

TOWN OF AUGUSTA ZONING ORDINANCE AS AMENDED

Article 7

SUPPLEMENTARY REGULATIONS AND ADDITIONAL SPECIAL USES

7.00 Travel Trailer Campgrounds

A. Definitions

1. TRAVEL TRAILER PARK The term "Travel Trailer Park" as used in this ordinance shall be defined as any lot, piece or parcel of ground whereon two or more travel trailers, designed for use or capable of being used as living or sleeping quarters, are parked or located.
2. PARK UNIT The term "Park Unit" as used in this ordinance shall be defined as the lot or space in any park which shall be assigned to, used and occupied by any one travel trailer.
3. DEPENDENT TRAVEL TRAILER Means a travel trailer which does not have a toilet and bath or shower.
4. INDEPENDENT TRAVEL TRAILER Means a travel trailer which has a toilet, bath and shower.
5. DEPENDENT PARK UNIT Means a park unit which is designed to accommodate a dependent travel trailer and does not have sewer and water connections to accommodate a toilet and bath or shower in a travel trailer.
6. INDEPENDENT PART UNIT Means park unit which has sewer and water connections designed to accommodate the toilet and bath and shower in a travel trailer.
7. TRAILER SITE Means any location where one travel trailer is located.

B. Regulations for travel Trailer Parks

1. DRAINAGE AND GRADING All lands used as a travel trailer park shall be well drained, of ample size, and free from heavy or dense growth of brush or weeds. The land shall be properly graded to insure proper drainage during and following rainfall, and shall at all times be so drained as to be free from stagnant pools of water.
2. PARK PLAN Each travel trailer park shall be subdivided and marked off into rectangular shaped lots or park units each of which shall contain at least 1500 square feet and shall be at least 30 feet wide where a dependent travel trailer is to be located. Where an independent travel

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trailer is to be accommodated the lots shall contain at least 2000 square feet and shall be at least 30 feet wide. No more than 1 shall be permitted to occupy any one park unit. That hereafter no travel trailer shall be located within 70 feet of any highway or street line or within 8 foot of any adjacent property line, this shall apply to the enlargement of any present trailer park. Each trailer park shall be surrounded on all sides, with the exception of such portion thereof as may abut upon a street or highway, by a woven wire, open metal or wooden fence that shall be not less than five feet nor more than six feet in height. There shall be no openings in such fence that shall permit egress from the park upon any adjacent privately owned property. Barbed wire shall not be used for such fence. The portion of the park abutting upon a street or public highway shall be enclosed by an ornamental fence or hedge with an appropriate entrance way.

3. WATER SUPPLY A sufficient supply of drinking water of safe, sanitary quality shall be provided at all times in the service building for bathing, washing and laundry facilities.
4. TOILET Such trailer parks shall be provided with service buildings in which shall be instilled adequate toilet facilities.
5. LAVATORIES, SHOWERS, TUBS AND LAUNDRY FACILITIES Each trailer park shall provide one lavatory for each sex for each 20 dependent park units of less, and shall also provide bathing facilities consisting of one tub or shower with hot and cold running water for each sex for each 10 dependent park units or less.
6. SERVICE BUILDINGS Shall be well lighted at all times of the day night, shall be well ventilated with screened openings, shall be constructed of such moisture proof material, including painted woodwork as shall permit repeated cleaning and washing, and shall be maintained at a temperature of at least 68 degrees F. during the period from October 1- May 1. The floors of the service building shall be of water impervious material. All roadways shall be lighted at night.
7. TRAVEL TRAILER Parks with accommodations for only independent travel trailers are exempted from providing service buildings and the facilities contained therein as herein before described, providing such trailers are all independent.
8. SEWAGE DISPOSAL Sewage disposal facilities for dependent park units shall consist of a properly constructed dry well or cesspools into which may be discharged waste from a kitchen sink or lavatory. Sewage disposal facilities for an independent park unit shall consist of a suitable subsurface disposal or treatment of such construction as will present no

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health hazard, into which may be discharged waste from a toilet, lavatory, bath or shower, and kitchen sink.

9. GARBAGE RECEPTACLES Each such trailer park shall provide sufficient rubbish and garbage containers in conspicuous locations to prevent littering of the grounds and premises with garbage and refuse. Containers shall be emptied at least weekly or as often as is necessary to prevent overflowing.
10. ALL SERVICE BUILDINGS AND THE GROUNDS OF THE PARK Shall be maintained in a clean, slightly condition and kept free of any condition that will menace the health of any occupant or the public or constitute a nuisance.

C. REGULATIONS FOR TRAVEL TRAILERS NOT LOCATED IN TRAILER PARKS

No travel trailers shall park or remain upon any public highway in the Town of Augusta overnight. No travel trailers shall be occupied in the Town of Augusta for more than ninety (90) days within any one (1) year period.

- D. NONE OF THE PROVISIONS OF THIS SECTION Shall be applicable to any travel trailer held for sale, stored, or garaged within a building where such travel trailers are not being used or occupied as living or sleeping quarters.

- E. INSPECTION Any law enforcement officer, the Health Officer, or any duly authorized agent of said town shall have the right at any time to enter a travel trailer park and shall have the right at all times to inspect all parts of said premises, and to inspect the records required to be kept in any travel trailer park.

SECTION 7.00 Shall become effective upon the repeal of the HOUSE TRAILER, CAMPER TRAILER AND TRAILER PARK ORDINANCE.

7.10 AMUSEMENT USES

7.11 Amusement Center Bowling Alley and Similar Places of Amusement

- a. Such uses shall be conducted entirely within an enclosed structure.
- b. Off-street parking area shall be screened from adjoining residential properties.
- c. A principal structure shall be not less than fifty (50) feet from any property line.

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- d. No bowling alley or roller skating rink shall be maintained or operated within 300 feet of an entrance or exit of a public or private school, public library, church, hospital, children's or old peoples home or other similar public or semipublic institutions.

7.20 RETAIL USES

- 7.21 DRIVE-IN EATING AND DRINKING PLACES Such businesses, where persons are served in automobiles shall not be closer than two hundred (200) feet to an A or R District and shall provide ingress and egress to minimize traffic congestion.

7.30 SERVICES, AUTOMOTIVE

- 7.31 OFF-STREET PARKING In all districts, in connection with every manufacturing, business, institutional, recreation, residential or any other use, with the exception of the C-1 commercial district, there shall be provided, at the time any new building or structure is erected, off-street parking spaces open to the public at no charge for automobiles in accordance with the requirements set forth herein.
 - a. Size and Access Each off-street parking space shall have an area of not less than one hundred eighty (180) square feet exclusive of access drives or aisles, and shall be of usable shape and condition. Except in the case of dwellings, no parking area provided hereunder shall be established for less than three (3) spaces.
 - b. Number of Parking Spaces Required The number of off-street parking spaces required shall be as set forth in the Off-Street Parking Schedule. In the case of any building, structure or premise the use of which is not specifically, mentioned herein, the provisions for a use that it n mentioned and to which said use is similar, in the opinion of the Planning Board, shall apply.
 - c. Lot Surfacing All parking lots shall be improved with hard all-weather surface with the exception of single-family residential dwellings.
 - d. Computing Parking Requirements Floor areas for the purpose of computing parking requirements shall be the sum of the floor area within exterior walls of the building excluding the basement, cellar, and attic areas used primarily for storage or service.

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7.32 OFF-STREET LOADING

In any district, in connection with every building, or building group or part thereof thereafter erected and having a gross floor area of 4,000 square feet or more, which is to be occupied by manufacturing, or commercial uses or other uses similarly requiring the receipt or distribution by vehicles of material or merchandise, there shall be provided and maintained on the same lot with such building, off-street loading berths or unloading berths as follows:

4,000-50,000 square feet -1 space

For each additional 100,000 square feet- 1 space

The loading berth required in each instance shall be not less than twelve (12) feet in width, twenty-five (25) feet in length, and fourteen (14) feet in height, and may occupy all or any part of any required yard.

7.33 OFF-STREET PARKING SCHEDULE

1. Bowling Alleys - 4 spaces per alley
2. Churches, Schools, and Colleges - 1 space for each 10 seats in an auditorium or 1 space for each 17 classroom seats: whichever is greater
3. Community Buildings and Social Halls - 1 space for each 200 sq. ft. of floor area
4. Doctor or Dentist Office - 8 spaces for each doctor
5. Home occupation - Minimum of 3 spaces
6. Manufacturing Plants, Research or Testing Laboratories - 1 space for each employee in the maximum working shift to the total parking area shall not be less than 23 percent of the building floor area
7. Motels, Hotels, Boarding and Rooming Houses - 1 space for each sleeping room
8. Multi-Family Dwellings - 3 spaces for each 2 dwelling units
9. Offices-General -1 space for each 600 sq. ft. of floor area
10. Restaurants, Bars and Night Clubs - 1 space for each 50 sq. ft. of patron space

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11. Retail Stores, Store Groups, Shops, Etc. -1 space for each 200 sq. ft. of floor space devoted to retail sales.
12. Wholesale Establishments or Warehouses - 1 space for each employee in maximum shift; the total parking area shall not be less than 23 percent of the building floor area.

7.40 MISCELLANEOUS USES

7.41 Home Occupations An occupation or profession which:

- a. Is customarily carried on in a dwelling unit or a building or other structure accessory to a dwelling unit, and
- b. Is clearly incidental or secondary to the use of the dwelling unit for residential purposes, and
- c. Is carried on by a member of the family residing in the dwelling unit, and
- d. Which conforms to the following conditions:
 1. The occupation or profession shall be carried on wholly within the dwelling or within a building accessory to the dwelling.
 2. Not more than one person outside the family shall be employed in a Home Occupation with the exception of doctors and dentists.
 3. There shall be no exterior display, except of merchandise manufactured on premises, no exterior storage of materials, and no other display of goods where they will be visible from the outside, no other exterior indication of the Home Occupation (except for a name plate not exceeding nine (9) square feet placed flat on the wall of building), or variation from the residential character of the building.
 4. No articles offered for sale other than those produced on the premises.
 5. No offensive odor, noise, vibration, smoke, dust, heat, hazardous waste or glare or other objectionable effects shall be produced.

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A Home Occupation includes, but is not limited to the following:

Professional offices of a physician, dentist, lawyer, engineer, architect, accountant, real estate broker, insurance salesman. Arts and crafts studios, music teaching, millinery and dressmaking, tutoring, barber shop, beauty parlor, the keeping of not more than three roomers, boarders, or lodgers in the dwelling; with but one kitchen within the dwelling, other home occupations as defined by the Zoning Board of Appeals.

Stores, trades, business of any kind offering services to the general public shall not be deemed to be Home Occupation.

7.42 MOTELS

Such uses shall have a minimum area of 130 square feet of rentable space for each unit exclusive of bathroom facilities.

Each rentable unit shall include a minimum of one (1) bedroom and a shower and bathroom with toilet and lavatory, and heat.

Illuminated signs and other lights shall be directed away from or shielded from adjoining residential properties in such a way as not to disturb the occupants thereof.

7.43 STORAGE OF USED BUILDING MATERIALS

Used building materials that have been salvaged for use in the construction of another building shall not be stored in any use district other than I-1 industrial district, except within a building.

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7.44 SIGNS

Signs may be erected and maintained only when in compliance the following provisions.

- a. Signs in Residential Districts. The following types of non illuminated, non advertising signs are permitted in all A and R-Districts as follows.
 1. Nameplates and Identification Signs
 2. Sale or Rental Signs
 3. Institutional Signs
 4. Developmental Signs
 5. All signs shall be parallel to the dwelling structure
 6. No sign in a residential district shall exceed nine (9) square feet and no sign in any A District shall exceed fifteen (15) square feet.

- b. Signs in Commercial and Industrial Districts. Business and advertising signs are permitted in commercial and industrial districts in accordance with the following regulations:
 1. Projection of Signs. No sign in a nonresidential district shall project at a right angle from the main wall of a building.

 2. Height of Signs. No signs shall be higher than the height limit in the district where such sign is located, nor shall any sign be located above the roof line.

 3. Flashing and Mechanical Signs. No outdoor flashing signs or signs with moving parts will be permitted.

7.45 INDIVIDUAL MOBILE HOMES

When Mobile Homes are fixed to the real estate they must be properly skirted to remove the wheels and axles from view.

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ARTICLE 8

NON CONFORMING BUILDINGS, LOTS AND SIZES

8.10 GENERAL

At the time of the effective date of this ordinance, or any subsequent amendment, any existing building, structure, lot or use of land, which does not conform to the applicable district regulations, may be continued. However, such continuance shall be subject to the provisions of this Article.

8.20 CONSTRUCTION STARTED PRIOR TO ENACTMENT OF ORDINANCE

Any building or structure for which construction was started prior to the effective date of this ordinance, may be completed and used in accordance with the plans and specifications for, the building or structure. However, copy of such plans and specifications must be submitted to the zoning enforcement officer within three (3) months after the date of the ordinance, or any subsequent amendment if they have not already been submitted.

8.30 TERMINATION

8.31 Discontinuance

Any non conforming use of land, building or structure that has been discontinued for one (1) year shall not be reestablished. Any future use of this land, building or structure shall conform to the regulations of this ordinance.

8.32 Cessation

The following non conforming uses and buildings shall be discontinued on or before the expiration of the specified period of time after the effective date of this ordinance, or any subsequent amendment.

- a. Signs. Any non conforming sign shall be removed, or altered, so as to conform, within three (3) years of the effective date.
- b. Open Storage Yards. Any yard used for the open storage of materials or equipment shall be removed or altered, so as to conform, within three (3) years of the effective date.

8.40 CHANGE TO OTHER NON CONFORMING USE

A non-conforming use of a building, structure or land may be changed to another non conforming use more nearly conforming to the requirements of the district in which it is situated. Such change shall require the approval of the Board of Appeals.

8.50 RESTORATION

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Any non conforming building or structure, or any building or structure containing a non conforming use that is damaged by fire or other cases shall not be reused, reoccupied and/or reconstructed, with the exception, of the replacement of a non conforming residential structure or non conforming residential accessory use to its original form in compliance with current New York State Building and Fire Code after destruction by fire or natural disaster, which shall be permitted as a special use in C1 (commercial) districts.

8.60 ALTERATIONS AND EXTENSIONS

Alterations and extensions to a non conforming building or structure, a non conforming use, or a building or structure containing a non conforming use are permitted. However, such alteration or extension shall comply with the provisions of this ordinance, and it shall not increase the degree of nonconformity which existed prior to such alteration or extension. Alterations and extensions are subject to building code regulations.

8.70 UNDERSIZED LOTS

There shall be but one dwelling constructed on any one lot in an A and R-District, providing the following conditions exist or are met:

- a. Availability of Adjacent Vacant Land. No structure shall be erected on any non conforming lot if the owner of said lot owns any adjoining vacant land that would create a conforming lot if said vacant land were combined with the lot deficient in area.
- b. Side Yards. No structure shall be constructed on a non conforming lot unless it shall have a minimum side yard of ten (10)feet, or a minimum side yard of twenty-five feet where adjacent to any street.
- c. Front and Rear Yards. No structure shall be constructed on a non conforming lot unless it shall have front and rear yards conforming to the minimum required for the District in which said lot is located.

8.80 REQUIRED AREA OR SPACE CANNOT BE REDUCED

The area or dimension of any lot, yard, parking area or other space shall not be reduced to less than the minimum required by this ordinance except as provided by this ordinance; and, if already less than the minimum required by this ordinance, said area or dimension may be continued but shall not be further reduced.

ARTICLE 9

ADMINISTRATION AND ENFORCEMENT

9.10 GENERAL PROCEDURE

9.11 General Sequence of Steps

All persons desiring to undertake any new construction, structural alteration, or changes in the use of a building or lot shall apply to the Zoning Officer for a Building Permit by filling out the appropriate application form and by submitting the required fee. The Zoning Officer will then either submit the application to the Planning Board for site plan review, or issue or refuse the Building Permit or forward to the Codes Enforcement Officer for issuance of a permit. After the Building Permit has been received by the applicant, he may proceed to undertake the action permitted in the Building Permit and upon completion of such action, shall apply to the Codes Enforcement Officer for a Certificate of Occupancy. If the Codes Enforcement Officer finds, that the action of the applicant has been taken in accordance with the Building Permit, he will then issue a Certificate of Occupancy allowing the premises to be occupied.

9.12 Building Permit Types

Under the terms of this ordinance, the following classes of Building Permits may be issued:

- a. Permitted Use. A Building Permit for a Permitted Use may be issued by the Codes Enforcement Officer upon the approval of the Planning Board where site plan review is required or upon the authority of the Codes Enforcement Officer.
- b. Special Uses. A Building Permit or a Request for a variance. A Building Permit may be issued by the Codes Enforcement Officer upon the order of the Zoning Board of Appeals and after a public hearing held by the Zoning Board of Appeals to decide upon the Appeal or a request for a variance.
- c. Building Permit After and Appeal or a Request for a Variance. A Building Permit may be issued by the Codes Enforcement Officer upon the order of the Zoning Board of Appeals and after a public hearing held by the Zoning Board of Appeals to decide upon the Appeal or a request for a variance.

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- d. Temporary permit. A temporary permit is a preliminary permit issued for the sole and express permission to start site preparation, grading, installation of utilities, well or waterlines, septic system, marking off location for stakes for foundation for the structure intended, for which application has been filed for. No other construction or preparation shall be undertaken until the Codes Enforcement Officer gives his approval on all the preparation of the site, to be sure work already accomplished meets the requirements of the Town of Augusta ordinance and the specifications of the Building Code.
- e. Emergency Permit. An emergency permit may be issued by the Codes Enforcement Officer for the temporary placement of a mobile home after the complete or partial destruction of a residential structure by fire or other natural disaster. The emergency permit shall be granted for not more than ninety (90) days and shall only be issued after the Codes Enforcement Officer has certified that the water supply and sewage disposal facilities comply with the State Department of Health Standards and has approved the location of the Mobile Home.

9.20 **BUILDING PERMIT PROCEDURE**

This ordinance shall be enforced by the Codes Enforcement Officer who shall be appointed by the Town Board. No Building Permit or Certificate of Occupancy shall be issued by him except where all the provisions of this ordinance and the Building Code have been complied with.

****** No building permit shall be required for a detached building of a size less than 130 square feet.**

9.21 **Building Permits**

- a. General (No building or structure shall be erected, added to, or structurally altered until a permit therefore has been issued by the Codes Enforcement Officer. Except upon a written order of the Zoning Board of Appeals, no such Building Permit or Certificate of Occupancy shall be issued for any building where said construction, addition, or alteration or use thereof would be in violation of any of the provisions of this Ordinance and the Building Code.
- b. There shall be submitted with all applications a master copy of layout or plot plan requested by the Codes Enforcement Officer showing the exact size of the building site with the location of all other structures on the site and the proposed improvement or structure. Such copy shall be in black ink capable of being photocopied. Also, a photograph of the building site must accompany the application.

******** As amended by Local Law #2 8/22/89

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- c. Public Record. One copy of such layout or plot plan shall be returned when approved by the Codes Enforcement Officer together with such permit to the applicant upon the payment of a fee as indicated in this Article. The second copy with a copy of each application with accompanying plan and photograph shall become a public record after a Permit is issued or denied.

- **** d. TIME AND/OR LIMITED TERM PERMITS is hereby repealed in its entirety and deleted from the Zoning Ordinance.

9.30 SITE PLAN REVIEW BY THE PLANNING BOARD

Prior to the issuance of building permits for the construction of any principal, buildings other than single-family residential dwellings, and customary farm buildings, the Zoning Officer shall submit the Building Permit application to the Planning Board for site plan review. In reviewing the plan, the Planning Board shall approve the application if it finds that it conforms to the regulations of the Zoning Ordinance and provides for:

- a. Safe and convenient vehicular and pedestrian access and circulation.
- b. Adequate parking. The Board may establish standards for uses not covered in the parking schedule.
- c. Proper location placement of all buildings, facilities and landscaping to provide for future growth and development as well as harmony and compatibility with surrounding uses.
- d. The elimination and proper treatment of possible hazards and nuisances within the site, and to surrounding uses.
- e. The elimination of unesthetic elements that may depress property valued in the area and cause a blighting influence in the Town.
- f. Proper consideration of historic buildings or elements, and notable landmarks on or in the vicinity of the site in the design and placement of buildings and facilities.
- g. Conservation and improvement of the natural landscape. Conservation of trees and other natural features where feasible and desirable. Proper grading and filling where needed.
- h. Installation of solar energy must not cause view obstruction, glare or other personal hardship to any neighbors. If already installed, any person building next to solar energy system shall not interfere with the sun's rays from reaching the system.

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Where Planning Board review is not required, the Codes Enforcement Officer shall issue a Building Permit on his own authority.

**** Amended by Local Law #2 8/22/89

9.40 ISSUANCE OR PERMITS

It shall be the duty of the Codes Enforcement Officer to issue a Building Permit, when he finds that the structure, building, a sign, parking area on premises, and the proposed use thereof, conforms with all requirements of this ordinance, and that all other review and action, if any is called for in this ordinance has been complied with and all necessary approvals secured therefor.

All Building Permits shall be issued in triplicate and one copy shall be kept conspicuously on the premises affected and protected from the weather whenever construction work is being performed thereon. No owner, contractor, workman, or other person shall perform any building operation of any kind unless a Building Permit covering such operation has been displayed was required by this ordinance, nor shall they perform building operations of any kind after notification of the revocation of said Building Permit.

9.41 Denial of Permits

When the Codes Enforcement Officer finds that the applicant is proposed development will not meet the requirements of this ordinance, he shall refuse to issue a Building Permit and the applicant may appeal the Codes Enforcement Officer's decision to the Zoning Board of Appeals.

9.42 Expiration of Building Permit

Building permits shall become null and void unless construction has been started within three (3) months of the date of issuance, except that construction shall be completed within fifteen (15) months from the date of issuance. When the time of starting construction or the time for the completion of construction exceeds the above periods, application may be made for a new permit that shall be issued upon payment of a fee in accordance with fee schedule available at the Town Clerk's office and shall be valid for three (3) months from the date of issuance.

Building Code Rule. A Building Permit shall be effective to authorize the commencing of work in accordance with the application, plans and specifications on which it is based for three (3) months after the date of its issuance. For good cause, the Codes Enforcement Officer may allow a maximum of two (2) extensions for periods not exceeding three (3) months each.

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9.43 Action on Building Permits

The Zoning Officer shall act on all building permit applications within thirty (30) days from the filing thereof.

9.50 CERTIFICATE OF OCCUPANCY

9.51 General

No land shall hereafter be occupied or used and no building hereafter erected, altered or extended shall be used or changed in use until a Certificate of Occupancy shall have been issued by the Zoning Officer, stating that the building or proposed use thereof complied with the provisions of this ordinance. Said certificate shall be issued within seven (7) days after the erection or alteration shall have been approved as complying with the provisions of this ordinance.

9.52 Record

The Zoning Officer shall maintain a record of all certificates and copies shall be furnished upon request to any person having a proprietary interest in the building affected.

9.60 PLANNING BOARD REVIEW OF SPECIAL USES

9.61 Review Applications and Appeals

- a. Referral from the Board. The Zoning Board of Appeals shall refer to the Planning Board all applications for special uses, and any other applications or appeals, which in their opinion, require review by the Planning Board.
- b. Criteria for Review. The Planning Board shall review such applications in accordance with applicable criteria set forth in Article 6 and Section 9.30.
- c. Report to the Board of Appeals. The Planning Board shall report its findings to the Zoning Board of Appeals, and the applicant, within thirty (30) days of receipt thereof.

9.70 VIOLATIONS

9.71 Complaints of Violations

Whenever a violation of this ordinance occurs, any person may file a complaint in regard thereto. All such complaints must be in writing and signed and shall be filed with the Zoning Officer who shall properly record such complaint and immediately investigate and proceed with appropriate action in accordance with this ordinance. The identity of the complainant must be protected and remain anonymous.

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9.72 Violations and Penalties

Any person violating any provision of any section of the foregoing ordinance and the owner of record of any premises whereon such violation of the foregoing ordinances is committed; or any such person who shall violate or fail to comply with any order or regulation made thereunder; or any person who shall build in violation of any statement, specification or plan submitted thereunder; or any person who shall violate any certificate or permit issued thereunder; or any person who shall continue to work upon any structure, or continue any use of property and premises, after service of a notice in writing from the Zoning Enforcement Officer of the Town of Augusta, which notice shall specify the violation and order said person to desist therefrom, shall be guilty of an offense punishable by a fine not exceeding fifty (\$50) dollars, or by imprisonment for a period not to exceed six (6) months for each such offense. Each week that such violation is permitted to exist shall constitute a separate offense. Service of the notice therein before mentioned shall be sufficient if directed to the owner, and agent of the owner or the contractor, and personally served or left at this last known place of residence or place of business, if within the Town of Augusta, or, if no place of residence or business be so found, the notice shall be served by posting in a conspicuous place on the premises which are subject or certified of the violation, or said notice may be served by mailing by registered mail, return receipt requested, to such last known place of residence or place of business.

9.73 Procedure for Abatement of Violations

In case any building or structure is erected, constructed, demolished, reconstructed, altered, repaired, converted, or maintained, or any building, structure, or land is used in violation of this ordinance, or of any ordinance or regulation made under authority conferred hereby the Town Board, or with their approval, the Zoning Officer or other proper official in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, construction, demolition, reconstruction, alteration, repair, conversion, maintenance or use, to restrain, correct, or abate such violation, to prevent the occupancy of said building, structure or land, or to prevent any illegal act, conduct, business or use in or about such premises.

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9.80 APPEALS

9.81 Appeal from Zoning Officer

a. Procedure for Appellant

1) An appeal to the Zoning Board of Appeals from any ruling of any Zoning Officer administering any portion of this ordinance may be taken by any person aggrieved, or by an officer, board, or bureau of the Town of Augusta affected thereby. Such appeal shall be taken to the Zoning Board of Appeals by filing with the secretary thereof and the Zoning Officer, a notice of appeal, specifying the grounds therefor.

2) All applications and appeals made to the Zoning Board of Appeals shall be in writing on forms supplied by the Zoning Officer. The notice of appeals is any case where a permit has been granted or denied by the Zoning Officer shall be filed within such time as shall be prescribed by the Zoning Board of Appeals under general rule or denying the permit has been mailed to the applicant. Every application or appeal shall refer to the specific provision of this ordinance, and shall exactly set forth the interpretation that is claimed, the plans for a special use or the details of the variance that is applied for, in addition to the following information:

- a. The name and address of the applicant, appellant.
- b. The name and address of the owner of the district lot to be affected by such proposed change or appeal.
- c. A brief description and location of the district lot to be affected by such proposed change or appeal.
- d. A statement of the present zoning classification of the district lot in question, the improvements thereon and the present use thereof.
- e. A reasonably accurate description of the present improvements, and the additions or changes intended to be made under this application, indicating the size of such proposed improvements, material and general construction thereof. In addition, there shall be attached a plot plan of real property to be affected, indicating the location and size of the lot and size of improvements thereon and proposed to be erected thereon.

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b. **Procedure for Zoning Officer.** Upon receipt of the notice of an appeal, the Zoning Officer shall forthwith transmit to the Zoning Board of Appeals all papers constituting the record upon which the action appealed from was taken, or in lieu thereof certified copies of said papers.

c. **Procedure for the Zoning Board of Appeals.** The Zoning Board of Appeals shall decide each appeal within sixty (60) days of the final hearing. Upon the hearing any party may appear in person or be represented by an agent or attorney. The Zoning Board of Appeals decision shall be immediately filed in the office of the Town Clerk and be a public record. In the exercise of its functions upon such appeals or upon exceptions, the Zoning Board of Appeals may in conformity with the provisions of this ordinance, reverse or affirm, wholly or partly, or modify the order, requirement, decision, or determination appealed from or may make such order, requirements, decision or determination in accordance with the provisions thereof.

d. **Expiration of Appeal Decision.** Unless otherwise specified by the Zoning Board of Appeals, a decision on any applicant fails to obtain any necessary Building Permit or comply with the conditions of said authorized permit within six (6) months from the date of authorization thereof.

e. **Stay of Proceedings.** An appeal shall stay all proceedings in furtherance of the action appealed from unless the Zoning Officer certified for the Zoning Board of Appeals, after the notice of appeals shall have been filed, that by reason of facts stated in the certificate, they would, in his opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Zoning Board of Appeals, or by the Court of Record on application, on notice to the Zoning Board of Appeals, or by the court of Record on application, on notice to the Zoning Officer and on due cause shown.

f. **Appeal from Decision of Zoning Board of Appeals.** All decisions of the Zoning Board of Appeals are subject to court review in accordance with applicable laws of the State of New York. Decision of the Zoning Board of Appeals shall be filed with Town Clerk.

TOWN OF AUGUSTA ZONING ORDINANCE AS AMENDED

9.90 PUBLIC HEARINGS AND NOTICE

The Zoning Board of Appeals shall fix a reasonable time for the hearing of the appeal or other matter referred to it and give public notice thereof by the publication in the official paper of a notice of such hearing at least five (5) days prior to the date thereof and shall at least five (3) days before such hearing mail notices thereof to persons and owners of properties involved in accordance with the requirements of this ordinance and the Consolidated Laws of the State of New York.

9.91 When Appealing Action of the Zoning Officer

In case of an appeal error or misinterpretation in any order or other action by the zoning Officer, the following person shall be notified. The appellant and the person or persons, if any, who benefit from the order, requirement, regulation or determination.

9.92 When Appealing for Variance Special Use

In case of an appeal for a variance or in case an application for a special exception use, as provided for in this ordinance, the following persons shall be notified: All owners of property for which the variance or special exception use is sought.

9.93 Required Interval for Hearings on Applications and Appeals after Denial

Whenever the Board after hearing all the evidence presented upon and application or appeal, under the provisions of this ordinance, denies the same, the Zoning Board of Appeals shall refuse to hold further hearings on the said or substantially similar application or appeal by the same application, his successor, or assign except and unless the Zoning Board of Appeals shall find and determine from the information supplied by the request for a rehearing, that changed conditions have occurred relating to the promotion of the public health, safety, convenience, comfort, prosperity, and general welfare, and that reconsideration is justified.

9.94 Fees

Fees to cover the costs of processing applications for building permits shall be payable to the Town of Augusta according to a schedule of fees as adopted by the Town Board.

ARTICLE 10

ZONING BOARD OF APPEALS

10.10 ORGANIZATION AND PROCEDURES

10.11 Establishment

The Zoning Board of Appeals, heretofore created pursuant to the provision of the Town Law, is hereby continued as not constituted. Each member of said Board of Appeals shall continue to hold office to the expiration of his present term. The Town Board shall appoint a successor as provided by law.

10.12 Appointment to Fill Vacancies

Appointment to fill vacancies shall be for unexpired term of the member or members whose term or terms become vacant. Such appointments to fill such vacancies shall be made in the same manner as the original appointment.

10.13 General Grant of Power

The Board shall perform all the duties and have all the powers prescribed by the laws of the State of New York and as herein described.

10.14 Votes Necessary for Decision

****A quorum of a majority of the members of the Board is required for the Board to act in official session. The concurring vote of a majority of the full membership of the board shall be necessary to reverse any order, requirement, decision or determination of the Zoning Officer or to decide in favor of the appellant any matter upon which it is required to pass under the terms of this ordinance or to effect any variation of this ordinance. However, if the Board receives a petition protesting a requested action signed by five (5) registered voters of the Town, a four fifths vote of the full membership of the Board will be required for a decision.

10.20 Powers and Duties

The Board shall hear and decide appeals from and review any order, requirements, decision and determination made by the Zoning Officer administering this ordinance. It shall also hear and decide all matters referred to it or upon which it is required to pass under the provisions of this ordinance.

****As amended by local law *2 8/22/89

10.22 Variances

The Board may vary or adapt the strict application of any of the requirements of this ordinance in the case of exceptionally irregular, narrow, shallow or steep lots, or other exceptional physical conditions, whereby such strict application would result in practical difficulty or unnecessary hardship that would deprive the owner of the reasonable use of the land or building involved, but in no other

TOWN OF AUGUSTA ZONING ORDINANCE AS AMENDED

case. No variance in the strict application of any provision of this ordinance shall be granted by the Board unless it finds:

- a. That there are special circumstances or conditions, sully described, in the findings of the Board, applying to such land or buildings and not, applying generally to land or buildings in the neighborhood, and that said circumstances or conditions are such that strict application of the provisions of this ordinance would-deprive the applicant of the reasonable use of such land or buildings.
- b. That, for reason fully set forth in the findings of the Board, the granting of the variance is necessary for the reasonable use of the land or building and that the variance as granted by the Board is the minimum variance that will accomplish this purpose.
- c. That the granting of the variance. will be in harmony with the general purpose and intent of .this ordinance, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.
- d. The hardship cannot be self-created.
- e. Findings of fact for use variances. The Zoning Board of Appeals shall make the following findings of fact prior to granting a use variance for relief from the strict application of the Zoning Ordinance.
 1. The land in question cannot yield a reasonable return if used for a purpose allowed in that zone;
 2. The plight of the owner is due to unique circumstances and not to the general conditions of the neighborhood;
 3. The use to be authorized will not alter the essential character of the neighborhood;
- f. Findings of fact for area variances. The Zoning Board of Appeals shall make the following finding of fact prior to granting an area variance for relief from the strict application of the Zoning Ordinance:

****Amended by local law #2 8/22/89

 1. Strict application of the ordinance would result in practical difficulties.
- g. In reviewing an application for a variance, the standards in any applicable local law or ordinance or state statute shall take precedence over the provisions of subsections 10.22 (e) and (f), whenever a conflict occurs.

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- **** h. Any area variance granted for the placement of a structure or mobile home shall be abrogated, in the event that the structure or mobile home is removed for a period of more than one (1) year.

10.23 Interpretation

The Board shall upon appeal from a decision by an administrative official, decide any question involving the application of any provision of this ordinance, including determination of the exact location of any district boundary if there is uncertainty with respect thereto.

10.24 Referral to Local and County Planning Board

The Board shall refer to the Planning Board such matters as required by this ordinance and any other pertinent matters for review and recommendation and defer any decision thereon for a period of not more than thirty (30) days pending a report from the Planning Board. Upon failure to submit such report, the Planning Board shall be deemed to have approved the application for appeal. In cases where referral is required to the County Planning Board under provisions of Article 12-B, Section 239-L and M of the General Municipal Law such referral shall be made.

10.30 PROCEDURE

The Board shall act in strict accordance with the procedure specified by law and by this ordinance. All appeals and applications made to the Board shall be in writing, on forms prescribed by the Board and in accordance with Article 9. Every appeal or application shall refer to the specific provision of the ordinance involved, and shall exactly set forth the interpretation that is claimed, the use for which the special permit is sought, or the details of the variance that is applied for and the grounds on which it is claimed that the variance should be granted, as the case may be.

At least thirty (30) days before the date of the hearing required by law on an application or appeal to the Board the secretary of said Board shall transmit to the Planning Board a copy of said application or appeal together with a copy of the notice of the aforesaid and shall request that the Planning Board make a determination in accordance with Section 9.60

****As amended by local law #2 8/22/89

Every decision of the Board shall be by resolution, each of which shall contain a full record of the findings of the Board in the particular case.

TOWN OF AUGUSTA ZONING ORDINANCE AS AMENDED

ARTICLE 11

AMENDMENTS

11.10 TOWN BOARD MAY AMEND

The Town Board may, from time to time, on its own motion, or on petition, or on recommendation of the Planning Board, amend, supplement or repeal the regulations and provisions of this ordinance after public notice and hearings as provided by the Consolidated Laws of New York State.

11.20 REVIEW BY PLANNING BOARD

Every such proposed amendment or change whether initiated by the Town Board or by petition, shall be referred to the Planning Board or by petition, shall be referred to the Planning Board for report thereon before the public hearing hereinafter provided for. If the Planning Board shall fail to submit such report within forty-five (45) days it shall be deemed that the Planning Board has approved the proposed amendment or change.

11.30 REFERRAL TO COUNTY PLANNING BOARD

In cases where referral is required to the County Planning Board under provisions of Article 12-B, Section 239-L and M of the General Municipal Law, such referral shall be made.

11.40 PUBLIC NOTICE AND HEARING

11.41 PUBLIC NOTICE

By publishing a notice at least ten (10) days in advance of such hearing in the official town newspaper such notice shall state the general nature of the proposed amendment in such reasonable detail as will give adequate notice of its contents, and shall name the place or places where copies of the proposed amendment may be examined.

11.42 OPPORTUNITY TO BE HEARD

At the public hearing, full opportunities to be heard shall be given to any citizen and all parties in interest.

TOWN OF AUGUSTA ZONING ORDINANCE AS AMENDED

11.43 ADOPTION AFTER PROTEST

The favorable vote of three- fourths of the Governing Body shall be required before the passage of an amendment that is protested by the owners of twenty (20) percent of more of the area of:

- a. The area of the land included in such proposed change.
- b. The land immediately adjacent extending five hundred (300) feet therefrom or of that directly opposite thereto, extending five hundred. (500) feet from the street frontage of such opposite land.

11.44 CHANGES, AMENDMENTS OR SUPPLEMENTS

All changes, amendments or supplements to this ordinance and to the Zoning Map, which forms a part hereof, shall be adopted in accordance with the provisions of the Consolidated laws of New York State.

TOWN OF AUGUSTA ZONING ORDINANCE AS AMENDED

ARTICLE 12

INTERPRETATION

12.10 INTERPRETATION, CONFLICT WITH OTHER LAWS

In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements, adopted for the promotion of the public health, morals, safety, or the general welfare. It is not intended to interfere or abrogate or annul other rules, regulations or ordinances provided that whenever the requirements of this ordinance are at variance with the requirements of any other lawfully adopted rules, regulations, or ordinances, the most restrictive: or that imposing the higher standards, shall govern.

12.20 VALIDITY

Should any section, subsection, sentence, clause, phrase or provision of this ordinance be decided by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole or any part thereof other than the part so decided to be unconstitutional or invalid.

12.30 EFFECTIVE DATE

This ordinance shall take effect ten (10) days from the publication, as provided by the Town Law.

TOWN OF AUGUSTA ZONING ORDINANCE AS AMENDED

ARTICLE 13

PERFORMANCE STANDARDS

RECEIVED NOV 18 2005

All uses shall comply with all rules and standards promulgated by the State of New York. Such rules and standards are Water Quality Standards, Air Quality Standards, the N.Y.S. Sanitary Code and any other such regulation that may be adopted. In addition all uses shall comply with the following:

1. Sound. The volume of sound inherently and recurrently generated shall be controlled so as not to become a nuisance to adjacent uses.
2. Vibration. An operation that creates intense earth shaking vibration, e.g., heavy drop forges, heavy hydraulic surges, shall not be discernible beyond the property lines of the, industry.
3. Radioactivity. No operation shall be permitted which causes radioactivity in violation of Title 10, Chapter 1, Part 20, code of Federal Regulation, "Standards for Protection Against Radiation," dated June 16, 1957, or any subsequent revision or amendments.
4. Odor. No emission of odorous gas or other odorous matter in such quantity as to be readily detectable at any point along, lot lines without use of instruments shall be permitted.
5. Toxic or Noxious Matter. No discharge beyond lot lines of any toxic or noxious matter in such quantity as to be detrimental or to endanger the public health, safety, comfort or welfare, or cause injury or damage to property or business, shall be permitted.
6. Glare. No direct or reflected glare shall be detectable from any A and R-District boundaries.
7. Heat. No direct or reflected heat shall be detectable from any A and R-District boundaries.
8. Dust and Fly Ash. No solid or liquid particles shall be emitted such quantities as to be readily detectable at any point along lot lines or as to produce a public nuisance or hazard beyond lot lines.
9. Smoke. No smoke shall be emitted in such quantity as to become a nuisance.

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10. Hazardous Waste.
 - a. Facilities for the treatment, storage, or disposal of hazardous wastes are not permitted within the Town of Augusta unless such facilities are in compliance with applicable State Law and Department of Environmental Conservation Rules and Regulations.
 - b. The transportation of hazardous wastes over Town roads is prohibited unless such transportation is in compliance with applicable State Law and Department of Environmental Conservation Rules and Regulations.
11. Septic Tank Wastes. Septic tank wastes shall not be discharged on open ground in the Town of Augusta but must be transported to sewage treatment plants. This section shall not preclude the spreading of septic tank waste on farmland under a valid New York State Department of Environmental Conservation permit.
12. The Solid Waste management Law. The Town of Augusta adopted as Local Law No. 2 of 1983 and any amendments thereto must be complied with.
13. Field Risk Assessment Animal Waste. Manure shall not be spread within a 100 feet of surface water or surface inlets where hydraulic connectivity exists unless it is in conjunction with specific conservation practices that when installed achieves the resource management system level for water quality as stated in the F.O.T.G. Installed practices shall include necessary erosion control measures, buffer areas, appropriate timing, rate of application, and incorporation and other necessary practices. Manure will not be spread within 100 feet of a well head, spring or sink hole unless specific evidence shows that it can be done with out contamination.

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APPENDIX 1

SUGGESTED ZONING FEE SCHEDULE

Building Permit for uses not requiring Board action -----	\$ 5.00
Building Permit for uses requiring Planning Board action -----	\$ 5.00
Application for interpretation of boundaries -----	No Fee
Occupancy Permit -----	No charge when applied with Building Permit Otherwise \$ 5.00
Signs -----	\$ 5.00
Appeal for variance -----	\$ 20.00
Rehearing of applications or appeals -----	\$ 20.00
Special Use Permit -----	\$ 20.00
Reclassification or amendment to Zoning Ordinance -----	\$ 20.00
Any application requiring a public hearing, in addition to permit fees -----	\$ 20.00