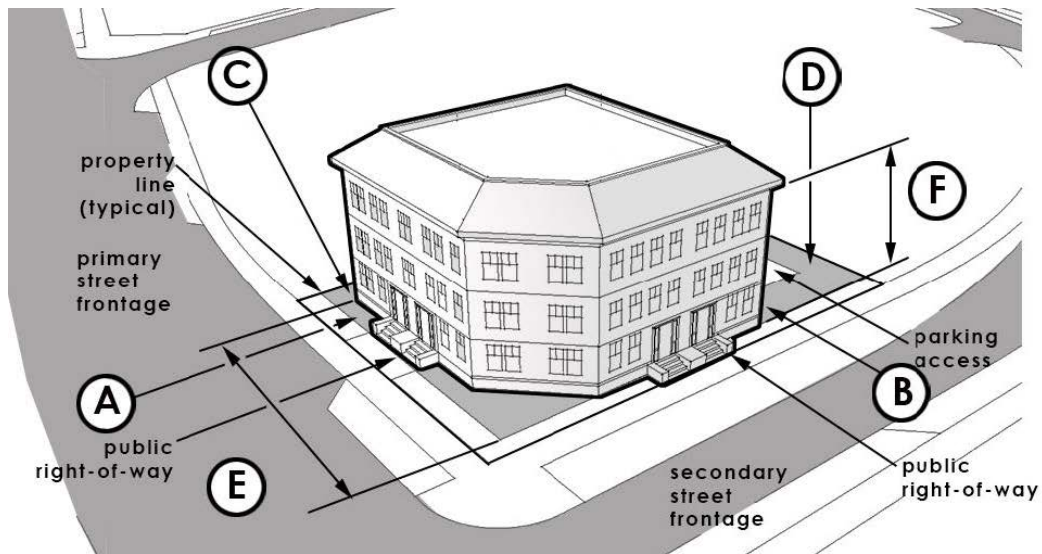
- More public and private realm interaction
- Front facade detailing
- Small front yards
- Bay windows
- Neighborhood scaled storefronts with large windows
- Frontage Fences
- Street Trees
- Moderate densities

(Ord. No. 04-03072016, 5-16-2016)

Sec. 60-549.1. - Building placement and configuration T-4.2.



Elevated Building Placement

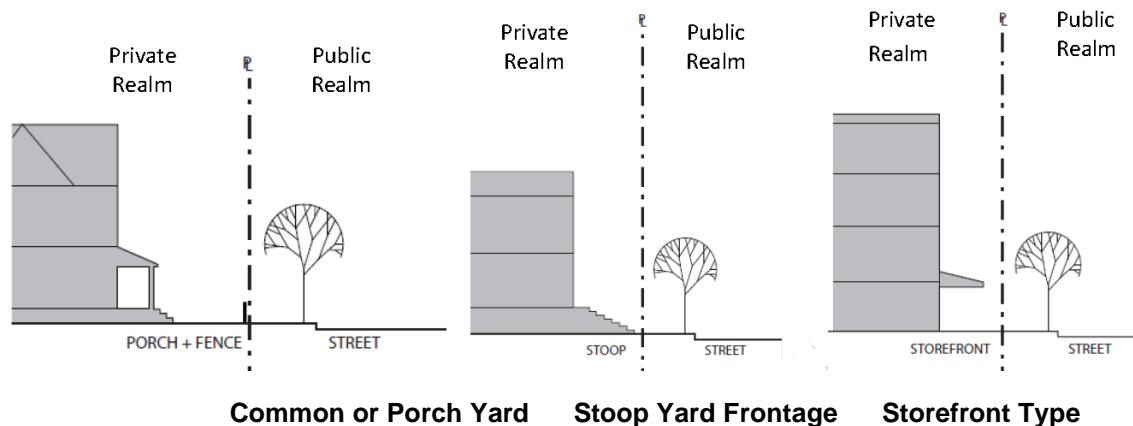


Building Placement on Lot

| | | |
|--|--|-----------------------------|
| PRINCIPAL BUILDING PLACEMENT: | | |
| Front Setback, Principal: | 5 ft. Min/, 15 ft. Max | (A) |
| (Corner Lot) Front Setback, Secondary: | 5 ft. Min., 15 ft. Max. | (B) |
| Side Setback: | 5 ft. Min. | (C) |
| Rear Setback: | 10 ft. Min. | (D) |
| Building Lot Coverage: | 70% Max. | |
| Useable Open Space: | 10% Min. | |
| Frontage Build-Out: | 60% Min (along Front Setback, Primary) | |
| Lot Width: | 24 ft. Min, 120 ft. Max. | |
| PRINCIPAL BUILDING CONFIGURATION: | | |
| Building Width: | 14 ft. Min., 110 ft. Max. | (E) |
| Building Height Minimum: | 1 Story Min. | (F) |
| Building Height Maximum: | 3 Story Max. | (F) (excluding attic story) |

(Ord. No. 04-03072016, 5-16-2016)

Sec. 60.549.2. - Building frontages T-4.2.



| BUILDING FRONTAGE TYPES: | Common Yard; Porch Yard, Stoop and Storefront |
|--|--|
| BUILDING ENTRIES: | Primary entry door is encouraged along ground story facade facing a primary street. |
| BUILDING ENVELOPE ARTICULATION: | |
| Ground Story Building Frontage Facade: | <u>Residential</u> - Windows and doors shall comprise a minimum of 25% and maximum 60% coverage of the total ground story frontage facade. <u>Commercial</u> - Windows and doors shall comprise a minimum of 40% and maximum of 90% coverage of the total ground story frontage facade. |
| Upper Story Building Frontage Facade: | Windows and doors shall comprise a minimum of 20% and maximum 40% coverage of the total upper story building frontage facade. |
| Ground Story Finished Floor Elevation: | <u>Residential</u> - The ground story elevation must be a minimum of 2 feet minimum and 6 feet maximum above the front yard elevation (average grade). <u>Commercial</u> - The ground story elevation must be at a minimum of sidewalk grade to maximum of 2 feet. |

| | |
|-----------------------|--|
| Frontage Facade Wall: | Blank lengths of wall exceeding 10 linear feet are prohibited. |
|-----------------------|--|

(Ord. No. 04-03072016, 5-16-2016)

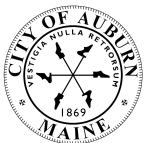
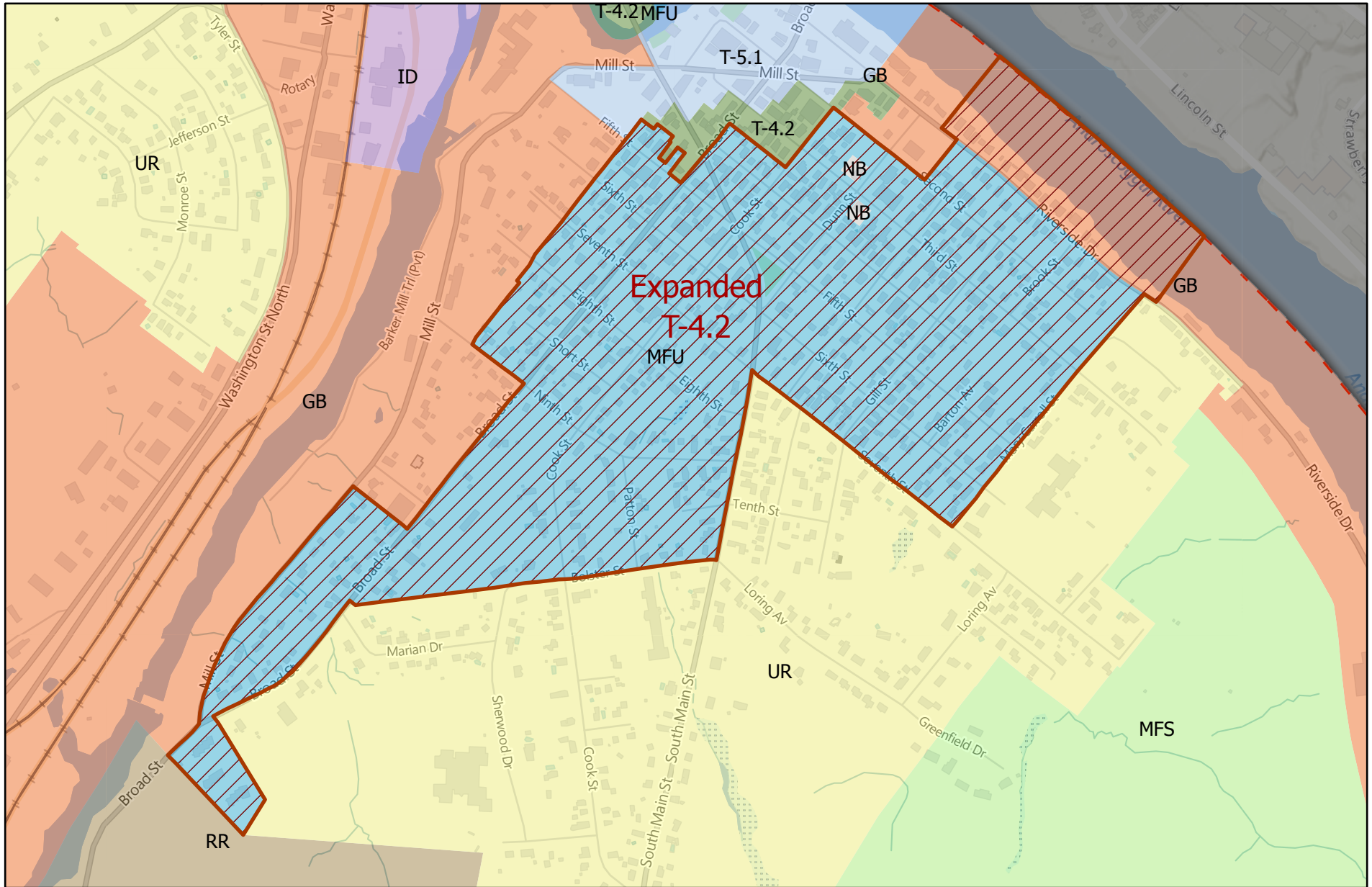
Sec. 60-549.3. - External elements T-4.2.

| | |
|--------------------------------|--|
| Front Yard Fence: | <u>Residential</u> - A front yard fence a minimum of 2 feet and a maximum of 4 feet in height is encouraged to maintain spatial edge of street. No chain link, vinyl, split rail, or barbed wire is allowed |
| Front Yard Fence/Wall Opening: | A vehicle entry way, as part of a front fence/wall, shall be a maximum width of 20 feet; a pedestrian entry way shall be a maximum width of 6 feet. |
| Building Projections: | No part of any building, except overhanging eaves, awnings, balconies, bay windows, stoops and other architectural features shall encroach beyond the minimum front setback line. |
| Porch & Stoop Encroachments: | Porches & Stoops may encroach upon the minimum front setback line by the following distances: Front Setback, Principal Frontage 5 ft. maximum. Front Setback, Secondary Frontage 5 ft. maximum. |
| Garages: | Detached garages shall be located a minimum of 20 feet from any street right-of-way. |
| Driveways: | Driveways are encouraged to be on the secondary street frontage. Driveways shall be paved and a minimum of 8 feet wide and a maximum of 20 feet wide. |
| Parking: | <u>Residential</u> - Vehicle parking areas shall be located only on driveways or designated parking areas and shall not extend into the street right-of-way or sidewalk. <u>Commercial</u> - Parking shall be located to rear of the property to the greatest extent possible. Parking on a side yard is limited to no more than 60 feet wide or 40% of the lot width. Screening and/or street wall is required for parking areas along a street. |

| | |
|-----------------------|--|
| Accessory Structures: | Accessory structures shall be located a minimum of 20 feet from any street right-of-way and 5 feet from either side or rear property line. |
| Landscaping: | Landscaping is encouraged but shall not extend into any street right-of-way or sidewalk. Street trees are encouraged. |
| Foundation Planting: | Foundation plantings are encouraged but should be pruned and maintained with enough clearance from the building facade to encourage air circulation. |

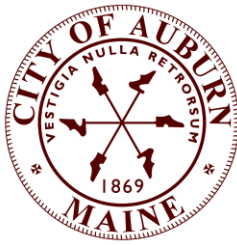
(Ord. No. 04-03072016, 5-16-2016)

Expand T-4.2 in New Auburn Area



60 Court St
Auburn, ME 04210
www.auburnmaine.gov

- Proposed Change Area
- Current Zoning
- ID - Industrial
- MFS - Multi-Family Suburban
- GB - General Business
- MFU - Multi-Family Urban
- NB - Neighborhood Business
- RR - Rural Residential
- UR - Urban Residential
- T-4.2 - Traditional Downtown Neighborhood
- T-5.1 - Downtown Traditional Center



City Council Ordinance

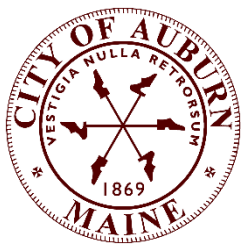
IN CITY COUNCIL

Be it ordained, that the Auburn City Council expand the T-4.2 Traditional Downtown Neighborhood, to replace the current zoning in the Multifamily Urban District in the New Auburn neighborhood consisting of the streets from Riverside Drive to Ninth Street and portions of Broad and South Main Street as shown on the attached map.

Holly C. Lasagna, Ward One
Brian S. Carrier, Ward Four
Belinda A. Gerry, At Large

Timothy B. MacLeod, Ward Two
Leroy G. Walker, Ward Five
Jason J. Levesque, Mayor

Stephen G. Milks, Ward Three
Katherine E. Boss, At Large
Phillip L. Crowell, Jr., City Manager



**City of Auburn
City Council Information Sheet**

Council Workshop or Meeting Date: February 1, 2021

Orders: 11-02012021 and 12-02012021

Author: Sue Clements-Dallaire, City Clerk

Subject: Appointments – Airport Board and Androscoggin Transportation Resource Council (ATRC)

Information:

Staff is recommending that Glen Holmes, Director of Business & Community Development be appointed to the Auburn Lewiston Airport Board as the City Manager representative, replacing Jill Eastman, Finance Director.

We are further recommending that Eric Cousens, Director of Planning & Permitting be appointed to the Androscoggin Transportation Resource Center (ATRC) Policy Committee, replacing the City Manager as a representative for the City of Auburn.

City Budgetary Impacts: None

Staff Recommended Action: Passage of Orders

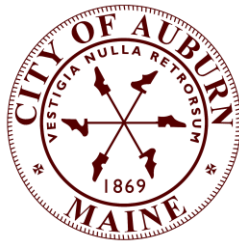
Previous Meetings and History: N/A

City Manager Comments:

I concur with the recommendation. Signature:



Attachments:



ORDER 11-02012021

City Council Order

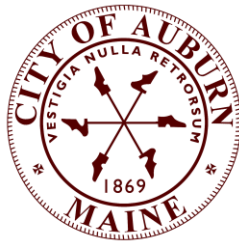
IN CITY COUNCIL

ORDERED, that the City Council hereby appoints Glen Holmes to the Auburn Lewiston Airport Board as the City Manager's Representative.

Holly C. Lasagna, Ward One
Brian S. Carrier, Ward Four
Belinda A. Gerry, At Large

Timothy B. MacLeod, Ward Two
Leroy G. Walker, Ward Five
Jason J. Levesque, Mayor

Stephen G. Milks, Ward Three
Katherine E. Boss, At Large
Phillip L. Crowell, Jr., City Manager



ORDER 12-02012021

City Council Order

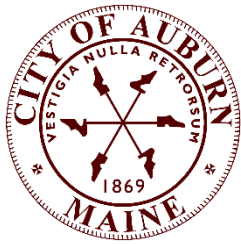
IN CITY COUNCIL

ORDERED, that the City Council hereby appoints Eric Cousens to serve on the Androscoggin Transportation Resource Center (ATRC) Policy Committee, replacing the City Manager as a representative for the City of Auburn.

Holly C. Lasagna, Ward One
Brian S. Carrier, Ward Four
Belinda A. Gerry, At Large

Timothy B. MacLeod, Ward Two
Leroy G. Walker, Ward Five
Jason J. Levesque, Mayor

Stephen G. Milks, Ward Three
Katherine E. Boss, At Large
Phillip L. Crowell, Jr., City Manager



City of Auburn City Council Information Sheet

Council Workshop or Meeting Date: February 1, 2021

Subject: Executive Session

Information: Economic Development, pursuant to 1 M.R.S.A. Section 405(6) (C).

Executive Session: On occasion, the City Council discusses matters which are required or allowed by State law to be considered in executive session. Executive sessions are not open to the public. The matters that are discussed in executive session are required to be kept confidential until they become a matter of public discussion. In order to go into executive session, a Councilor must make a motion in public. The motion must be recorded, and 3/5 of the members of the Council must vote to go into executive session. An executive session is not required to be scheduled in advance as an agenda item, although when it is known at the time that the agenda is finalized, it will be listed on the agenda. The only topics which may be discussed in executive session are those that fall within one of the categories set forth in Title 1 M.R.S.A. Section 405(6). Those applicable to municipal government are:

A. Discussion or consideration of the employment, appointment, assignment, duties, promotion, demotion, compensation, evaluation, disciplining, resignation or dismissal of an individual or group of public officials, appointees or employees of the body or agency or the investigation or hearing of charges or complaints against a person or persons subject to the following conditions:

- (1) An executive session may be held only if public discussion could be reasonably expected to cause damage to the individual's reputation or the individual's right to privacy would be violated;
- (2) Any person charged or investigated must be permitted to be present at an executive session if that person so desires;
- (3) Any person charged or investigated may request in writing that the investigation or hearing of charges or complaints against that person be conducted in open session. A request, if made to the agency, must be honored; and
- (4) Any person bringing charges, complaints or allegations of misconduct against the individual under discussion must be permitted to be present. This paragraph does not apply to discussion of a budget or budget proposal;

B. Discussion or consideration by a school board of suspension or expulsion of a public school student or a student at a private school, the cost of whose education is paid from public funds, as long as:

- (1) The student and legal counsel and, if the student is a minor, the student's parents or legal guardians are permitted to be present at an executive session if the student, parents or guardians so desire;

C. Discussion or consideration of the condition, acquisition or the use of real or personal property permanently attached to real property or interests therein or disposition of publicly held property or economic development only if premature disclosures of the information would prejudice the competitive or bargaining position of the body or agency;

D. Discussion of labor contracts and proposals and meetings between a public agency and its negotiators. The parties must be named before the body or agency may go into executive session. Negotiations between the representatives of a public employer and public employees may be open to the public if both parties agree to conduct negotiations in open sessions;

E. Consultations between a body or agency and its attorney concerning the legal rights and duties of the body or agency, pending or contemplated litigation, settlement offers and matters where the duties of the public body's or agency's counsel to the attorney's client pursuant to the code of professional responsibility clearly conflict with this subchapter or where premature general public knowledge would clearly place the State, municipality or other public agency or person at a substantial disadvantage;

F. Discussions of information contained in records made, maintained or received by a body or agency when access by the general public to those records is prohibited by statute;

G. Discussion or approval of the content of examinations administered by a body or agency for licensing, permitting or employment purposes; consultation between a body or agency and any entity that provides examination services to that body or agency regarding the content of an examination; and review of examinations with the person examined; and

H. Consultations between municipal officers and a code enforcement officer representing the municipality pursuant to Title 30-A, section 4452, subsection 1, paragraph C in the prosecution of an enforcement matter pending in District Court when the consultation relates to that pending enforcement matter.