

This attached draft of proposed ordinance text changes was submitted to the Planning Board as **public comment** on 05/02/2023 by a group of Auburn residents unofficially called the AGRP Zone Group.



# Proposed text - AGRP ZONE GROUP

Sec. 60-145 – Use Regulations

(unofficial group of interested residents)

## 1. PERMITTED USES

The following uses are permitted

### (a) Farming Operations

- (1) Field crop farms
- (2) Row crop farms
- (3) Orchard farms
- (4) Truck gardens
- (5) Plant and tree nurseries
- (6) Greenhouses
- (7) Handling, storage and sale of agricultural produce and processed agricultural products  
Derived from produce grown on the premises
- (8) Livestock operations including poultry farms, cattle farms, dairy farms, stud farms, sheep ranches and other animal farms, including farms for raising fur-bearing animals

### (b) Other permitted uses

- (1) Wayside stands
- (2) Forest products raised for harvest
- (3) Adult use and medical marijuana cultivation, but not retail sales of any kind
- (4) Marijuana processing accessory to a licensed cultivation site
- (5) Ground-mounted and dual-use solar energy generating systems covering less than one acre in total Land area, as defined in Sec. 60-1501
- (6) One family detached dwellings, including manufactured housing subject to all the design standards (except the siting requirements of Sec. 60-1010) set forth in Division 6 of Article XII of this Chapter; on parcels of land containing no less than ten acres, provided that the dwelling is accessory to bona fide farming operations or other uses permitted under this Section which are conducted on the same parcel, subject to the following restrictions:

(A) No Certificate of Occupancy shall be issued for any such dwelling until the barns, livestock pens, silos or other such agriculturally-related buildings or structures which are to be erected in conjunction with the proposed agricultural use, as shown on plans and specifications submitted to the Planning, Permitting and Enforcement Department, have been 75% completed.

(B) In no case shall any dwelling constructed under the provisions of this section after the effective date of this amendment to Sec. 60-145 continue to be occupied as a dwelling if the principal farming or other use permitted under this section has been abandoned or reduced in size below the minimum dimensional requirements set forth in Sec. 60-146 of this Ordinance below.

(C) A dwelling constructed under this Subsection may be converted to non- agricultural residential use only upon a finding by the Planning Board that abandonment or material reduction in dimensional size of the permitted agricultural use of the parcel resulted from causes beyond the control of the dwelling owner and/or occupant, and not from an attempt to circumvent the requirements of this Division.

7. Two family dwellings which are created from the conversion of a one family dwelling constructed before 1900.

8. Buildings, equipment and machinery accessory to the principal agricultural use including, but not limited to, barns, silos, storage buildings and farm vehicle sheds.

## 2. SPECIAL EXCEPTION USES

The following uses are permitted by special exception after approval by the Planning Board in accordance with Division3 of Article XVII of this Chapter:

(a) Sawmills and their customary accessory buildings and land uses, subject to the following conditions:

1. Sawmill and accessory activity shall not be detrimental to the neighborhood or to the City by reason of special danger of fire or

explosion, pollution of rivers or perennial streams, or accumulation of uncontained bark, shavings, chips or refuse.

2. Wood processing operations shall be located no closer than 75 feet from any river or perennial stream, 250 feet from any zoning boundary or residential dwelling, and shall be limited to four employed persons.

3. Where natural vegetation is removed, it shall be replaced within six months with other vegetation which will be equally effective in retarding erosion and which will preserve natural beauty.

(b) Veterinary hospitals operated by licensed veterinarians, including offices and facilities for temporarily boarding animals.

(c) Handling, storage and sale of agricultural equipment and supplies, and provision of agricultural services accessory to a use permitted under Subsection 1 of this Section, above.

(d) Bona fide residences required for farm labor. Any residence constructed for farm labor shall not be converted to nonfarm residential use except upon approval of the Planning Board based on its finding that the reduction or abandonment of farm labor residential use resulted from causes beyond the control of the property owner and/or occupant, and not from an attempt to circumvent the requirements of this Division.

(e) Recreational uses of land designed for public use, subject to the following conditions:

1. No such recreational use shall be expanded or extended to occupy additional land area greater than 20% of the original recreational use area, or one acre, whichever is less; or by the construction of a new structure or enlargement of an existing structure accessory to such public recreational use which contains more than 900 square feet of additional floor space unless the owner or occupant of such structure first obtains approval of the Planning Board in the same manner and upon the same terms as initial approvals are granted for such recreational use.

2. Any proposed new or expanded public recreational use shall be completed on or before its estimated completion date, provided that the Planning Board may grant a reasonable extension of time where good cause for failure to complete on time is shown.

(f) Any legally nonconforming summer camp or cottage may be rebuilt if destroyed by fire or other casualty, subject to the following conditions:

1. 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.
  2. In cases where no minimum setback is established by Division V 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.
  3. The footprint of the reconstructed building shall not exceed the footprint of the destroyed building by more than 20%.
- (g) Rifle, pistol, skeet or trap shooting ranges.
- (h) Cemeteries, subject to the following conditions:
1. A cemetery shall be at least 20 acres in area, except for approved conservation cemeteries which shall be at least 10 acres in area.
  2. A cemetery shall not be located in any environmental overlay district, nor over any known aquifer.
- (i) Municipal sanitary landfills, subject to the following conditions:
1. No such landfill shall be located in any environmental overlay district nor over any known aquifer.
  2. Provisions shall be made to avoid surface water and groundwater pollution.
  3. Provisions shall be made for frequent covering of deposited wastes with earth to counteract vermin, insects, odors and windblown debris.
- (j) Radio, radar, television and cellular telephone transmitting or broadcasting towers, but not studios or offices associated with such transmitting or broadcasting, provided that:
1. Every such tower shall be installed in a location and manner that insures its safe operation and the safety of surrounding residents, building occupants, land uses and properties.
  2. In no case shall such tower be located less than one and one-half times its height from the nearest property line of the parcel on which it is situated.
- (k) Wholesale nurseries, subject to the following conditions:
1. At least one-half of the lot, to a maximum of three acres, is in active, husbanded, nursery production.

2. The plants and trees propagated, grown and nurtured in the nursery are used as the primary products of the owner/operator of the wholesale nursery.

(l) Processing and storage of compost and bulking agents from municipal wastewater sludge facilities, provided that:

1. All compost and accessory materials are to be stored under cover or screened from view from any public way and abutting properties, in a manner to be determined by the Planning Board.

2. All federal and state laws and local ordinances, including PFAS restrictions, relating to the processing and storage of waste are complied with.

3. An end-use plan must be filed as part of the Planning Board approval process

(m) Hospice care facility, provided that it is licensed by the State of Maine as a Medicare certificate hospice.

(n) Slaughterhouse, stockyard or meat processing plant in compliance with state and federal regulations, subject to the following conditions:

1. The facility shall not be located within the Lake Auburn Overlay District, the watershed of Taylor Pond, the shoreland overlay district or the floodplain overlay district.

2. The use shall not occupy more than 10,000 square feet of building area

3. The number of employees shall not exceed 15.

4. Accessory retail sales shall be limited to 10% of the building area or 1000 square feet, whichever is less.

5. Hours of operation shall be limited to the period between 6:00 a.m. and 8:00 p.m.

(o) Compost operations, excluding municipal and industrial waste, to process agricultural matter 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:

1. All compost sites shall be evaluated for suitability by a properly qualified site location professional, including benchmark water testing as a condition of approval.

2. Provision shall be made to avoid surface water and groundwater pollution.

3. Provision shall be made to counteract vermin, insects and odors.
  4. The site must comply with all applicable Maine Department of Environmental Protection and other state statutes and regulations, and with best management practices.
  5. The site shall not be located within the Lake Auburn Watershed Overlay District or within the Taylor Pond watershed.
- (p) Adaptive reuse of structures of community significance.
- (q) Assembly, sale, research and development, distribution, instruction, training, demonstration or maintenance of recreational or agricultural equipment, including buildings used as accessory structures in the assembly, sale, distribution, instruction, training, demonstration or maintenance of recreational or agricultural equipment, subject to the following restrictions:
1. The proposed use is accessory, complementary, or otherwise related to an existing recreational or agricultural use on the same or an abutting parcel; and
  2. The said recreational or agricultural use has been in existence on the subject parcel for at least five years immediately prior to the date of application for the special exception.
- (r) One family detached dwellings, including manufactured housing subject to all the design requirements (except the siting requirements of Sec. 60-1010) set forth in Division 6 of Article XII of this Chapter; on parcels of land containing at least 6.1 but less than 10 acres, provided that the dwelling is accessory to a use permitted under Subsection 1 of this Section 60-145 and subject to the following restrictions:
1. No Certificate of Occupancy shall be issued for any such dwelling until the barns, livestock pens, silos, or such other agriculturally-related buildings or structures erected in conjunction with the proposed agricultural use, as shown on plans and specifications submitted to the Planning, Permitting and Enforcement Department, have been 75% completed; and
  2. The applicant has demonstrated compliance with the following requirements, such compliance to be first reviewed by the Agricultural Advisory Committee and a recommendation made to the Planning Board:
    - A. The applicant shall provide a business plan that appears to the Agricultural Advisory Committee and to the Planning Board to be



feasible, and, if implemented, will comprise a bona fide farming use or other use permitted under Subsection 1 of this Section 60-145.

B. The parcel can reasonably accommodate an enterprise of the size and scope proposed.

C. The proposed dwelling shall not be located in the Lake Auburn Watershed Overlay District.

3. The parcel existed in its present size on October 1, 2017, contains 6.1 acres or more of land area, and otherwise meets the requirements of this Chapter.

4. In no case shall any dwelling constructed under the provisions of this Subsection 2 after the effective date of this amendment to Sec. 60-145 continue to be occupied as a dwelling if the farming or other use permitted under Subsection 1 of this Section has been abandoned or reduced in size below the minimum dimensions sufficient to sustain such permitted use.

5. A dwelling constructed under this Subsection may be converted to a non-agricultural residential use only upon a finding by the Planning Board that abandonment or material reduction in size of an agricultural use previously approved under this Subsection resulted from causes beyond the control of the dwelling owner and/or occupant, and not from any attempt to circumvent the requirements of this Division.

(s) Ground-mounted and dual-use solar energy generating systems greater than one acre in total land area as defined in Sec. 60-1501, subject to the following conditions:

1. The system must comply with the provisions of Article XVIII of this Chapter;

2. Setbacks, including those of appurtenant structures and parking areas, shall be subject to the following dimensional requirements:

A. Rear yard – There shall be at the rear of every structure associated with a solar energy generating system a minimum distance of 25 feet from the structure to the rear line of the parcel.

B. Side yard – There shall be on either side of every structure associated with a solar energy generating system a minimum

distance of 15 feet from the structure to the closest side line of the parcel.

C. Front yard – There shall be at the front of every structure associated with a solar energy generating system a minimum distance from the structure to the legal sideline of the nearest public or private way, a minimum distance of 25 feet or 25 per cent of the average depth of the lot, whichever is less.

3. Lot coverage of the solar energy generating system shall not exceed 30% of the subject lot, as determined under Subsection 60-1506(a)(2) of this Ordinance.

4. Total land area – If one percent of the aggregate land area in the Agriculture and Resource Protection Zone 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 land use pattern of the Agriculture and Resource Protection Zone before granting any additional permits for such use in the said Zone. In making this determination, the Planning Board shall consider the overall effect of existing and potential solar energy generating systems and whether it will be more difficult for existing agricultural uses in the said Zone to continue operations due to diminished opportunities to expand, purchase or lease farmland, or acquire water rights, and whether such proposed additional solar development will diminish the number of tracts of tracts or parcels of land in agricultural use in a manner that will destabilize the overall character of the surrounding area.

5. All applications for construction of solar energy generating systems shall be made with consideration for the location of existing infrastructure and shall propose to limit extension of such infrastructure for optimal land use efficiency.

6. If a solar energy generating system is proposed for forest land in the Agriculture and Resource Protection Zone abutting land currently used for farming operations, or for land determined to comprise prime farmland, clearing of such forest land, or the use of such exiting prime farmland, may be permitted by the Planning Board only under the following conditions:

A. The presence of the solar energy generating system on the subject parcel of land will not result in unnecessary soil erosion or loss that could limit agricultural productivity on the subject parcel or abutting parcels.

B. At the time of decommissioning of any previously approved solar energy generating system, the Planning Board shall review the site and proposed decommissioning plan, and approve such plan if the site is proposed for restoration of the site to agricultural land or forest land, as applicable, under the then-current ordinance standards.

C. If a solar energy generating system is proposed for a site determined to contain critical wildlife habitat, as determined by the Maine Department of Inland Fisheries and Wildlife, a recommendation shall be secured from IF&W and presented to the Planning Board with the application for approval of the project.

D. The applicant shall provide the Planning Board with a vegetative cover plan which shows, where feasible, the replanting of forested areas disturbed during construction, and preservation of prime soils throughout the life of the project.

7. Prime soils – All solar energy generating systems proposed for the Agriculture and Resource Protection Zone shall include a soils analysis of the site for which a system is proposed. Such analysis shall demonstrate whether the site proposed for such a system contains prime farmland as defined by the United States Department of Agriculture (USDA). Least productive soils for agriculture shall be considered for development first unless the applicant for Planning Board approval demonstrates that non-prime farmland is not reasonably available on the subject parcel.

8. All applications for approval of solar energy generating systems in the Agriculture and Resource Protection Zone shall contain the following provisions:

A. Siting of the overall system and individual panels shall follow the existing contours of the land.

B. In order to minimize disturbance of soils during installation of the system, only driven piles or ballast block footings shall be used.

C. To the extent possible, the system shall not be located on steep slopes.

D. A plan for topsoil maintenance shall be provided at the time of application to the Planning Board.

9. Every application for approval of a solar energy generating system shall be accompanied by an operations and maintenance plan for that system. Such a plan shall include material which:

A. Prioritizes commingling energy-generating and agricultural land uses, including, but not limited to, apiaries, grazing and handpicked crops.

B Provides habitat for native plants, animals and pollinators.

#### Sec. 60-146 – DIMENSIONAL REQUIREMENTS

All structures in the Agriculture and Resource Protection Zone shall be subject to the following dimensional requirements, except as set forth below:

##### 1. Minimum lot area, width and depth

No lot in the Agriculture and Resource Protection Zone shall be created (a) containing less than ten acres, exclusive of any bodies of water having a surface area of one-fourth of an acre or more, or (b) having less than 250 feet of frontage on a public road, or (c) measuring less than 200 feet in depth from the sideline of a public road.

No structure shall be erected on a lot containing less than ten acres and meeting the dimensional requirements set forth in the preceding sentence except as allowed in Sec. 145(2(r)) of this Division, or as set forth in the following sentence. A structure may be erected on a lot containing less than 50,000 square feet provided that it is contiguous with one or more other lots or parcels of land in the same ownership which in the aggregate contain not less than ten acres, notwithstanding the separation of such other lots from the lot on which

construction is proposed, by a public road, private right of way, stream or other natural boundary.

This section shall not be construed to prevent the construction of nonresidential accessory buildings, for any of the uses identified in Sec. 145 of this Division, on lots containing less than 50,000 square feet.

On legally nonconforming undersized lots, the keeping of horses, mules, cows, goats, sheep, hogs and similar domestic animals for use of the legal occupants of the lot is permitted, provided that the land area per animal conforms to the definition of family livestock contained in Sec. 60-2 of this ordinance.

(2) Density -- The density of year-round dwelling units accessory to an agricultural use identified in Sec. 60-145 hereof shall not exceed an average of one dwelling unit per ten acres of contiguous land under common ownership unless approved under the provisions of subsection 1 of this section.

(3) Setback requirements

a. Rear -- There shall be at the rear of every structure erected pursuant to this Division, except for a solar energy generating system, a rear yard having a minimum distance of 25 feet from the structure to the rear line of the lot or parcel.

b. Side -- There shall be on either side of every structure erected pursuant to this Division, except for a solar energy generating system, a minimum distance of 15 feet from such structure to the closest sideline of the parcel.

c. Front -- There shall be at the front of every structure erected pursuant to this Division, except for a solar energy generating system, a minimum distance from the structure to the legal sideline of the nearest public or private way of 25 feet or 25% 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. Accessory buildings and structures shall have a maximum height of 65 feet from grade, provided that the setback distance of front yard, rear yard and each side yard shall be increased by one foot for each foot in height of any structure in excess of 35 feet.

(5) Off-street parking -- Off-street parking spaces shall be provided in accordance with the requirements for specific uses set forth in Article V of this Chapter.

