

# City Council Ordinance

## IN CITY COUNCIL

BE IT ORDAINED by the Auburn City Council, that Chapter 60, Zoning, of the Code of Ordinances be amended as follows:

### Chapter 60 ZONING

• • •

#### ARTICLE XVI. ADMINISTRATION AND ENFORCEMENT

• • •

#### DIVISION 5. APPEALS AND APPLICABILITY

• • •

##### 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)

##### **Sec. 60-1383. Effective Date and Applicability Date of Ordinance #26-11202023.**

The zoning map amendment to this chapter evidenced by Ordinance #26-11202023 relating to the rezoning of approximately 60 acres in parts of City Assessor’s Parcel ID 289-001, 289-002, and 277-026 from the Agriculture and Resource Protection (AGRP) zoning district to the General Business (GB) zoning district became effective on December 9, 2023 pursuant to Section 2.6(C) of the City Charter. In order to allow time for residents and property owners to become familiar with this zoning map amendment and for the City Council to further study and determine whether any additional amendments to this chapter related thereto are necessary or desirable, Ordinance #26-11202023 shall not become applicable until July 1, 2024.

##### Secs. 60-138~~43~~—60-1400. Reserved.

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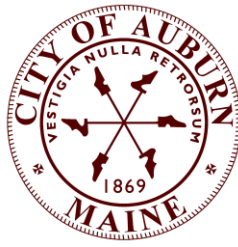
Passage of first reading on 1/2/2024 6-0 (Councilor Milks absent).

Failed second reading on 3/18/2024 3-4 (Councilors Milks, Weisner, Walker, and Gerry opposed).

Richard S. Whiting, Ward One  
Benjamin J. Weisner, Ward Four  
Belinda A. Gerry, At Large

Timothy M. Cowan, Ward Two  
Leroy G. Walker, Sr., Ward Five  
Jeffrey D. Harmon, Mayor

Stephen G. Milks, Ward Three  
Adam R. Platz, At Large  
Phillip L. Crowell, Jr., City Manager



# City Council Ordinance

## IN CITY COUNCIL

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### Chapter 60 ZONING

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#### **ARTICLE XVI. ADMINISTRATION AND ENFORCEMENT**

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#### **DIVISION 5. APPEALS AND APPLICABILITY**

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#### **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)

#### **Sec. 60-1384. Effective Date and Applicability Date of Ordinance #28-11202023.**

The zoning text amendment to this chapter evidenced by Ordinance #28-11202023 relating to Chapter 60, Article XII, Division 4- Lake Auburn Watershed Overlay District pertaining to agricultural farms, agricultural buffer strips, subsurface wastewater disposal system setbacks from resources/buffer strips, private sewage disposal systems and subsurface wastewater standards and requirements became effective on December 9, 2023 pursuant to Section 2.6(C) of the City Charter. In order to allow time for residents and property owners to become familiar with this zoning text amendment and for the City Council to further study and determine whether any additional amendments to this chapter related thereto are necessary or desirable, Ordinance #28-11202023 shall not become applicable until July 1, 2024.

#### **Secs. 60-138~~5~~3—60-1400. Reserved.**

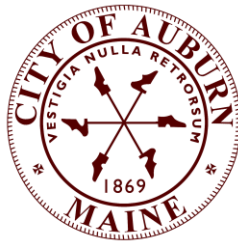
• • •

Failed. This item was tabled on 1/2/2024 with no motion to take off the table to take this item up again.

**Richard S. Whiting**, Ward One  
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# City Council Order

## IN CITY COUNCIL

### AMENDING ARTICLE V, DIVISION 2, SECTIONS 2-430, 2-431, 2-433, 2-434, 2-435, AND 2-441 OF THE AUBURN CODE OF ORDINANCES STRIKING ALL LANGUAGE REFERENCING THE REGISTRATION BOARD OF APPEALS.

**Be it Ordained**, that the City Council hereby amends the code of ordinances Article V, Division 2, Sections 2-430, 2-431, 2-433, 2-434, 2-435, and 2-441 of the Auburn Code of Ordinances striking all language referencing the registration board of appeals as seen below.

#### **Sec. 2-430. Membership; responsibility.**

~~A board of regulatory advisory shall be appointed by the city council, consisting of seven members.~~

~~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.~~

~~Persons appointed by the city council to serve on other boards, agencies, panels, and or commissions shall not serve concurrently on the regulatory advisory board.~~

(Code 1967, § 5-2.1; Ord. No. 04-02162021, 3-1-2021; Ord. No. 02-01032022, 1-18-2022)

Editor's note(s)—Ord. No. 04-02162021, adopted March 1, 2021 changed the title of § 2-430 from "membership; compensation of members" to "membership; responsibility."

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

~~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; Ord. No. 05-02162021, 3-1-2021)

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

~~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; Ord. No. 07-02162021, 3-1-2021)



# City Council Order

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

~~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; Ord. No. 08-02162021, 3-1-2021)~~

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

~~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; Ord. No. 09-02162021, 3-1-2021)~~

**~~Sec. 2-441. Compensation of the regulatory board.~~**

~~All members of the regulatory board shall receive annually \$600.00, payable quarterly.~~

~~(Ord. No. 41-11152021, 12-6-2021)~~

Passage of first reading on 1/16/2024 6-0-1 (Councilor Milks abstained).  
Passage of second reading on 2/5/2024 7-0.

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# City Council Order

## IN CITY COUNCIL

### AMENDING THE AUBURN CODE OF ORDINANCES, ARTICLE V, DIVISION 2, SEC. 2-430, 2-431, 2-432, 2-433, 2-434, 2-438, 2-441 TO REINSTATE THE BOARD OF ASSESSMENT REVIEW

**BE IT ORDAINED**, that the City Council hereby amends the Auburn Code of Ordinances, Article V, Division 2, sec. 2-430, 2-431, 2-432, 2-433, 2-434, 2-438, 2-441 to reinstate the Board of Assessment Review

#### DIVISION 2. - BOARD OF ASSESSMENT REVIEW

*State Law reference— Board of assessment review, 36 M.R.S § 471-A and § 844-N.*

#### **Sec. 2-430. - Membership; responsibility.**

A board of assessment review (the Board) shall be appointed by the city council, consisting of five regular members and three alternate members, to serve without compensation.

The purpose of the board of assessment review is to hear property tax appeals pursuant to Maine Statute. The Board shall develop such rules to govern its meetings (to include meetings dates and times) and operations as it deems advisable.

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

The initial terms of office of the members of the board of assessment review shall be staggered terms. The city council shall annually appoint members to serve on the board for three-year terms. Their successors shall be appointed for three-year terms.

#### **Sec. 2-432. - Assessment review appeals procedure.**

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 on behalf of the Assessing Department, and to be represented by counsel. Upon the evidence presented, the Board shall determine whether the applicant has met their burden of proof and may grant such reasonable abatement of their assessment as it determines to be proper.

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**Phillip L. Crowell, Jr.**, City Manager



## City Council Order

The board of assessment review must provide written notice of the decision on an appeal within 60 days of receiving the appeal unless the taxpayer agrees to an extension of the decision deadline.

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

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 serve in place of any absent member.

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

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.

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

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.  
*(other sections edited)*

Passage of first reading on 1/16/2024 6-0-1 (Councilor Milks abstained).  
Passage of second reading on 2/5/2024 7-0.

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**Ordinance 05-01162024**

# City Council Order

**IN CITY COUNCIL**

**Amending Chapter 60, Article XV reinstating the Zoning Board of Appeals ordinance**

**Be it ordained**, that the City Council hereby amends Chapter 60, Article XV by reinstating the Zoning Board of Appeals ordinance (attached).

Passage of first reading on 1/16/2024 6-0-1 (Councilor Milks abstained).

Passage of second reading on 3/04/2024 6-0 (Councilor Milks absent).

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**Richard S. Whiting**, Ward One  
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## ARTICLE XV. - BOARD OF APPEALS

DIVISION 1. - GENERALLY  
DIVISION 2. - ORGANIZATION  
DIVISION 3. - APPEALS PROCEDURE  
DIVISION 4. - POWERS AND DUTIES  
DIVISION 5. - JUDICIAL APPEAL  
DIVISION 6. - SPECIAL APPEAL

### DIVISION 1. - GENERALLY

[Secs. 60-1116—60-1129. - Reserved.](#)

**Secs. 60-1116—60-1129. - Reserved.**

### DIVISION 2. - ORGANIZATION

[Sec. 60-1130. - Membership.](#)  
[Sec. 60-1131. - Term of office.](#)  
[Sec. 60-1132. - Associate members.](#)  
[Sec. 60-1133. - Jurisdiction.](#)  
[Sec. 60-1134. - Board rules.](#)  
[Sec. 60-1135. - Quorum.](#)  
[Secs. 60-1136—60-1150. - Reserved.](#)

#### **Sec. 60-1130. - Membership.**

There shall be a board of appeals consisting of up to 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~~ A majority of appointed members (**minimum of 3**) 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.](#)

[Sec. 60-1152. - Public hearing.](#)

[Sec. 60-1153. - Decision.](#)

[Secs. 60-1154—60-1184. - Reserved.](#)

**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.

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Chapter 60 - ZONING  
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DIVISION 6. - SPECIAL APPEAL

(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.](#)
- [Sec. 60-1186. - Administrative appeals.](#)
- [Sec. 60-1187. - Variance.](#)
- [Secs. 60-1188—60-1207. - Reserved.](#)

**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.

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(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.](#)

[Secs. 60-1209—60-1234. - Reserved.](#)

**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

PART II - CODE OF ORDINANCES  
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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.](#)

[Sec. 60-1236. - Shoreland zone variance.](#)

[Sec. 60-1237. - Lake Auburn Watershed zone variance.](#)

[Secs. 60-1238—60-1255. - Reserved.](#)

**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 Overlay District 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 subsurface wastewater 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 Auburn 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 Auburn 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.**



# City Council Order

## IN CITY COUNCIL

### Amending Chapter 2, Article V, Division 4, Sec. 2-433 (a) of the Auburn Code of Ordinances striking the language regarding compensation

**Be it ordained**, that the City Council hereby amends Chapter 2, Article V, Division 4, Sec. 2-433 (a) of the Auburn Code of Ordinances striking the language regarding compensation as shown below.

#### **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. ~~Members shall serve without compensation.~~
- (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) All members of the planning board, regular and associate, shall receive annually \$1,200.00, payable quarterly, with an effective date of January 1, 2022.

Passage of first reading on 1/2/2024 7-0.

Passage of second reading on 2/5/2024 7-0.

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**Jeffrey D. Harmon**, Mayor

**Stephen G. Milks**, Ward Three  
**Adam R. Platz**, At Large  
**Phillip L. Crowell, Jr.**, City Manager





**Ordinance 06-01162024**

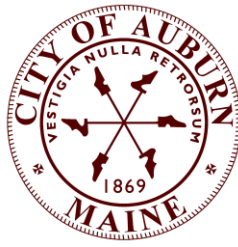
# City Council Order

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**Richard S. Whiting**, Ward One  
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**Phillip L. Crowell, Jr.**, City Manager



# City Council Ordinance

## IN CITY COUNCIL

**BE IT ORDAINED** by the Auburn City Council that Chapter 1, General Provisions, of the Code of Ordinances be amended as follows:

### Chapter 1 GENERAL PROVISIONS

#### Sec. 1-2. Definitions and rules of construction.

In the construction of this Code, and of all ordinances, the rules and definitions set out in this section shall be observed, unless such construction would be inconsistent with the manifest intent of the city council. The rules of construction and definitions set out in this section shall not be applied to any section of this Code which shall contain any express provision excluding such construction, or where the subject matter or context of such section may be repugnant thereto.

*Fee schedule or schedule of fees and charges.* The term "fee schedule" or "schedule of fees and charges" means the official consolidated list maintained in the city clerk's office that lists rates for utility or other public enterprises, fees of any nature, deposit amounts and various charges as determined from time to time by the city council [by council order](#).

#### Sec. 1-10. Form of Code; repository; maintenance; [fee schedule](#).

A copy of this Code shall be kept on file in the office of the city clerk, preserved in looseleaf form, or in such other form as the clerk may consider most expedient. It shall be the express duty of the clerk or his designee to insert in their designated places all resolutions, general resolutions and ordinances that indicate the intention of the city council to make the same a part of this Code, when the same have been printed or reprinted in page form, and to extract from this Code all provisions that may be from time to time repealed by the city council. A copy of this Code shall be available in the office of the city clerk for examination by all persons.

[A copy of the fee schedule, as established and amended by council order, shall be kept on file in the office of the city clerk and may be appended to the Code for ease of reference, but the fee schedule is not itself an ordinance.](#)

Passage of first reading on 3/4/2024 6-0 (Councilor Milks absent).

Passage of second reading on 3/18/2024 6-0 (Councilor Platz absent).

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**Phillip L. Crowell, Jr.**, City Manager



**Ordinance 08-02052024**

# City Council Ordinance

**IN CITY COUNCIL**

**TITLE: Planning Board-Initiated Zoning Map Amendment Near Riverside Drive**

**BE IT ORDAINED**, that the City Council hereby approves the amendment of Chapter 60, Zoning, of the Code of Ordinances as follows:

Amend the official zoning map of the City of Auburn entitled “City of Auburn, Zoning Map, dated May 16, 2016,” revised through its current date and revisions, as provided under Sec. 60-5 of the Zoning Ordinance, to amend City Assessor’s Parcel I.D.s 174-004, 174-004-001 and 174-004-002, located on Riverside Drive, from the Agriculture and Resource Protection (AGRP or AG) zoning district to the Low-Density Rural Residence or Rural Residence (RR) zoning district following the 1% Chance FEMA Flood Hazard Line.

**Failed (Postponed indefinitely) on 2/5/2024 6-1 (Councilor Walker opposed).**

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# City Council Order

## IN CITY COUNCIL

### Adopting Ordinance Language in Chapter 52, Traffic and Vehicles, Sections 52-238 and 52-239

**Be it ordained, that the City Council hereby adopts ordinance language in Chapter 52, Traffic and Vehicles, Sections 52-538 and 52-539 that was inadvertently removed in March of 2021. The language to be reinstated as follows:**

*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.*

*Sec. 52-239. - Limitation of 23,000 pounds: No vehicle weighing more than 23,000 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.*

**This ordinance will take effect immediately following the affirmative vote of the City Council.**

\*Passage of first and second reading as amended on 08-03042024 6-0 (Councilor Milks absent).

\* The requirement of a reading on two separate days was dispensed by unanimous vote of the Councilors present and voting, pursuant to Auburn's City Charter.

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# City Council Ordinance

## IN CITY COUNCIL

### Creating the Maine Bioproducts Advanced Manufacturing Tech Hub Overlay District Map

**Be it ordained**, by the Auburn City Council, that Chapter 60 Article IV, Division 12 General Business District be amended by including “manufacture, compounding and assembling of articles using Maine derived forest products, agricultural products, or other natural resource inputs” as a Special Exception use with a condition that the site must be located within the Maine Forest Bioproducts Advanced Manufacturing Tech Hub Overlay District. The text shall appear under Sec. 60-499(b)(24) as follows:

#### *DIVISION 12. GENERAL BUSINESS DISTRICT*

##### **Sec. 60-499. Use regulation.**

(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:

(24) Manufacture, compounding or assembling of articles using Maine derived forest products, agricultural products or other natural resource inputs.

a. The property is located in the Maine Forest Bioproducts Advanced Manufacturing Tech Hub Overlay District.

Passed first reading on 5/6/24 5-2 (Milks, Walker opposed).  
Passed second reading on 5/20/24 7-0.



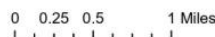
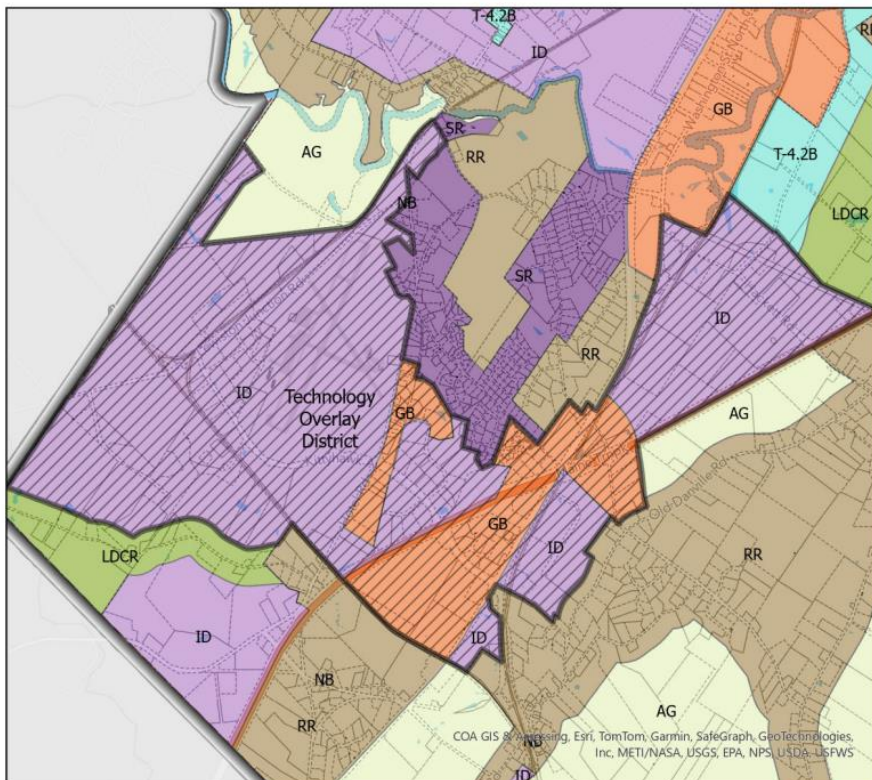
# City Council Ordinance

## IN CITY COUNCIL

### Creating the Maine Bioproducts Advanced Manufacturing Tech Hub Overlay District Map

**Be it ordained**, by the Auburn City Council, that the Official Zoning Map of the City of Auburn to be amended to create the Maine Forest Bioproducts Advanced Manufacturing Tech Hub Overlay District. This zoning map overlay is generally located near Lewiston Junction Road, Kittyhawk Ave, and the southerly half of Washington Street and appears as follows:

#### Maine Forest Bioproducts Advanced Manufacturing Tech Hub Overlay District

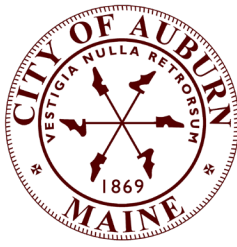


Passed first reading on 5/6/24 5-2 (Milks, Walker opposed).  
Passed second reading on 5/20/24 7-0.

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**Phillip L. Crowell, Jr.**, City Manager



# City Council Ordinance

## IN CITY COUNCIL

BE IT ORDAINED by the Auburn City Council, that Chapter 60, Zoning, of the Code of Ordinances be amended as follows:

### Chapter 60 ZONING

• • •

### ARTICLE XIII. ENVIRONMENTAL PERFORMANCE STANDARDS

• • •

#### DIVISION 2. PHOSPHOROUS CONTROL

• • •

#### 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 ~~0.80~~ 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 ~~435.1~~ 180.0.

*Lake Auburn* means the Lake Auburn Watershed regulated by this chapter, which is all land areas within the direct watershed of Lake Auburn as defined on the attached map entitled Lake Auburn Watershed Overlay District 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 ~~0.0365~~; for Lake Auburn, the phosphorus allocation is ~~0.04720~~.

*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.

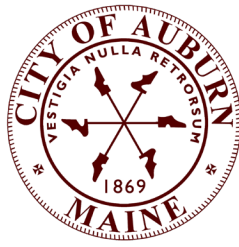
*Taylor Pond* means the Taylor Pond Watershed regulated by this chapter, which is all land areas within the direct watershed of Taylor Pond as defined on the attached map entitled "Taylor Pond Watershed Map".

(Ord. of 9-21-2009, § 5.7B; Ord. No. 28-11202023, 12-4-2023)

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# City Council Ordinance



## 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 [to the city planning, permitting, and code department](#) as follows:

- (1) [In the Taylor Pond Watershed, A-a](#) plan designed in accordance with the applicable sections of ~~chapter 8 of the~~ [the latest edition of Maine Department of Environmental Protection, Maine Stormwater Management Design Manual, Phosphorus Control Manual, Volume II & Technical Design Manual Volume III, March 2016. 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. [For dwelling units, the Basic Single Family Residential \(SFR\) Lot Standards of the latest edition of Maine Department of Environmental Protection, Maine Stormwater Management Design Manual, Phosphorus Control Manual, Volume II shall be used.](#)
- (2) [In the Lake Auburn Watershed Overlay District, A-a](#) plan designed in accordance with the applicable sections of ~~chapter 8 of the~~ [latest edition of Maine Department of Environmental Protection, Maine Stormwater Management Design Manual, Phosphorus Control Manual, Volume II & Technical Design Manual III, March 2016. 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.~~ [For dwelling units, the Basic Single Family Residential \(SFR\) Lot Standards of the latest edition of Maine Department of Environmental Protection, Maine Stormwater Management Design Manual, Phosphorus Control Manual, Volume II shall be used.](#)

(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 design criteria of the Maine Department of Environmental Protection, Maine Stormwater Management Design Manual, Phosphorus Control Manual Volume II, March 2016.

- (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:

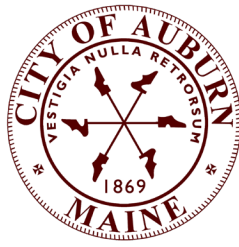
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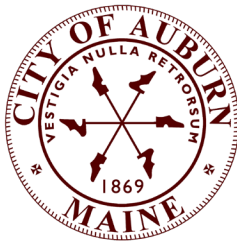


## City Council Ordinance

- 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 [latest version of](#) Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices, [March 1991 October 2016](#), 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; Ord. No. 11-03012021, § 81, 3-15-2021; Ord. No. 10-03072022, 3-21-2022)

Amended and passed first reading 7-1-24, 7-0.  
Passed public hearing & second reading 7-15-24, 7-0.



# City Council Ordinance

## IN CITY COUNCIL

BE IT ORDAINED by the Auburn City Council, that Chapter 60, Zoning, of the Code of Ordinances be amended as follows:

### Chapter 60 ZONING

• • •

#### ARTICLE IV. DISTRICT REGULATIONS

• • •

##### DIVISION 3. LOW DENSITY COUNTRY RESIDENTIAL DISTRICT

• • •

#### Sec. 60-202. Dimensional requirements.

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

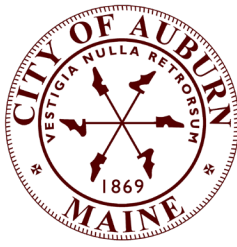
- (1) *Minimum lot area, width and depth.* No lot shall be created and/or no building shall be erected on a lot containing less than three acres and measuring less than 325 feet in width. No lot shall be less than 200 feet in depth. The keeping of horses, mules, cows, goats, sheep, hogs and similar size 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 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, unless the lot is in the Lake Auburn Watershed Overlay District in which case the front yard shall have 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 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.

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## City Council Ordinance

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

(Ord. of 9-21-2009, § 3.32C; Ord. No. 11-03012021, §§ 10, 11, 3-15-2021)

Passed first reading 7-1-24, 7-0.

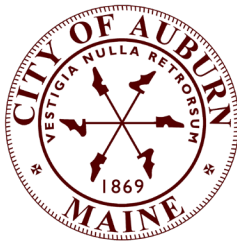
Passed public hearing & second reading 7-15-24, 7-0.

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# City Council Ordinance

## IN CITY COUNCIL

BE IT ORDAINED by the Auburn City Council, that Chapter 60, Zoning, of the Code of Ordinances be amended as follows:

### Chapter 60 ZONING

• • •

### ARTICLE XII. ENVIRONMENTAL REGULATIONS

• • •

#### DIVISION 4. LAKE AUBURN WATERSHED OVERLAY DISTRICT

• • •

#### Sec. 60-951. Boundaries and definitions.

(a) *Boundaries.* The Lake Auburn Watershed Overlay 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 Auburn Water District on file in the office of the Auburn Water District, the city ~~planning, permitting and code department~~~~department of planning and permitting services~~ and the city clerk. The Lake Auburn Watershed Overlay District shall be superimposed over underlying zoning districts within ~~such section~~the city. Permitted uses in the underlying districts shall continue subject to compliance with the provisions of the Lake Auburn Watershed Overlay District.

(b) *Definitions.* For purposes of this division, the following words and terms as used herein shall have the meanings or limitations of meaning hereby defined, explained or assigned.

Building has the same meaning as in section 60-2.

*Curtain drain* means a ~~franch-trench~~ trench to intercept laterally moving ground water and divert it away from a septic system disposal field.

Dwelling Unit has the same meaning as in section 60-2.

*Hobby agricultural use* means uses of land for chicken farms, cattle farms, horse farms, egg farms, piggeries, sheep farms, stables, crop farming and other agricultural purposes where:

- (1) The products produced through such use of the land is for personal consumption, pleasure or sustenance by those occupying the land and does not involve the sale of the products produced through such use of the land for profit; and
- (2) The allowances set forth in section 60-2 regarding "farm, livestock" of this chapter and the allowances set forth in article VII, division 4 of chapter 8 of this Code are not exceeded.

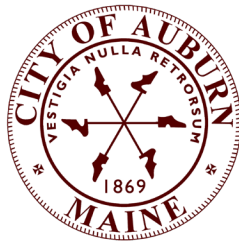
*Lake Auburn Watershed Protection Commission* or *LAWPC* means the commission formed through an interlocal cooperation agreement between and among the Auburn Water District, City of Lewiston, and the Town of Turner, consisting of three commissioners appointed by the Auburn Water District, three commissioners appointed by the City of Lewiston, one commissioner appointed by the Town of Turner, one commissioner appointed by the Towns of Hebron, Minot and Buckfield, and one commissioner appointed by the Androscoggin Valley Council of Governments.

Local plumbing inspector means a plumbing inspector or alternate plumbing inspector as defined in Section 12-22.

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# City Council Ordinance

*Non-hobby agricultural use* means uses of land for chicken farms, cattle farms, horse farms, egg farms, piggeries, sheep farms, stables, crop farming and other agricultural purposes where the products produced through such use of the land are sold for profit.

*Normal high-water line and Normal high-water mark* means that line which is apparent from visible markings, changes in the character of soils due to prolonged action of the water or changes in vegetation, and which distinguishes between predominantly aquatic and predominantly terrestrial land.

*Soil horizon* means a layer within a soil profile differing from the soil above or below it in one or more soil morphological characteristics. The characteristics of the layer include the color, texture, rock-fragment content, and ~~consistence~~consistency of each parent soil material.

*Soil horizon, limiting or limiting soil horizon* means any soil horizon or combination of soil horizons, within the soil profile or any parent material below the soil profile, that limits the ability of the soil to provide treatment or disposal of septic tank effluent. Limiting horizons include bedrock, hydraulically restrictive soil horizons and parent material excessively coarse soil horizons and parent material, and the seasonal groundwater table. Any of these limiting horizons may from time to time be ~~Also sometimes~~ referred to as a "limiting factor."

*Soil profile* means a vertical cross section of the undisturbed soil showing the characteristic soil horizontal layers or soil horizons that have formed as a result of the combined effects of parent material, topography, climate, biological activity, and time.

*Soil filter media* means a soil mixture that consists of a loamy sand lower fill layer meeting the following lower fill layer specifications, plus a minimum of six inches of upper fill layer meeting the following upper fill layer specifications.

Soil Filter Media Specifications

Upper fill layer	
Sieve #	% passing by weight
No. 4	75—95
No. 10	60—90
No. 40	35—85
No. 200	20—40
200 (clay size)	< 2.0

Lower fill layer	
Sieve #	% passing by weight
No. 10	85—100
No. 20	70—100
No. 60	15—400
No. 200	6—8
200 (clay size)	< 2.0

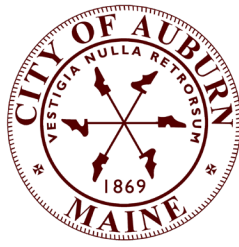
*State licensed site evaluator* means a person licensed by the Maine Department of Health and Human Services to evaluate soils for the purpose of designing subsurface wastewater disposal systems.

*Stream or Brook* means a channel between defined banks as depicted as a solid or broken blue line on the most recent edition of the U.S. Geological Survey 7.5-minute series topographic map.

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**Belinda A. Gerry**, At Large

**Timothy M. Cowan**, Ward Two  
**Leroy G. Walker, Sr.**, Ward Five  
**Jeffrey D. Harmon**, Mayor

**Stephen G. Milks**, Ward Three  
**Adam R. Platz**, At Large  
**Phillip L. Crowell, Jr.**, City Manager



# City Council Ordinance

Subsurface wastewater disposal system inspector means a person who holds a current certification issued by the Maine Department of Health and Human Services, Division of Environmental and Community Health as a Subsurface Wastewater Disposal System Inspector.

(Ord. of 9-21-2009, § 5.3B; Ord. No. 28-11202023, 12-4-2023)



## Sec. 60-952. Use and environmental regulations.

### 1. Subsurface Wastewater Disposal Systems.

(ba) ~~Residential-d~~dwelling units in the agriculture and resource protection zoning district. Notwithstanding the provisions of subsections 60-145(a)(1), 60-145(b)(18) and 60-146(1)c., new dwelling units are prohibited in ~~the that part of the~~ Lake Auburn Watershed Overlay District which overlies the Agriculture and Resource Protection Zone. Pursuant to 30-A M.R.S.A. §§ 4364(9), 4364-A(1-A), and 4364-B(1-A), each as may be amended from time to time, the affordable housing density, residential density and accessory dwelling unit provisions of P.L. 2021, ch. 672, "An Act to Implement the Recommendations of the Commission to Increase Housing Opportunities in Maine by Studying Zoning and Land Use Restrictions" and any related state regulations do not apply in the Lake Auburn Watershed Overlay District.

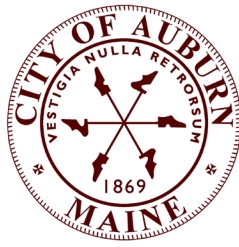
(fb) Private subsurface wastewater disposal systems. Each new building, or any existing building for which there is any addition, alteration, or change of use, each new dwelling unit, or any existing dwelling unit for which there is an addition or alteration thereto that includes the addition of one or more bedrooms, in the Lake Auburn Watershed Overlay District, not served by public sewer, shall, in the development of a private subsurface wastewater disposal system, adhere to the requirements of this section as well as the requirements of the latest version of the Maine Subsurface Wastewater Disposal Rule, 10-144 C.M.R. ch. 241. Notwithstanding any provision of the Maine Subsurface Wastewater Disposal Rule, 10-144 C.M.R. ch. 241 the Rule shall be applied regardless of whether the addition or alteration is an initial or subsequent addition or alteration. The following regulations shall be adhered to in the development of private subsurface wastewater disposal systems in the Lake Auburn Watershed Overlay District:

- (1) Disposal fields are prohibited on sites with less than 12 inches to the limiting soil horizon. In addition to having at least 12 inches to the limiting soil horizon, disposal fields shall have at least 24 inches of suitable natural soil or soil filler media below the bottom of the disposal field, such that there is at least a 36-inch separation between the bottom of the disposal field and the limiting soil horizon. The local plumbing inspector shall require that a state licensed site evaluator affirm that these design ~~criteria~~ requirements are met before the ~~LP~~ local plumbing inspector finds the design or installation of the system to comply with this section.
- (2) ~~No new~~ (first use), expanded, or replacement disposal fields shall be ~~set back from~~ installed closer than 400 feet to the normal high-water mark of any lake, pond, ~~or year-round or intermittent stream~~ stream, or brook (as depicted on a 7.5 minute series USGS topographic map, dated 1981). Where the daily wastewater 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 ~~as follows:~~
  - a. ~~Where the daily wastewater 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.~~
  - a. Where the daily wastewater flow is, or is reasonably likely to be, 2,000 gallons or less, the system shall be set back at least 400 feet from the normal high-water mark of any lake, pond, stream, or brook.

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Stephen G. Milks, Ward Three  
Adam R. Platz, At Large  
Phillip L. Crowell, Jr., City Manager



## City Council Ordinance

b. ~~Where the daily wastewater flow is, or is reasonably likely to be, in excess of 2,000 gallons, the system shall be set back at least 1,000 feet from the normal high-water mark of any lake, pond, stream, or brook.~~

~~(3) All disposal fields, replacement or new, shall meet the design criteria set forth in subsection (f)(1) above, except that if a replacement system disposal field cannot meet the design criteria set forth in subsection (f)(1) above, the local plumbing inspector must, in consultation with and the concurrence of the Auburn Water District, or its designee, evaluate the design and then require the disposal field to meet as much of the design criteria as is physically possible under the site-specific circumstances.~~

~~(43) All new (first use), expanded, or replacement private subsurface wastewater disposal systems, replacement or new, shall include one of the two following design elements. The selection of which design element is most appropriate shall be determined by a state licensed site evaluator based upon the evaluation of the groundwater conditions, soils, and slopes present at the site where the system is to be installed, either have:~~

a. ~~A curtain drain installed per Section 1112(H) of the Maine Subsurface Wastewater Disposal Rules, 10-144 C.M.R. ch. 241 (20152023), as may be amended from time to time; or~~

b. ~~A diversion ditch, upslope of the disposal field, installed for the disposal field's entire length (including fill extensions, and constructed so that the curtain drain or diversion ditch is located to prevent any under drain short circuiting of the disposal field),~~

~~whichever installation is determined to be the most appropriate based on the evaluation of groundwater conditions on the site by a state licensed site evaluator.~~

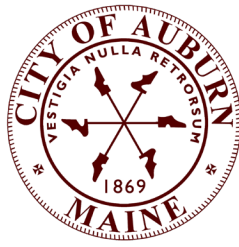
~~The local plumbing inspector shall require that a state licensed site evaluator affirm that one of these two types of installation is part of the design of the system before the LPI finds the design or installation of the system to comply with this section.~~

~~(54) All new (first use), expanded, or replacement private subsurface wastewater disposal systems, replacement or new, shall be installed on the same lot as the building or dwelling unit being served by the system, unless the system can be developed outside of the Lake Auburn Watershed Overlay District or, in the case of an expanded or replacement system, the property owner can demonstrate to the local plumbing inspector that it is physically impossible for the replacement system to be located on the same lot, in which case the local plumbing inspector may approve all or a portion of the expanded or replacement system's location on adjacent lots if the property owner holds a perpetual easement from the adjacent lot owner allowing the installation and maintenance of the system.~~

~~(56) Commencing July 1, 2024, LAWPC or its designee shall have the right to inspect all private subsurface wastewater disposal systems in the Lake Auburn Watershed Overlay District every five years and/or at the time that a property sold, whichever time frame is deemed most appropriate by LAWPC or its designee, the owner of each building or dwelling unit in the Lake Auburn Watershed Overlay District, not served by public sewer, shall have their private subsurface wastewater disposal system inspected to ensure continuing compliance with this section and the latest version of the Maine Subsurface Wastewater Disposal Rule, 10-144 C.M.R. ch. 241.~~

a. ~~Inspections. An initial inspection shall be completed by the completion date specified in the Lake Auburn Watershed Overlay District Septic Systems Inspection Map, dated March 19, 2024, which is on file in the office of the city planning, permitting and code department.~~

~~Subsequent inspections shall be completed within five years of the initial inspection and every subsequent inspection, unless the property is sold, in which case a subsequent inspection shall be conducted at the time of sale.~~



## City Council Ordinance

Such inspections shall be completed by a certified subsurface wastewater disposal system inspector. Such inspector shall inspect the private subsurface wastewater disposal system using the minimum requirements established by the Maine Department of Health and Human Services, Division of Environmental and Community Health for evaluating and reporting on existing subsurface wastewater disposal systems.

b. *City record keeping and notifications.* The city planning, permitting and code department shall maintain, within the city GIS system, a record of each subsurface wastewater disposal system within the Lake Auburn Watershed Overlay District that requires inspection. The record must include, at a minimum, the city parcel identifier, date the next inspection is due, and date of the last inspection. The city planning, permitting and code department shall provide the owner of each building or dwelling unit written notices by regular mail, to the address shown on the city property tax records, of the date by which the inspection of the subsurface wastewater disposal system must be completed. The first notice shall be mailed 12 months prior to each required completion date and the second notice six months prior to each required completion date.

c. *Reporting and reviewing of results of inspections.* Reporting shall be made utilizing the latest version of the HHE-240 reporting form, for initial inspections, and the Supplement HHE-240 reporting form, for subsequent inspections, as published by the Maine Department of Health and Human Services, Division of Environmental and Community Health. Such reports shall be submitted to the local plumbing inspector.

The local plumbing inspector shall review the report and determine if corrective action is required to ensure that;

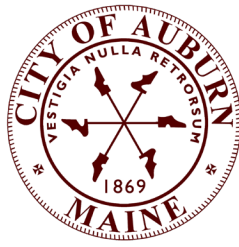
1. for subsurface wastewater disposal systems for which a design is on file with the planning, permitting and code department, the system is functioning per the design on file,
2. for subsurface wastewater disposal systems for which there is no design on file with the planning, permitting and code department, the system is functioning as built.

d. *Alternative design for replacement subsurface wastewater disposal systems.* For buildings or dwelling units that exist in the Lake Auburn Watershed Overlay District as of July 1, 2024, should the local plumbing inspector determine, upon review of the report from the subsurface wastewater disposal system inspector, through personal observation, or through independent means, that the subsurface wastewater disposal system is not functioning as designed or built and a replacement system is required, and:

1. a state licensed site evaluator informs the local plumbing inspector that the parcel on which the building or dwelling unit is situated is not suitable to site a replacement subsurface wastewater disposal system that meets the requirements of this section and the latest version of the Maine Subsurface Wastewater Disposal Rule, 10-144 C.M.R. ch. 241; and
2. the local plumbing inspector determines that the replacement subsurface wastewater disposal system cannot be sited pursuant to Subsection 4;

then a state licensed site evaluator may propose, and the local plumbing inspector may approve, after consultation with the Lake Auburn Water Protection Commission, an alternative subsurface wastewater design that does not meet the requirements of this section and the latest version of the Maine Subsurface Wastewater Disposal Rule, 10-144 C.M.R. ch. 241 but which meets as many of the requirements as possible, and for those requirements that cannot be met, includes design elements that maximize the efficacy of the treatment of the wastewater.



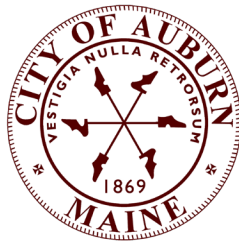


## City Council Ordinance

- (76) ~~The Auburn Water District~~In coordination with the local plumbing inspector, LAWPC, or its designee, shall have the right to inspect any subsurface wastewater disposal system within the Lake Auburn Watershed Overlay District during its construction and operation and may notify the City of Auburn health officer, police chief, local plumbing inspector or ~~housing inspector~~code enforcement officer of any observed defects or malfunction that require ~~abatement~~corrective action by the property owner or operator.
- (87) The local plumbing inspector shall furnish a copy of all site evaluation and inspection reports in the Lake Auburn Watershed Overlay District to ~~the Auburn Water District or its designee~~LAWPC.
- 8) Commencing on July 1, 2024, a maximum of three new dwelling units per calendar year are permitted in that part of the Lake Auburn Watershed Overlay District in which new dwelling units are permitted. The city planning, permitting, and code department shall, on an annual basis, provide a report to the Planning Board as to the extent and effect of the construction of new dwelling units in the Lake Auburn Watershed Overlay District. The report shall include, at a minimum, the number of new dwelling units constructed in the past year, the cumulative number of new dwelling units constructed since July 1, 2024, and the effect of such construction on the Lake Auburn water quality. Should the Planning Board conclude, based on the city planning, permitting and code department report that the construction of new dwelling units has had an adverse effect on the Lake Auburn water quality, the Planning Board shall consider what action is to be taken to prevent further degradation of Lake Auburn water quality from the construction of new dwelling units.

### 2. Agricultural, Forestry, and Erosion Control.

- (a) *Agricultural uses.* Non-hobby agricultural uses not in existence as of January 1, 2024 are prohibited, and expansions of non-hobby agricultural uses in existence as of December 31, 2023 are prohibited. As of January 1, 2024, new hobby agricultural uses or expansions of hobby agricultural uses in existence as of December 31, 2023 are only allowed if:
- (1) The owner or operator first demonstrates to LAWPC's watershed manager that such use or expansion will not cause groundwater contamination and will not contaminate or disturb the normal course of surface water runoff; and
  - (2) LAWPC's watershed manager approves such use or expansion in writing and so notifies the code enforcement officer.
- (c) *Agricultural buffer strip.* Where land adjoining Lake Auburn or its perennial tributaries (as depicted on a 7.5 minute series USGS topographic map, dated 1981) is tilled for agricultural purposes, an untilled buffer strip 100 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) *Manure and sludge disposal.* Spreading and disposal of sludge is prohibited. All spreading and disposal of manure shall be accomplished in conformance with the then-current edition of the Maine Department of Agriculture, Conservation and Forestry's rules, regulations and guidelines for manure spreading and disposal.
- (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



# City Council Ordinance

by the Auburn 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 Auburn Water District indicating the changes so that a record can be maintained of watershed water yields to the system.

### 3. Enforcement

The city planning, permitting and code department shall have authority to enforce all requirements of this Division in accordance with section 60-1403.

(Ord. of 9-21-2009, § 5.3C; Ord. No. 19-12022019, 12-9-2019; Ord. No. 10-06202023, 7-10-2023; Ord. No. 28-11202023, 12-4-2023)



### **Sec. 60-953. Dimensional regulations; building setbacks.**

~~All~~ Any new or expanded buildings ~~and or~~ structures, except those requiring direct access to the water as an operational necessity, shall be constructed not less than 75-100 feet inland from the normal high-water mark of Lake Auburn. 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 75-100 feet of the normal high-water mark of Lake Auburn.

(Ord. of 9-21-2009, § 5.3D)



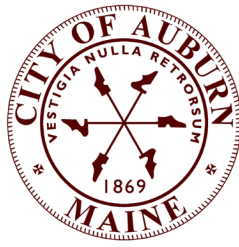
Passed first reading 7-1-24, 7-0.

Passed public hearing & second reading 7-15-24, 7-0.

**Richard S. Whiting**, Ward One  
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**Jeffrey D. Harmon**, Mayor

**Stephen G. Milks**, Ward Three  
**Adam R. Platz**, At Large  
**Phillip L. Crowell, Jr.**, City Manager



# City Council Ordinance

## IN CITY COUNCIL

### **Creating the Lake Auburn Watershed Overlay District Septic Inspection Map**

**Be it ordained**, by the Auburn City Council, that the Official Zoning Map of the City of Auburn to be amended to create the Lake Auburn Watershed Overlay District Septic Inspection Map. This map will be referred to in Chapter 60 Article XII Division 4 Lake Auburn Watershed Overlay District and appears as attached.

Amended and passed first reading 7-1-24, 7-0.  
Passed public hearing & second reading 7-15-24, 7-0.

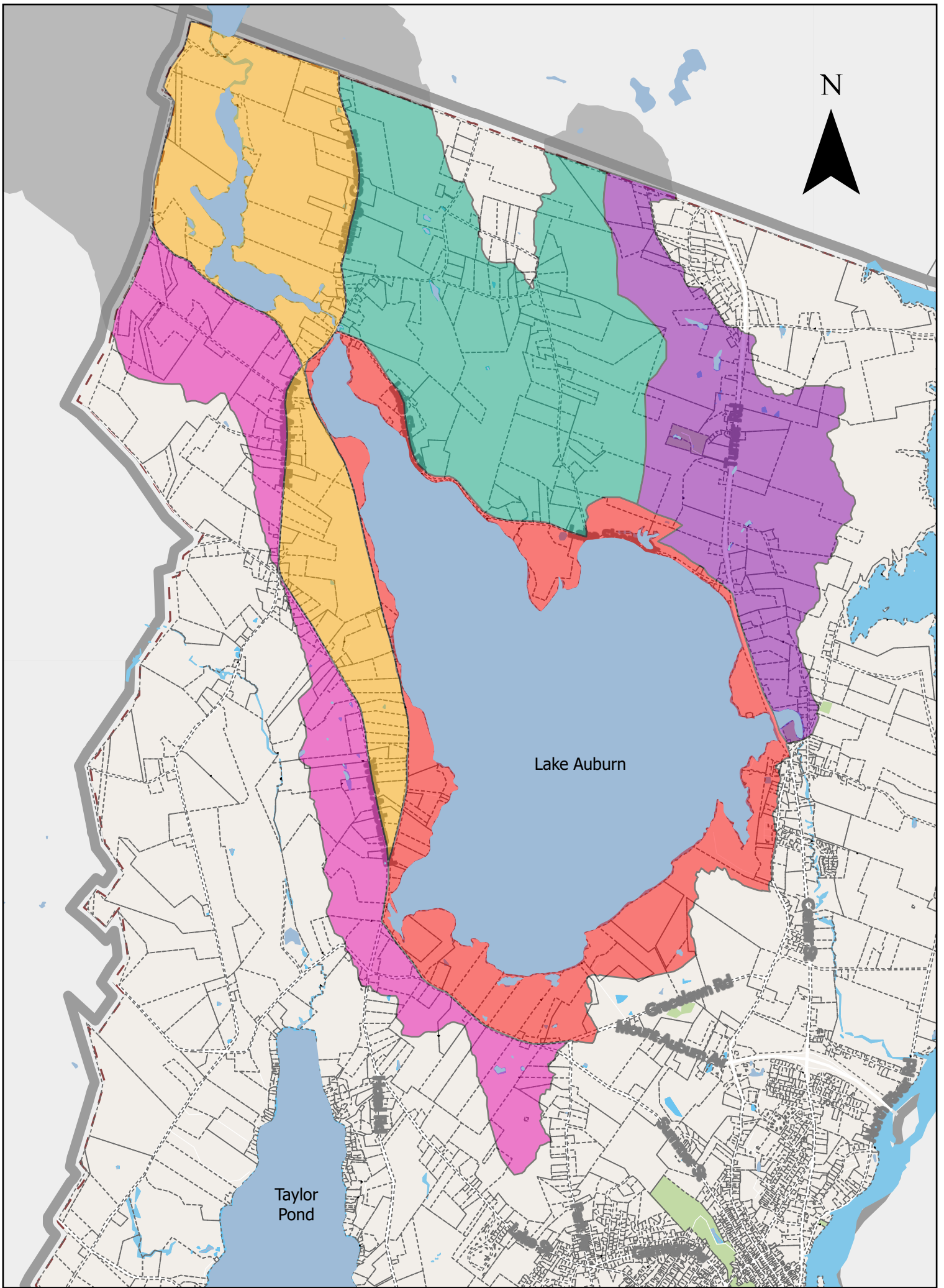
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**Richard S. Whiting**, Ward One  
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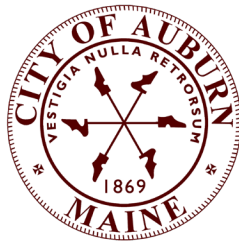
**Stephen G. Milks**, Ward Three  
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**Phillip L. Crowell, Jr.**, City Manager

# Lake Auburn Watershed Overlay District Septic System Inspection Map



## Septic Inspection Areas by Year

- Year 1
- Year 2
- Year 3
- Year 4
- Year 5
- Remaining Area



# City Council Ordinance

## IN CITY COUNCIL

### **Creating the Official Lake Auburn Overlay District 400-foot Setback to Lake, Stream, and Brook for Subsurface Wastewater Fields:**

**Be it ordained**, by the Auburn City Council, that the Official Zoning Map of the City of Auburn to be amended to create the Official Lake Auburn Overlay District 400 ft. Setback to Lake, Stream, and Brook for Subsurface Wastewater Fields map in accordance with Chapter 60 Article XVII Division 2- and appears as follows:

Passed first reading 7-1-24, 7-0.

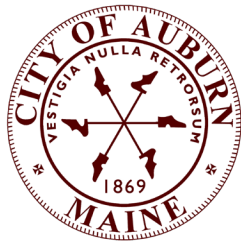
Passed public hearing & second reading 7-15-24, 7-0.

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**Richard S. Whiting**, Ward One  
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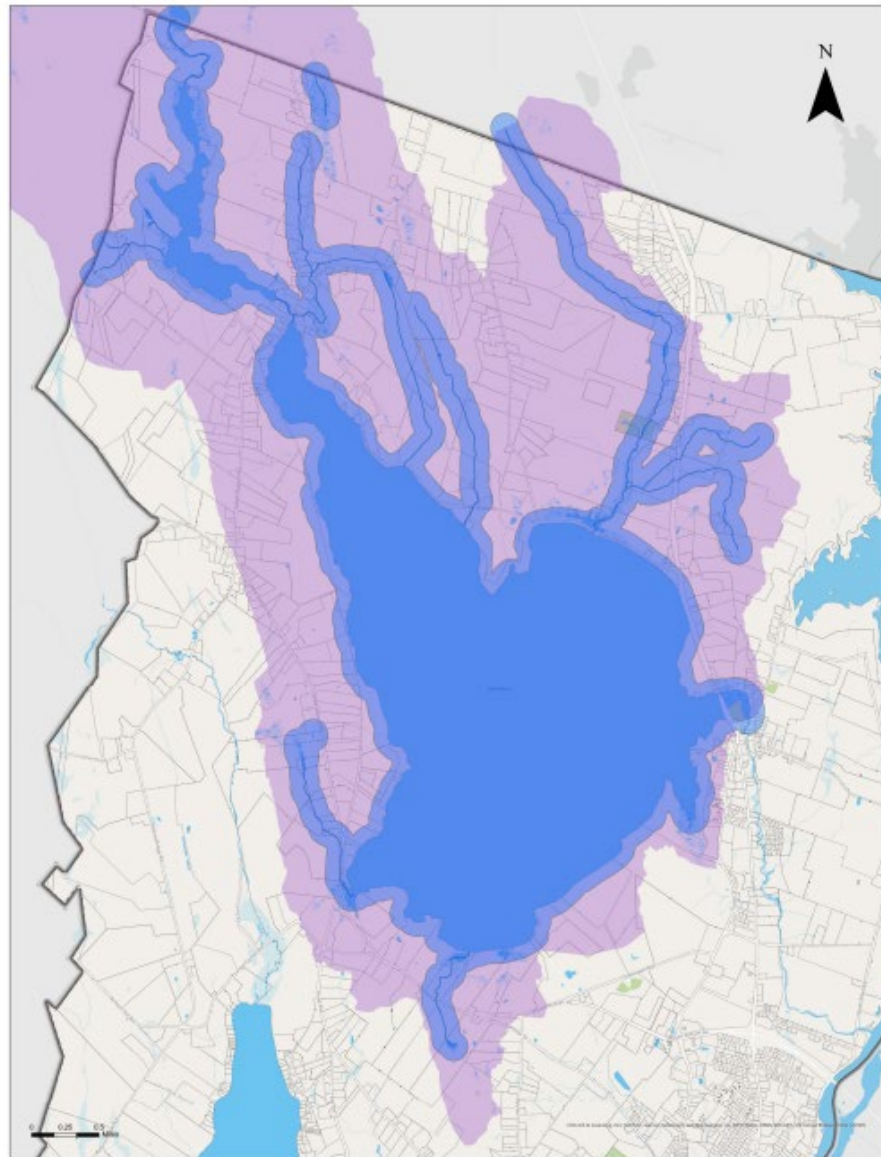
**Timothy M. Cowan**, Ward Two  
**Leroy G. Walker, Sr.**, Ward Five  
**Jeffrey D. Harmon**, Mayor

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**Adam R. Platz**, At Large  
**Phillip L. Crowell, Jr.**, City Manager



# City Council Ordinance

Official Lake Auburn Overlay District 400' setback to Lake, Stream, and Brook for Subsurface Wastewater Fields



- Lake Auburn Watershed
- USGS 7.5 Minute Streams
- Lake Auburn Watershed Streams Buffer 400 ft
- Wetlands

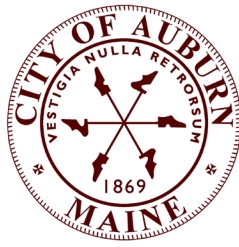
\* This Map was created on April 23, 2024 using USGS 7.5 minute lakes and streams



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# City Council Ordinance

## IN CITY COUNCIL

BE IT ORDAINED by the Auburn City Council, that Chapter 60, Zoning, of the Code of Ordinances be amended as follows:

### Chapter 60 ZONING

• • •

### ARTICLE XVI. ADMINISTRATION AND ENFORCEMENT

• • •

#### DIVISION 2. SITE PLAN REVIEW

• • •

#### Sec. 60-1300. File for site plan review.

An applicant for site plan review shall file with the ~~department of community development and planning~~planning, permitting and code department a completed site plan application along with an original and 15 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); Ord. No. 11-03012021, 3-15-2021)

• • •

#### Sec. 60-1303. Approval—Time-line for review.

The ~~planning, permitting and code enforcement~~ director shall, within ~~five~~10 business days of receipt, review the application and notify the applicant that either:

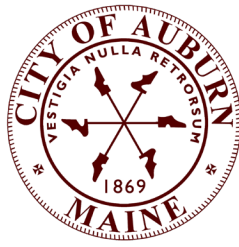
- 1.) The application is not accepted for processing, as it has not met the requirements of Sec. 60-1300 and 60-1301, and shall enumerate the materials that are missing; or
- 2.) The application has been conditionally accepted for processing as one or more required minor elements, as required by Sec. 60-1300 or 60-1301, are missing or inadequate and must be submitted within five business days or the application will not be accepted for processing; or
- 3.) The application has met the requirements of Sec. 60-1300 and 60-1301 and is accepted for processing.

The ~~planning, permitting and code enforcement~~ director shall, at the time of notification to the applicant that the application is accepted for processing, transmit copies of the application and site plan to those city departments that, in his-the director's view-opinion, requires such information to provide recommendations regarding the application to the planning board. The ~~agencies-departments~~ receiving these copies shall have up to

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# City Council Ordinance

15 ~~business~~ days to ~~make-provide their~~ recommendations to the ~~planning, permitting and code enforcement~~ director.

~~The planning, permitting and code enforcement~~ director shall review the submitted site plan and any recommendations made by the city departments and may:

- 1.) ~~Request additional information from the applicant in to order assist with the director’s review of the submitted site plan.~~
- 2.) ~~Make recommendations to the applicant for changes to the submitted site plan that, in the director’s opinion, will cause the site plan to conform to city requirements.~~

~~The planning, permitting and code enforcement~~ director shall, upon completion of the director’s review of the site plan, but not later than 60 days after notification to the applicant that the application is accepted for processing, request the planning board chair to schedule a public hearing by the planning board at a regularly scheduled planning board meeting.

(Ord. of 9-21-2009, § 7.1D(4))



## Sec. 60-1303. Approval—Time-line for review.

The ~~planning, permitting and code enforcement~~ director shall, within ~~five~~ 10 business days of receipt, review the application and notify the applicant that either:

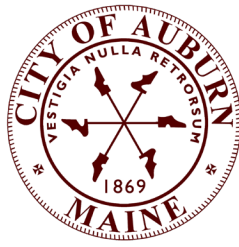
- 1.) The application is not accepted for processing, as it has not met the requirements of Sec. 60-1300 and 60-1301, and shall enumerate the materials that are missing; or
- 2.) The application has been conditionally accepted for processing as one or more required minor elements, as required by Sec. 60-1300 or 60-1301, are missing or inadequate and must be submitted within five business days or the application will not be accepted for processing; or
- 3.) The application has met the requirements of Sec. 60-1300 and 60-1301 and is accepted for processing.

~~The planning, permitting and code enforcement~~ director shall, at the time of notification to the applicant that the application is accepted for processing, transmit copies of the application and site plan to ~~those city~~ departments that, ~~in his-the director’s view-opinion,~~ requires such information to provide recommendations regarding the application to the planning board. The ~~agencies-departments~~ receiving these copies shall have up to 15 business days to ~~make-provide their~~ recommendations to the ~~planning, permitting and code enforcement~~ director.

~~The planning, permitting and code enforcement~~ director shall review the submitted site plan and any recommendations made by the city departments and may:

- 1.) ~~Request additional information from the applicant in to order assist with the director’s review of the submitted site plan.~~
- 2.) Make recommendations to the applicant for changes to the submitted site plan that, in the director’s opinion, will cause the site plan to conform to city requirements.





## City Council Ordinance

~~The planning, permitting and code enforcement director shall, upon completion of the director's review of the site plan, but not later than 60 days after notification to the applicant that the application is accepted for processing, request the planning board chair to schedule a public hearing by the planning board at a regularly scheduled planning board meeting.~~

(Ord. of 9-21-2009, § 7.1D(4))



### Sec. 60-1304. Same—Public hearing; findings.

The planning board ~~chair~~ shall, ~~upon request of the planning, permitting and code enforcement director, schedule a public hearing at the next regularly scheduled planning board meeting that occurs at least 16 days after receipt of the request from the director within 30 days of receipt of a completed application, hold a public hearing.~~ Notice of a public hearing shall be given in the manner provided for in division 3 of article XVII of this chapter. The planning board will not unreasonably delay the taking of 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 after the public hearing.~~ Such final action shall consist of either:

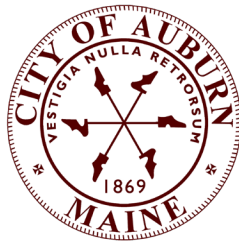
- (1) A finding and determination that the proposed project will constitute a suitable development and will not result in a detriment to the neighborhood or the environment; or
- (2) A written denial of the application stating the reasons for such denial, upon a finding that:
  - a. The provisions for 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 of 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.

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**Leroy G. Walker, Sr.**, Ward Five  
**Jeffrey D. Harmon**, Mayor

**Stephen G. Milks**, Ward Three  
**Adam R. Platz**, At Large  
**Phillip L. Crowell, Jr.**, City Manager



# City Council Ordinance

(Ord. of 9-21-2009, § 7.1D(5))

● ● ●

## 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 chair, on behalf of 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, signed by the planning board chair on behalf of the planning board, 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.

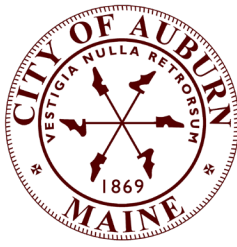
(Ord. of 9-21-2009, § 7.1D(8))

● ● ●

## Sec. 60-1308. Expiration of approval.

Approval of a site plan shall expire one year after the date of approval, except for approved site plans for solar energy generating systems, which shall expire in two years 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, nonappealable 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~~ the applicant's existing plan. ~~—~~ The planning board shall approve or disapprove the requested extension at its next regular meeting.

● ● ●



## City Council Ordinance

### **Sec. 60-1313. Correction of off-site deficiencies.**

The planning board shall have the right to require the developer, at ~~his~~ the developer's expense, to correct any off-site deficiencies either created or aggravated by the developer's proposed project.

(Ord. of 9-21-2009, § 7.1D)

Passed first reading 7-1-24, 7-0.

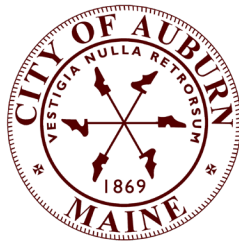
Passed public hearing & second reading 7-15-24, 7-0.

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**Richard S. Whiting**, Ward One  
**Benjamin J. Weisner**, Ward Four  
**Belinda A. Gerry**, At Large

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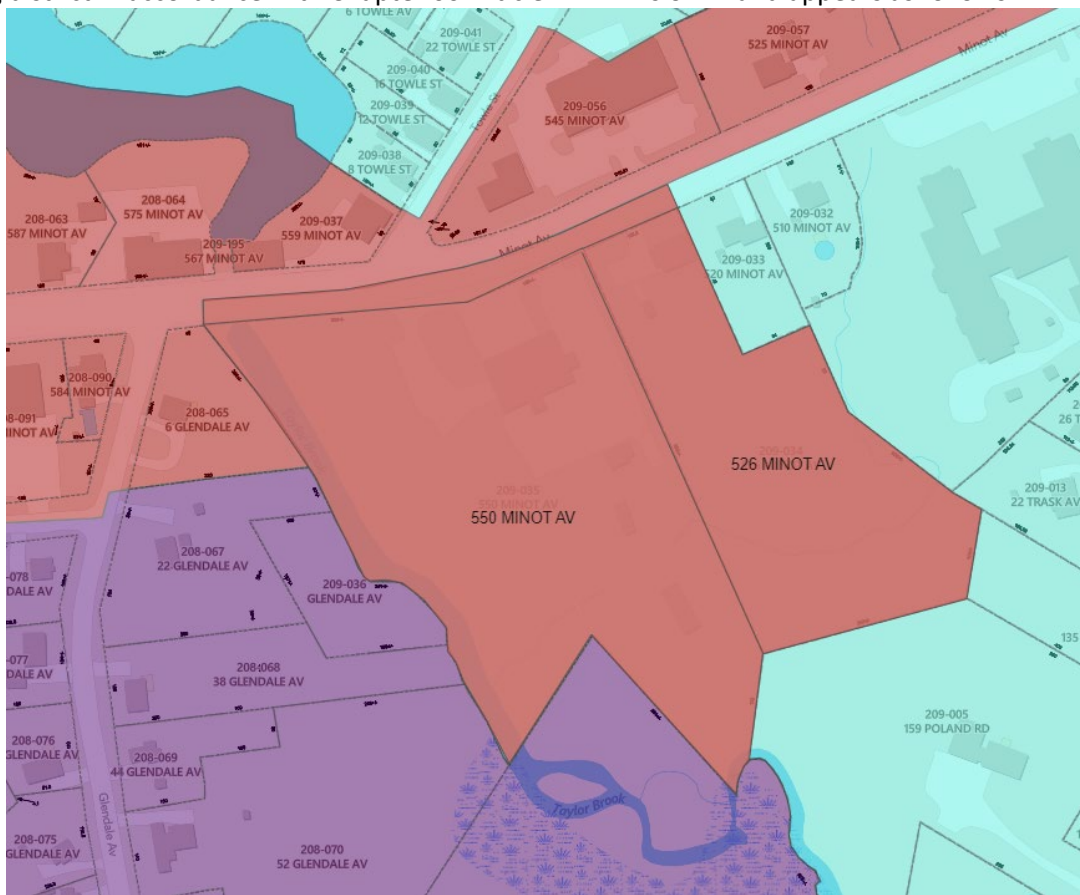




# City Council Ordinance

## IN CITY COUNCIL

### Amending the Zoning District at 526 and 550 Minot Ave from T-4.2B to GBII:

**Be it ordained**, by the Auburn City Council, that the Official Zoning Map of the City of Auburn to be amended to convert City Assessor’s Parcel I.D.s 201-034 and 209-035 with addresses of 526 and 550 Minot Ave from T-4.2B- Traditional Neighborhood Development zoning district to General Business II zoning district in accordance with Chapter 60 Article XVII Division 2- and appears as follows:



 T-4.2B - Traditional Neighborhood Development District  GB II - General Business II

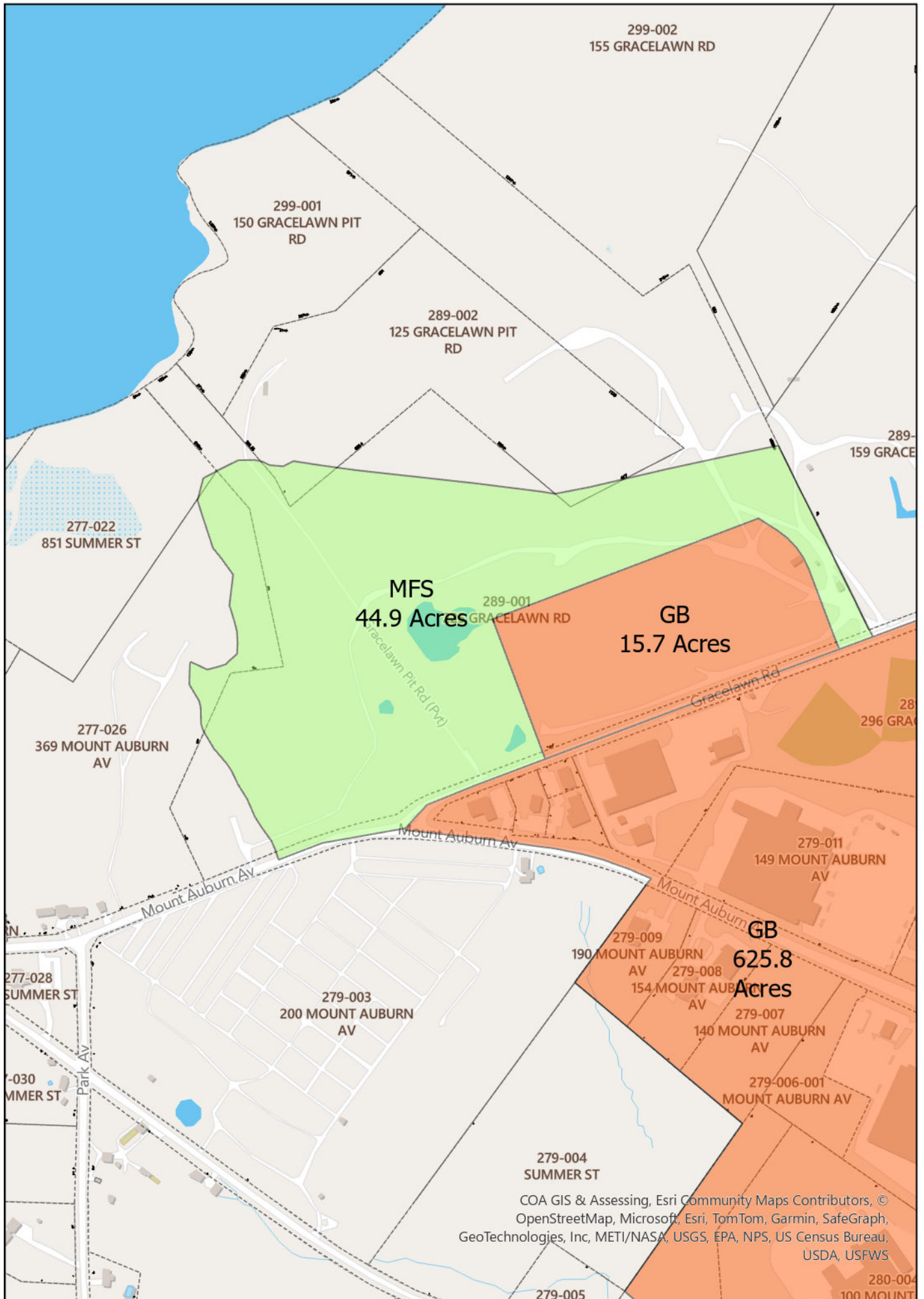
Passed first reading 7-1-24, 7-0.  
Passed public hearing & second reading 7-15-24, 7-0.

**Richard S. Whiting**, Ward One  
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**Adam R. Platz**, At Large  
**Phillip L. Crowell, Jr.**, City Manager

# City of Auburn Proposed Zoning Amendment August 2024



## Legend

### Auburn Zoning- Proposed

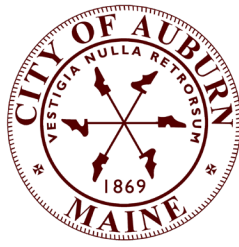
- GB - General Business
- MFS - Multi-Family Suburban



0 125 250 500 750 1,000  
Feet



August 7, 2024



**Ordinance 18-09162024**

# City Council Ordinance

**IN CITY COUNCIL**

**Be it ordained,** that the City Council hereby approves of a Zoning Map amendment converting Parcel I.D.s 289-001, 277-026 and 289-002 with addresses of 369 Mount Auburn Ave, 225 Gracelawn Road, and 125 Gracelawn Pit Road from the General Business zoning district to the Multifamily Suburban zoning district, as shown on the attached.

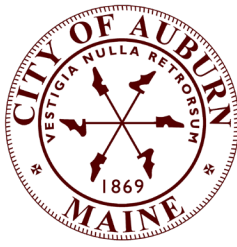
Passed second reading 6-1 (Gerry), 10/7/24.

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**Richard S. Whiting**, Ward One  
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**Adam R. Platz**, At Large  
**Phillip L. Crowell, Jr.**, City Manager



# City Council Ordinance

## IN CITY COUNCIL

**Be it ordained**, that the City Council hereby amends Sec. 24-23 of the City's Code of Ordinances as follows:

Sec. 24-23. - Annual adjustment of maximum benefits.

(a) The City of Auburn adopts the Maine Municipal Association's General Assistance Ordinance, dated September 2024, and a copy thereof is available in the office of the city clerk.

(b) Each year the Maine Municipal Association provides the city ~~three appendices~~ Appendices A-H providing maximum benefits applicable for the period beginning October 1 and ending September 30 as mandated by state law and based on certain federal values effective on October 1 of each year, as follows:

(1) Appendix A, a listing of overall maximum levels of general assistance relating to all Maine municipalities.

(2) Appendix B, a listing of maximum levels of assistance for food.

(3) Appendix C, a listing of maximum levels for heated and unheated housing.

(4) Appendix D, a listing of maximum levels of assistance for electricity.

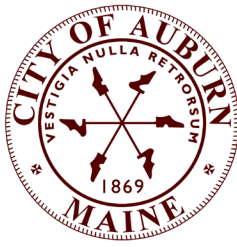
(5) Appendix E, a listing of maximum levels of assistance for heating fuel.

(6) Appendix F, a listing of maximum levels of assistance for personal care & household supplies.

(7) Appendix G, adopting the State of Maine travel expense reimbursement rate.

(8) Appendix H, a listing of maximum levels of assistance for funeral expenses.

(9) Recovery Residence Maximums for the Lewiston/Auburn MSA.



## City Council Ordinance

(cb) The portion of these annual appendices applicable to the city, as adopted each year by the city council, are made a part of this chapter as though fully set forth herein and a copy thereof is available in the office of the city clerk.

Passed first reading 7-0, 10/7/24.  
Passed second reading/public hearing 7-0, 10/21/24.

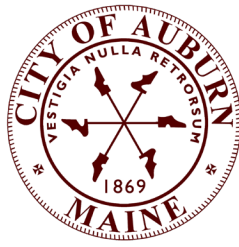
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**Phillip L. Crowell, Jr.**, City Manager





**Ordinance 20-11042024**

# City Council Ordinance

**IN CITY COUNCIL**

PROPERTY MAINTENANCE AND HOUSING CODE

**Be it ordained,** that the Auburn City Council adopt the amendments to Chapter 12, Article IV, Property Maintenance And Housing Code as shown on the attached copy.

Passed first reading 4-2 (Walker, Gerry opposed), 11/4/24.  
Passed second reading/public hearing 7-0, 11/18/24.

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**Richard S. Whiting**, Ward One  
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**Phillip L. Crowell, Jr.**, City Manager

**ARTICLE IV. PROPERTY MAINTENANCE AND HOUSING CODE**

**DIVISION 1. GENERALLY**

**Sec. 12-145. Purpose.**

The purpose of this article is to establish minimum standards for all ~~dwelling~~ buildings and ~~property~~ incident thereto in the city to ~~insure~~ ensure safety, health, and public welfare through the proper construction, maintenance, and use thereof.

(Code 1967, § 20-A(1.1); Ord. of 3-26-1990; Ord. No. 02-04012013, att. B, 4-16-2013)

**Sec. 12-146. Definitions and rules of construction.**

(a) The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*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.

*Chief of police* means the legally designated head of the police department of the city or his authorized representative.

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

*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 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.

*Extermination* means the control and elimination of insects, rodents, or other pests by eliminating their harborage places; by removing or making inaccessible materials that may serve as their food; by poisoning, spraying, fumigating, trapping; or by any other recognized and legal pest elimination methods approved by the health officer.

*Fire chief* means the legally designated head of the fire department of the city or his authorized representative.

*Garbage* means the animal and vegetable waste resulting from the handling, preparation, cooking, and consumption of food.

*Habitable room* means a room or enclosed floor space used or intended to be used for living, sleeping, cooking or eating purposes excluding bathrooms, water closet compartments, laundries, pantries, game rooms, foyers or communicating corridors and permanent built-in closets and storage spaces.

*Health officer* means the legally designated health authority of the city or his authorized representative.

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*Infestation* means the presence or evidence of the presence within or around a dwelling, of any insects, rodents, or other pests.

*Manufactured housing* means a structural unit or units 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 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. Manufactured housing shall include newer mobile homes and modular homes as defined in city zoning regulations.

*Mobile homes, older*, means any factory-built home that fails to meet the definition of manufactured housing and more specifically, any mobile home constructed prior to June 15, 1976. These units shall be restrict to location in approved mobile home parks.

*Mobile home park* means a parcel of land under single ownership in rural residence, suburban residence and cluster development districts that has been planned and improved for the placement of not less than three mobile homes for non-transient use.

*Multiple dwelling* means any dwelling containing more than three dwelling units.

*Occupant* means any person over one year of age, living, sleeping, cooking, or eating in, or having actual possession of, a dwelling unit or rooming unit.

*Operator* means any person, who has charge, care or control of a building or part thereof, in which dwelling units or rooming units are rented or let or of an area where spaces are rented or let for mobile homes.

*Owner* means any person who, alone or jointly or severally with others, has legal title to any dwelling or dwelling unit, with or without accompanying actual possession thereof, or has charge, care or control of any dwelling or dwelling unit, as owner or agent of the owner, or an executor, executrix, administrator, administratrix, trustee, or guardian of the estate of owner. Any such person thus representing the actual owner shall be bound to comply with the provisions of this chapter to the same extent as if he were the owner.

*Paint stabilization* means repairing any physical defect in the substrate of a painted surface that is causing paint deterioration, removing loose paint and other material from the surface to be treated, and applying a new protective coating or paint to the affected areas.

*Plumbing* means all of the following supplied facilities and equipment: gas pipes, gas-burning equipment, water pipes, garbage disposal units, waste pipes, water closets, sinks, installed dishwasher, lavatories, bathtubs, shower baths, installed clothes washing machines, catch basins, drains, vents , and any other similar supplied fixtures, together with all connections to water, sewer or gas lines.

*Rooming house* means any dwelling, or that part of any dwelling, containing one or more rooming units, in which space is let by the owner or operator to four or more persons who are not husband or wife, son or daughter, mother or father, or sister or brother of the owner or operator.

*Rooming unit* means any room or group of rooms forming a single habitable unit used or intended to be used for living, and sleeping, but not for cooking or eating purposes.

*Rubbish* means combustible and non-combustible waste materials except garbage, including, without limitation, residue from the burning of wood, coal, coke, or other combustible material, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery, dust and others.

*Structural elements* means all of the following components of a structure, including but not limited to: foundation, framing, sheathing, siding, roofing material, windows, doors, trim, eaves, porches, stairs, railings, guards; and interior surfaces such as sheetrock, plaster, ceiling tiles, countertops, and floors.

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*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 but not to exceed 30 days.

*Supplied* means paid for, furnished, installed or provided by or under the control of the owner or operator.

*Temporary housing* means any tent, trailer, or other structure used for human shelter that is designed to be transportable and which is not attached to the ground, to another structure, or to any utilities system on the same premises for more than 30 consecutive days.

*Vacant building* means any building that is unoccupied, unattended, and is not actively used as a place of residence or business, or is frequently ~~open or~~ unsecured so that unauthorized entrance may be gained.

(b) Whenever the words "building", "dwelling," "dwelling unit," "lodging house," "rooming unit," or "premises" are used in this article, they shall be construed as though they were followed by the words "or any part thereof."

(Code 1967, § 20-A(art. V); Ord. of 3-26-1990; Ord. No. 02-04012013, att. B, 4-16-2013; Ord. No. 02-02222016, 3-7-2016; Ord. No. 10-11022020, 11-16-2020)

### **Sec. 12-147. Compliance required.**

- (a) No dwelling or dwelling unit shall be deemed to conform with the requirements of this article until it meets all of the minimum standards of this article as specified herein.
- (b) It is unlawful to construct, alter, maintain, occupy, let for occupancy, or use a building or structure, or part thereof, in violation of the provisions of this article.

(Code 1967, §§ 20-A(1.2), 20A(1.3); Ord. of 3-26-1990; Ord. No. 02-04012013, att. B, 4-16-2013)

### **Sec. 12-148. Validity of other laws.**

Nothing in this article shall be construed to prevent the enforcement of other laws that prescribe more restrictive limitations.

(Code 1967, § 20-A(1.4); Ord. of 3-26-1990; Ord. No. 02-04012013, att. B, 4-16-2013)

### **Sec. 12-149. Exceptions permitted.**

In seasonal dwellings, mobile homes, buildings erected prior to the original adoption of this article, or in agriculture and resource protection district as defined by the zoning provisions of the city, or in areas where public water or sewerage systems are not available, the code compliance officer shall upon application grant an exception for the use of buildings for dwelling purposes that do not meet the minimum standards set forth in this article when he determines that:

- (1) It is not feasible or practicable to comply with such minimum standards;
  - (2) The safety, health, or general welfare of the occupants and the public will not be adversely affected;
- and

- 
- (3) The effect of the granting of the exception will not adversely affect adequate light, air, overcrowding, of persons or property, the provision for public utilities, the character of the neighborhood, or traffic conditions as applied to the welfare of the occupants or the general public.

(Code 1967, § 20-A(1.6); Ord Ord. of 3-26-1990; Ord. No. 02-04012013, att. B, 4-16-2013; Ord. No. 02-02222016, 3-7-2016)

### **Sec. 12-150. Procedure for granting exceptions.**

- (a) The code compliance officer shall issue such exception in writing setting forth the date of granting, the reasons for granting the same, the date it shall expire, and the location of the premises.
- (b) No such exceptions shall be granted for a period of more than five years. Any exception may be renewed one or more times, upon application to the board of appeals. Each renewal shall not exceed additional periods of five years for such renewal. Each renewal shall contain the requirements of the original exception and in addition thereto the date of issuance of the original exception and the statement that it is a renewal.

(Code 1967, § 20-A(1.7); Ord Ord. of 3-26-1990; Ord. No. 02-04012013, att. B, 4-16-2013; Ord. No. 02-02222016, 3-7-2016)

### **Secs. 12-151—12-169. Reserved.**

## *DIVISION 2. INSPECTIONS*

### **Sec. 12-170. Authority of code compliance officer.**

The code compliance officer ~~is~~ hereby authorized to make inspections to determine the condition of vacant buildings, structures used for the purpose of conducting business, dwellings, dwelling units, rooming houses, rooming units and premises located within this city in order that ~~he~~ the code compliance officer may perform ~~his~~ their ~~duties~~ of safeguarding the health and safety of the occupants of dwellings and of the general public.

(Code 1967, § 20-A(2.1); Ord. of 3-26-1990; Ord. No. 02-04012013, att. B, 4-16-2013; Ord. No. 02-02222016, 3-7-2016)

### **Sec. 12-171. Right of entry for inspection.**

For the purpose of making such inspections, the code compliance officer is hereby authorized to enter, examine, and survey any or all property or building, including without limitation, vacant buildings, buildings and structures used for the purpose of conducting business, dwelling units, rooming houses, rooming units, and premises at any mutually agreeable time, ~~or as authorized by law but in any case within 20 days of notice to the owners or occupant of the intention to make such an inspection.~~

(Code 1967, § 20-A(2.2); Ord. of 3-26-1990; Ord. No. 02-04012013, att. B, 4-16-2013; Ord. No. 02-02222016, 3-7-2016)

### **Sec. 12-172. Owner and occupant to give free access.**

- (a) *Access of code compliance officer.* The owner and occupant of every dwelling, dwelling unit, lodging house and rooming unit or the person in charge thereof, shall give the code compliance officer free access to any or

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all such property or building including, without limitation, vacant buildings, buildings and structures used for the purpose of conducting business, dwellings, dwelling unit, lodging house or rooming unit and premises at any mutually agreeable time, or as authorized by law, for the purpose of such inspection, examination, or survey, ~~but in any case within 20 days of notice to the owner or occupant of the intention to make such an inspection, examination, or survey.~~

- (b) *Access of owner.* Every occupant of a property or building including, without limitation, vacant buildings, buildings and structures used for the purpose of conducting business, dwelling, dwelling unit, lodging house and rooming unit shall give the owner, and his agent or employee, access at all reasonable times to any part of the dwelling, dwelling unit, lodging house, rooming unit or premises for the purpose of compliance with the provisinesprovisions of this article or any lawful order issued pursuant to this article.

(Code 1967, §§ 20-A(2.3), 20-A(2.4); Ord. of 3-26-1990; Ord. No. 02-04012013, att. B, 4-16-2013; Ord. No. 02-02222016, 3-7-2016)

**Secs. 12-173—12-194. Reserved.**

*DIVISION 3. ENFORCEMENT*

**Sec. 12-195. Procedure generally.**

- (a) If the code compliance officer 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 this Code. Alternatively, he may initiate a land use complaint pursuant to state law, in which case the penalties therein provided shall apply.
- (b) Any notice issued pursuant to this article shall:
- (1) Be in writing;
  - (2) Include a statement of the reasons why it is being issued;
  - (3) Set a reasonable time for the performance of any act it requires;
  - (4) Be served upon the owner or his agent, or the occupant, as the case may require; provided, however, that:
    - a. Complaints under this article be deemed properly served upon such owner or agent or upon such occupant if a copy thereof is served upon him personally or by leaving a copy thereof at his dwelling house or usual place of abode with some person of suitable age and discretion then residing therein; or
    - b. If a copy thereof is sent by registered or certified mail to his last known address or the address as shown on the records in the tax assessor's office of the city of auburn; and
    - c. If service is made personally or by leaving at his dwelling house or usual place of abode a statement signed by the person so serving stating the date of service shall be filed in the office of planning and development.
  - (5) May contain an outline of remedial action that, if taken, will effect compliance with the provision of this article.

- 
- (c) After service of such notice, the owner or occupant to whom it is directed shall correct the condition constituting the violation within the time specified and promptly give notice to the code compliance officer that such corrective action has been taken.

(Code 1967, § 20-A(3.1); Ord. of 3-26-1990; Ord. No. 02-04012013, att. B, 4-16-2013; Ord. No. 02-02222016, 3-7-2016)

### **Sec. 12-196. Method of petitioning for hearing.**

- (a) Any person affected by any notice issued in connection with the enforcement of any provision of this article, may request and shall be granted a hearing on the matter before the board of appeals; provided that such person shall file in the office of the board of appeals a written petition requesting such hearing and setting forth a brief statement of the grounds therefor within ten days after the day the notice was served.
- (b) Upon receipt of such petition, the board of appeals shall set a time and place for such hearing and shall give the petitioner notice thereof in person or by mail.
- (c) At such hearing, the board of appeals shall take evidence to determine whether such notice should be sustained, modified, or withdrawn.
- (d) The hearing shall be commenced not later than 30 days after the day on which the petition was filed; provided that upon application of the petitioner the board of appeals may postpone the date of the hearing for a reasonable time beyond such 30 day period, if in its judgment the petitioner has submitted a good and sufficient reason for such postponement.

(Code 1967, § 20-A(3.2); Ord. of 3-26-1990; Ord. No. 02-04012013, att. B, 4-16-2013)

### **Sec. 12-197. Power of board of appeals to alter notice.**

After such hearing, the board of appeals shall sustain, modify, or withdraw the notice, depending upon its findings as to the compliance with the provisions of this chapter. If the board of appeals sustains or modifies such notice, it shall be deemed to be an order. Any notice served pursuant to this article shall automatically become an order if a written petition for a hearing is not filed in the office of the board of appeals within ten days after such notice is served. There shall be an appeal from the board of appeals to the superior court in the manner provided by state law.

(Code 1967, § 20-A(3.3); Ord. of 3-26-1990; Ord. No. 02-04012013, att. B, 4-16-2013)

### **Sec. 12-198. Recording of public hearing.**

The proceedings at such hearing, including the findings and decision of the board of appeals, shall be summarized, reduced to writing, and entered as a matter of public record in the office of the board of appeals. Such record shall also include a copy of every notice or order issued in connection with the matter.

(Code 1967, § 20-A(3.4); Ord. of 3-26-1990; Ord. No. 02-04012013, att. B, 4-16-2013)

### **Sec. 12-199. Notice of intent to sell, transfer or rent property subject to order.**

- (a) *When required.* Any person who proposes to sell, transfer or otherwise dispose of lease or sublet any dwelling unit, lodging house, rooming unit, or other premises against which there is any existing lawful order of the code compliance officer, the board of appeals or any court of competent jurisdiction shall furnish the proposed grantee or transferee a true copy of such order and shall notify the office of planning and

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development in writing of the intent to so sell, transfer, or otherwise dispose of lease or sublet in writing giving the name and address of the person to whom such transfer is proposed within three days of the proposed transfer.

- (b) *Penalty.* Any person who violates the terms of this section shall be in violation of this chapter and shall be subject to a penalty or fine of not less than \$50 and not more than \$100 to be enforced by complaint in a court of competent jurisdiction.

(Code 1967, § 20-A(3.5); Ord. of 3-26-1990; Ord. No. 02-04012013, att. B, 4-16-2013; Ord. No. 02-02222016, 3-7-2016)

### **Sec. 12-200. Placarding of buildings unfit for human habitation.**

- (a) *Authority of code compliance officer.* If the person so affected fails to appeal to the board of appeals or if after an appeal, the board of appeals sustains the decision of the code compliance officer, the dwelling, dwelling unit, lodging house, or rooming unit so affected may be declared unfit for human habitation and placarded by the code compliance officer.
- (b) *Procedure.* To placard, the code compliance officer shall issue to the occupants and the owner or operator a written notice to vacate the premises within such time as the code compliance officer may deem reasonable, but not less than seven days, and a placard prohibiting continued occupancy or re-occupancy may be conspicuously posted on the premises, and a copy of such notice may be filed with the police department.
- (c) *Use of placarded buildings prohibited.* No dwelling or dwelling units, lodging house, or rooming unit which has been placarded as unfit for human habitation shall again be used for human habitation until written approval is secured from, and such placard is removed by, the code compliance officer. The code compliance officer shall remove such placard whenever the defect or defects upon which the placarding action is based have been eliminated.
- (d) *Defacement and removal of placard prohibited.* No person shall deface or remove the placard from any dwelling or dwelling unit, lodging house or rooming unit, which has been declared unfit for human habitation and placarded as such.

(Code 1967, § 20-A(3.6); Ord. of 3-26-1990; Ord. No. 02-04012013, att. B, 4-16-2013; Ord. No. 02-02222016, 3-7-2016)

### **Sec. 12-201. Order to vacate dangerous premises.**

In instances where the health officer, fire chief, and chief of police, or their duly qualified deputies, determine in writing that extreme danger or menace to the occupants or the public health exists, the code compliance officer, health officer, fire chief, and chief of police, or their duly qualified deputies may order immediate correction to be made or, if the circumstances warrant, may order that the occupants vacate the premises as provided in this article.

(Code 1967, § 20-A(3.7); Ord. of 3-26-1990; Ord. No. 02-04012013, att. B, 4-16-2013; Ord. No. 02-02222016, 3-7-2016)

### **Secs. 12-202—12-224. Reserved.**

## *DIVISION 4. MINIMUM STANDARDS*



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### **Sec. 12-225. Compliance with city codes and state law required.**

All structures and structural elements of buildings and the construction, use and occupancy thereof shall be in accordance with the requirements of this Code, including the building and technical codes adopted by the city, and with state law and regulations.

(Code 1967, §§ 20-A(6.1), 20-A(12.1); Ord. of 3-26-1990; Ord. No. 02-04012013, att. B, 4-16-2013)

### **Sec. 12-226. Maintenance.**

- (a) All structures and structural elements shall be maintained structurally sound, in good repair, hazard free and suitable for the intended use.
- (b) All painted exterior surface areas of pre 1978 properties must be maintained in a manner to not cause a public nuisance or affect the health and safety of the occupants of the property where the condition exists or of surrounding properties. Paint stabilization must occur if the potential for such a condition exists.

(Code 1967, § 20-A(6.2); Ord. of 3-26-1990; Ord. No. 02-04012013, att. B, 4-16-2013; Ord. No. 10-11022020, 11-16-2020)

### **Sec. 12-227. Plumbing.**

Every dwelling unit shall contain a kitchen sink and a bathtub or shower. In addition, every dwelling unit shall contain, within a room which affords privacy, a flush water closet and a lavatory basin. All plumbing facilities required by this Code shall be in accordance with the requirements of the plumbing code adopted by the city as of date of installation and maintained in good sanitary working condition; water-related plumbing facilities required by this Code shall be connected to adequate supply of water.

(Code 1967, § 20-A(art. 7); Ord. of 3-26-1990; Ord. No. 02-04012013, att. B, 4-16-2013; Ord. No. 02-02222016, 3-7-2016)

### **Sec. 12-228. Heating and ventilation.**

- (a) *Maintenance.* All heating and ventilating facilities shall be maintained in safe operating condition for use without danger of asphyxiation or of overheating combustible material.
- (b) *Requirements when central heating plant not available.* When heat is not furnished by a central heating plant, each dwelling unit or rooming unit shall be provided with one or more masonry flues and smoke or vent pipe connections, or equal arrangement, in accordance with the provisions of the basic building code to permit the use of heating equipment capable of providing heat as required by this section.
- (c) *Heating facilities required in rented or leased premises.* Every habitable room, let for occupancy, shall be served by heating facilities capable of providing a minimum temperature of at least 68 degrees Fahrenheit, at a distance of three feet from the exterior walls, five feet above floor level, as required by prevailing weather conditions. In addition, the heating facilities must be operated to protect the building equipment and systems from freezing.
- (d) *Window specifications.* Every habitable room shall have a window or windows with a total sash area equal to at least eight percent of its floor area opening on a street, alley, yard, or court open to the sky and constructed and maintained so that at least one-half of the sash area can be opened, except that an approved method of mechanical ventilation may be substituted for such window or windows

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(Code 1967, § 20-A(art. 8); Ord. of 3-26-1990; Ord. No. 02-04012013, att. B, 4-16-2013; Ord. No. 02-02222016, 3-7-2016)

### **Sec. 12-229. Electrical and lighting.**

All lighting and other electrical facilities shall be in accordance with the requirements of the electrical code adopted by the city and shall be maintained in good, safe and suitable electrical order.

(Code 1967, §§ 20-A(9.1), 20-A(9.2); Ord. of 3-26-1990; Ord. No. 02-04012013, att. B, 4-16-2013)

### **Sec. 12-230. Passageways, stairways and exits.**

- (a) *Exits.* Every dwelling unit and every rooming unit shall have safe, continuous and unobstructed means of egress leading from the interior of the building to safe and open spaces at ground level in accordance with applicable statutes and ordinances.
- (b) *Lighting.* Every passageway and stairway shall have at least one ceiling-type or wall-type electric light fixture adequate to provide safe passage.
- (c) *Obstructions.* Every hallway, stairway, corridor, exit, fire escape door or other means of egress shall be kept clear of obstructions at all times.

(Code 1967, §§ 20-A(9.3), 20-A(12.3), 20-A(12.4); Ord. of 3-26-1990; Ord. No. 02-04012013, att. B, 4-16-2013)

### **Sec. 12-231. Garbage and rubbish.**

- (a) *Method of disposal.* Every responsible occupant of a dwelling or dwelling unit shall dispose of all his garbage and rubbish in a clean and sanitary manner. Every owner of rental property shall provide his tenants with suitable waste containers as required by city ordinance.
- (b) *Accumulations prohibited.* Every dwelling shall be clean and free from garbage or rubbish. When a dwelling or dwelling unit is not reasonably clean or free from garbage or rubbish, the code compliance officer may cause the responsible person to put the dwelling or dwelling unit in a clean and sanitary condition.

(Code 1967, § 20-A(10.1); Ord. of 3-26-1990; Ord. No. 02-04012013, att. B, 4-16-2013; Ord. No. 02-02222016, 3-7-2016)

### **Sec. 12-232. Insect and rodent control.**

- (a) *Owner responsible for extermination in multiple dwellings.* If infestation exists in two or more of the dwelling units in any dwelling, or in the shared or public parts of any dwelling containing two or more dwelling units, extermination thereof shall be the responsibility of the owner.
- (b) *Occupant responsible for extermination.* Every occupant of a dwelling containing a single dwelling unit shall be responsible for the extermination of any insects, rodents, or other pests therein or on the premises.

(Code 1967, § 20-A(10.2); Ord. of 3-26-1990; Ord. No. 02-04012013, att. B, 4-16-2013)

### **Sec. 12-233. Space and occupancy.**

- (a) *Floor space requirements.* The total area of every dwelling unit shall contain at least 250 square feet of floor area, with an additional 125 square feet for each occupant over two.

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- (b) *Ceiling height.* At least one half of the floor area of every habitable room shall have a room ceiling height of at least 7 feet; and the floor area of that part of any room where the ceiling height is less than five feet shall not be considered as part of the floor area in computing the total floor area of the room for the purpose of determining the maximum permissible occupancy thereof.
- (c) *Use of basement.* No basement space shall be used as a habitable room or dwelling unit unless it conforms to the minimum requirements of this article.

(Code 1967, § 20-A(art. 11); Ord. of 3-26-1990; Ord. No. 02-04012013, att. B, 4-16-2013)

### **Sec. 12-234. Dwelling occupancies prohibited adjacent to hazardous establishments.**

No dwelling unit or rooming unit shall be located within a building containing any establishment handling, dispensing or storing flammable liquids or producing toxic gases or vapors in any quantity that may endanger the lives or safety of the occupants.

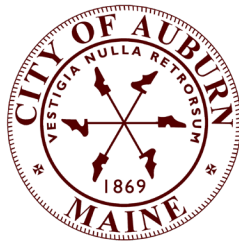
(Code 1967, § 20-A(12.2); Ord. of 3-26-1990; Ord. No. 02-04012013, att. B, 4-16-2013)

### **Sec. 12-235. Vacant Buildings.**

~~(a)~~ In addition to other requirements, including without limitation section Sec. 12-226, all All-vacant buildings shall be weather- protected from the elements to prevent deterioration of the interior and exterior of the building.

(b) All vacant buildings shall be secured to prevent rodent infestation and entry by unauthorized individuals.

(c) Sprinkler systems located in vacant buildings must be maintained and remain operational unless a removal request is approved in writing by the Authority Having Jurisdiction (AHJ), as such term is defined in the National Fire Protection Association Fire Prevention Code (also known as NFPA #1).



# City Council Ordinance

## IN CITY COUNCIL

Division 4 Lake Auburn Watershed Overlay District Text/Map Amendments

**Be it ordained,** that the Auburn City Council adopt the text and map amendments to Chapter 60, Article XII, Division 4 Lake Auburn Watershed Overlay District as shown on the attached copy.

Passed first reading 6-1 (Gerry opposed), 11/18/24.  
Passed second reading/public hearing 7-0, 12/2/24.

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**Richard S. Whiting**, Ward One  
**Benjamin J. Weisner**, Ward Four  
**Belinda A. Gerry**, At Large

**Timothy M. Cowan**, Ward Two  
**Leroy G. Walker, Sr.**, Ward Five  
**Jeffrey D. Harmon**, Mayor

**Stephen G. Milks**, Ward Three  
**Adam R. Platz**, At Large  
**Phillip L. Crowell, Jr.**, City Manager

## *DIVISION 4. LAKE AUBURN WATERSHED OVERLAY DISTRICT*

### **Sec. 60-950. Purpose.**

The Lake Auburn Watershed Overlay 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; Ord. No. 28-11202023, 12-4-2023)

### **Sec. 60-951. Boundaries and definitions.**

- (a) *Boundaries.* The Lake Auburn Watershed Overlay 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 Auburn Water District on file in the office of the Auburn Water District, the city planning, permitting and code department and the city clerk. The Lake Auburn Watershed Overlay District shall be superimposed over underlying zoning districts within the city. Permitted uses in the underlying districts shall continue subject to compliance with the provisions of the Lake Auburn Watershed Overlay District.
- (b) *Definitions.* For purposes of this division, the following words and terms as used herein shall have the meanings or limitations of meaning hereby defined, explained or assigned.

*Agricultural use means the production, growing, cultivation, or harvesting of any agricultural commodity or product or the raising, shearing, feeding, caring for, training, and management of livestock or poultry for commercial or personal use.*

*Animal unit has the same meaning as in section 60-2.*

*Building* has the same meaning as in section 60-2.

*Clearcutting means any cutting of any trees or timber on a forested site that results in a residual basal area of trees over 4 1/2 inches in diameter measured at 4 1/2 feet above the ground of less than 30 square feet per acre, unless, after harvesting, the site has a well-distributed stand of acceptable growing stock, as defined by rule, of at least 3 feet in height for softwood trees and 5 feet in height for hardwood trees that meets the regeneration standards defined under Section 8869, subsection 1 of the Maine Forest Practices Act.*

*Curtain drain* means a trench to intercept laterally moving ground water and divert it away from a septic system disposal field.

*Dwelling Unit* has the same meaning as in section 60-2. ~~*Hobby agricultural use means uses of land for chicken farms, cattle farms, horse farms, egg farms, piggeries, sheep farms, stables, crop farming and other agricultural purposes where:*~~

~~(1) The products produced through such use of the land is for personal consumption, pleasure or sustenance by those occupying the land and does not involve the sale of the products produced through such use of the land for profit; and~~

~~(2) The allowances set forth in section 60-2 regarding "farm, livestock" of this chapter and the allowances set forth in article VII, division 4 of chapter 8 of this Code are not exceeded.~~

Invasive Species. Means a plant or insect that is not native to a particular ecosystem, and whose introduction does or is likely to cause economic or environmental harm or harm to human health. Invasive species include those plants listed under the Maine Department of Agriculture, Conservation and Forestry's Natural Areas Program as currently invasive, potentially or probably invasive, and highly likely but not currently invasive, as well as those insects listed by the Maine Forest Service as threats to Maine's forests and trees.

Lake Auburn Watershed Protection Commission or LAWPC means the commission formed through an interlocal cooperation agreement between and among the Auburn Water District, City of Lewiston, and the Town of Turner, consisting of three commissioners appointed by the Auburn Water District, three commissioners appointed by the City of Lewiston, one commissioner appointed by the Town of Turner, one commissioner appointed by the Towns of Hebron, Minot and Buckfield, and one commissioner appointed by the Androscoggin Valley Council of Governments.

Livestock has the same meaning as in section 60-2.

Local plumbing inspector means a plumbing inspector or alternate plumbing inspector as defined in Section 12-22 of the Auburn City Ordinances. ~~Non-hobby agricultural use means uses of land for chicken farms, cattle farms, horse farms, egg farms, piggeries, sheep farms, stables, crop farming and other agricultural purposes where the products produced through such use of the land are sold for profit.~~

Natural Resource Conservation Service or NRCS means the U.S. Department of Agriculture, Natural Resources Conservation Service or, in those instances where the NRCS is prohibited by federal law from providing services to the property owner or lessee, an alternative service provider approved by the director of the city planning, permitting, and code department, or their designee.

Normal high-water line and Normal high-water mark means that line which is apparent from visible markings, changes in the character of soils due to prolonged action of the water or changes in vegetation, and which distinguishes between predominantly aquatic and predominantly terrestrial land.

NWI Wetland means any waterbody shown on the U.S. Fish & Wildlife Service National Wetlands Inventory.

Organic fertilizer means fertilizer derived from either plant or animal products that contain nutrients for plant growth. It is acceptable for the materials in these fertilizers to have been subjected to biological degradation processes under normal conditions of aging, rainfall, sun curing, air drying, composting, rotting, enzymatic, or anaerobic/aerobic bacterial action, or any combination of these. In order to qualify as organic fertilizer, the materials in these fertilizers may not be mixed with synthetic materials or changed in any physical or chemical manner from their initial state except by processing such as drying, cooking, chopping, grinding, shredding, hydrolysis, or pelleting. Organic fertilizers are broken down by and feed the microbial life in the soil.

Pest shall have the same meaning as the term set forth in 40 C.F.R. § 152.5, as the same may be amended from time to time.

Pesticide means any substance, or mixture, or combination of substances intended for preventing, destroying, repelling or mitigating any pest; any substance or mixture of substances intended for use as a plant regulator, defoliant or desiccant. It does not include multicellular biological controls such as mites, nematodes, parasitic wasps, snails or other biological agents not regulated as pesticides by the U.S. Environmental Protection Agency. Herbicides, fungicides, insecticides and rodenticides are considered pesticides.

Pests of significant public health importance means pests listed by the U.S. Environmental Protection Agency, in conjunction with the U.S. Department of Health and Human Services and the U.S. Department of Agriculture, as pests of significant public health importance.

Poultry means domesticated birds.

*Soil horizon* means a layer within a soil profile differing from the soil above or below it in one or more soil morphological characteristics. The characteristics of the layer include the color, texture, rock-fragment content, and consistency of each parent soil material.

*Soil horizon, limiting or limiting soil horizon* means any soil horizon or combination of soil horizons, within the soil profile or any parent material below the soil profile, that limits the ability of the soil to provide treatment or disposal of septic tank effluent. Limiting horizons include bedrock, hydraulically restrictive soil horizons and parent material excessively coarse soil horizons and parent material, and the seasonal groundwater table. Any of these limiting horizons may from time to time be referred to as a "limiting factor."

*Soil profile* means a vertical cross section of the undisturbed soil showing the characteristic soil horizontal layers or soil horizons that have formed as a result of the combined effects of parent material, topography, climate, biological activity, and time.

*Soil filter media* means a soil mixture that consists of a loamy sand lower fill layer meeting the following lower fill layer specifications, plus a minimum of six inches of upper fill layer meeting the following upper fill layer specifications.

Soil Filter Media Specifications

Upper fill layer	
Sieve #	% passing by weight
No. 4	75—95
No. 10	60—90
No. 40	35—85
No. 200	20—40
200 (clay size)	< 2.0

Lower fill layer	
Sieve #	% passing by weight
No. 10	85—100
No. 20	70—100
No. 60	15—400
No. 200	6—8
200 (clay size)	< 2.0

Soil test means the Comprehensive Soil Test provided by the Maine Soil Testing Service, or equivalent.

*State licensed site evaluator* means a person licensed by the Maine Department of Health and Human Services to evaluate soils for the purpose of designing subsurface wastewater disposal systems.

*Stream or Brook* means a channel between defined banks as depicted as a solid or broken blue line on the most recent edition of the U.S. Geological Survey 7.5-minute series topographic map.

*Subsurface wastewater disposal system inspector* means a person who holds a current certification issued by the Maine Department of Health and Human Services, Division of Environmental and Community Health as a Subsurface Wastewater Disposal System Inspector.

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Summer dormancy means the period during mid-summer most commonly observed in unirrigated grasses when growth ceases. Dormancy is characterized by brittle texture and a loss of green color.

Synthetic fertilizer means any fertilizer manufactured from one or more synthetic materials containing no animal parts, animal byproducts, manures or renderings.

Tillage or tilled means the reconfiguration of the soil into a desired condition by mechanical means.

Total nitrogen means the sum of all nitrogen forms contained within fertilizer, including water soluble nitrogen forms, slow-release nitrogen forms, and water insoluble nitrogen forms. The percentage of total nitrogen appears as the leftmost number of the grade on fertilizer labels or containers.

Wetland, see NWI Wetland.

(Ord. of 9-21-2009, § 5.3B; Ord. No. 28-11202023, 12-4-2023)

## **Sec. 60-952. Use and environmental regulations.**

### *1. Subsurface Wastewater Disposal Systems.*

- (a) *Dwelling units in the agriculture and resource protection zoning district.* Notwithstanding the provisions of subsections 60-145(a)(1), ~~60-145(b)(18)~~ and 60-146(1)c., new dwelling units are prohibited in that part of the Lake Auburn Watershed Overlay District which overlies the Agriculture and Resource Protection Zone. Pursuant to 30-A M.R.S.A. §§ 4364(9), 4364-A(1-A), and 4364-B(1-A), each as may be amended from time to time, the affordable housing density, residential density and accessory dwelling unit provisions of P.L. 2021, ch. 672, "An Act to Implement the Recommendations of the Commission to Increase Housing Opportunities in Maine by Studying Zoning and Land Use Restrictions" and any related state regulations do not apply in the Lake Auburn Watershed Overlay District.
- (b) *Private subsurface wastewater disposal systems.* Each new building, or any existing building for which there is any addition, alteration, or change of use, each new dwelling unit, or any existing dwelling unit for which there is an addition or alteration thereto that includes the addition of one or more bedrooms, in the Lake Auburn Watershed Overlay District, not served by public sewer, shall, in the development of a private subsurface wastewater disposal system, adhere to the requirements of this section as well as the requirements of the latest version of the Maine Subsurface Wastewater Disposal Rule, 10-144 C.M.R. ch. 241. Notwithstanding any provision of the Maine Subsurface Wastewater Disposal Rule, 10-144 C.M.R. ch. 241 the Rule shall be applied regardless of whether the addition or alteration is an initial or subsequent addition or alteration--:
- (1) Disposal fields are prohibited on sites with less than 12 inches to the limiting soil horizon. In addition to having at least 12 inches to the limiting soil horizon, disposal fields shall have at least 24 inches of suitable natural soil or soil filler media below the bottom of the disposal field, such that there is at least a 36-inch separation between the bottom of the disposal field and the limiting soil horizon. The local plumbing inspector shall require that a state licensed site evaluator affirm that these design requirements are met before the local plumbing inspector finds the design or installation of the system to comply with this section.
  - (2) New (first use), expanded, or replacement disposal fields shall be set back from the normal high-water mark of any lake, pond, stream, or brook as follows:
    - a. Where the daily wastewater flow is, or is reasonably likely to be, 2,000 gallons or less, the system shall be set back at least 400 feet from the normal high-water mark of any lake, pond, stream, or brook.



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- b. Where the daily wastewater flow is, or is reasonably likely to be, in excess of 2,000 gallons, the system shall be set back at least 1,000 feet from the normal high-water mark of any lake, pond, stream, or brook.
- (3) All new (first use), expanded, or replacement private subsurface wastewater disposal systems shall include one of the two following design elements. The selection of which design element is most appropriate shall be determined by a state licensed site evaluator based upon the evaluation of the groundwater conditions, soils, and slopes present at the site where the system is to be installed.
- a. Curtain drain installed per Section 12(H) of the Maine Subsurface Wastewater Disposal Rules, 10-144 C.M.R. ch. 241 (2023), as may be amended from time to time; or
- b. Diversion ditch, upslope of the disposal field, installed for the disposal field's entire length including fill extensions, and constructed so that the curtain drain or diversion ditch is located to prevent any short circuiting of the disposal field
- (4) All new (first use), expanded, or replacement private subsurface wastewater disposal systems shall be installed on the same lot as the building or dwelling unit being served by the system, unless the system can be developed outside of the Lake Auburn Watershed Overlay District or, in the case of an expanded or replacement system, the property owner can demonstrate to the local plumbing inspector that it is physically impossible for the replacement system to be located on the same lot, in which case the local plumbing inspector may approve all or a portion of the expanded or replacement system's location on adjacent lots if the property owner holds a perpetual easement from the adjacent lot owner allowing the installation and maintenance of the system.
- (5) Commencing July 1, 2024, the owner of each building or dwelling unit in the Lake Auburn Watershed Overlay District not served by public sewer shall have their private subsurface wastewater disposal system inspected to ensure continuing compliance with this section and the latest version of the Maine Subsurface Wastewater Disposal Rule, 10-144 C.M.R. ch. 241.

a. *Inspections.* An initial inspection shall be completed by the completion date specified in the Lake Auburn Watershed Overlay District Septic Systems Inspection Map, dated ~~June 24~~ ~~March 19~~, 2024, which is on file in the office of the city planning, permitting and code department.

Subsequent inspections shall be completed within five years of the initial inspection and every subsequent inspection, unless the property is sold, in which case a subsequent inspection shall be conducted at the time of sale.

Such inspections shall be completed by a certified subsurface wastewater disposal system inspector. Such inspector shall inspect the private subsurface wastewater disposal system using the minimum requirements established by the Maine Department of Health and Human Services, Division of Environmental and Community Health for evaluating and reporting on existing subsurface wastewater disposal systems.

b. *City record keeping and notifications.* The city planning, permitting and code department shall maintain, within the city GIS system, a record of each subsurface wastewater disposal system within the Lake Auburn Watershed Overlay District that requires inspection. The record must include, at a minimum, the city parcel identifier, date the next inspection is due, and date of the last inspection.

The city planning, permitting and code department shall provide the owner of each building or dwelling unit written notices by regular mail, to the address shown on the city property tax records, of the date by which the inspection of the subsurface wastewater disposal system must be completed. The first notice shall be mailed 12 months prior to each required completion date and the second notice six months prior to each required completion date.

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c. *Reporting and reviewing of results of inspections.* Reporting shall be made utilizing the latest version of the HHE-240 reporting form, for initial inspections, and the Supplement HHE-240 reporting form, for subsequent inspections, as published by the Maine Department of Health and Human Services, Division of Environmental and Community Health. Such reports shall be submitted to the local plumbing inspector.

The local plumbing inspector shall review the report and determine if corrective action is required to ensure that;

1. for subsurface wastewater disposal systems for which a design is on file with the planning, permitting and code department, the system is functioning per the design on file,
2. for subsurface wastewater disposal systems for which there is no design on file with the planning, permitting and code department, the system is functioning as built.

d. *Alternative design for replacement subsurface wastewater disposal systems.* For buildings or dwelling units that exist in the Lake Auburn Watershed Overlay District as of July 1, 2024, should the local plumbing inspector determine, upon review of the report from the subsurface wastewater disposal system inspector, through personal observation, or through independent means, that the subsurface wastewater disposal system is not functioning as designed or built and a replacement system is required, and:

1. a state licensed site evaluator informs the local plumbing inspector that the parcel on which the building or dwelling unit is situated is not suitable to site a replacement subsurface wastewater disposal system that meets the requirements of this section and the latest version of the Maine Subsurface Wastewater Disposal Rule, 10-144 C.M.R. ch. 241; and
2. the local plumbing inspector determines that the replacement subsurface wastewater disposal system cannot be sited pursuant to Subsection 4;

then a state licensed site evaluator may propose, and the local plumbing inspector may approve, after consultation with the Lake Auburn Watershed Protection Commission, an alternative subsurface wastewater design that does not meet the requirements of this section and the latest version of the Maine Subsurface Wastewater Disposal Rule, 10-144 C.M.R. ch. 241 but which meets as many of the requirements as possible, and for those requirements that cannot be met, includes design elements that maximize the efficacy of the treatment of the wastewater.

- (6) In coordination with the local plumbing inspector, LAWPC, or its designee, shall have the right to inspect any subsurface wastewater disposal system within the Lake Auburn Watershed Overlay District during its construction and operation and may notify the City of Auburn health officer, police chief, local plumbing inspector or code enforcement officer of any observed defects or malfunction that require corrective action by the property owner or operator.
- (7) The local plumbing inspector shall furnish a copy of all site evaluation and inspection reports in the Lake Auburn Watershed Overlay District to LAWPC.
- 8) Commencing on July 1, 2024, a maximum of three new dwelling units per calendar year are permitted in that part of the Lake Auburn Watershed Overlay District in which new dwelling units are permitted.

The city planning, permitting, and code department shall, on an annual basis, provide a report to the Planning Board as to the extent and effect of the construction of new dwelling units in the Lake Auburn Watershed Overlay District. The report shall include, at a minimum, the number of new dwelling units constructed in the past year, the cumulative number of new dwelling units constructed since July 1, 2024, and the effect of such construction on the Lake Auburn water quality.

Should the Planning Board conclude, based on the city planning, permitting and code department report that the construction of new dwelling units has had an adverse effect on the Lake Auburn water

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quality, the Planning Board shall consider what action is to be taken to prevent further degradation of Lake Auburn water quality from the construction of new dwelling units.

## 2. Agricultural, Forestry, and Erosion Control.

(a) ~~Agricultural uses. Non-hobby agricultural uses not in existence as of January 1, 2024 are prohibited, and expansions of non-hobby agricultural uses in existence as of December 31, 2023 are prohibited. As of January 1, 2024, new hobby agricultural uses or expansions of hobby agricultural uses in existence as of December 31, 2023 are prohibited.~~ Use of land for agricultural use within the Lake Auburn Watershed Overlay District is only ~~allowed~~ permitted if:

- (1) ~~The property owner or operator lessee shows, and the director of the city planning, permitting, and code department, or their designee, finds, after consultation with the LAWPC watershed manager, first demonstrates to LAWPC's watershed manager that~~
  - a. ~~Such use, or expansion of such use, will not cause groundwater contamination and, will not contaminate or disturb the normal course of surface water runoff, and will not contaminate any lake, pond, stream, brook, or NWI wetland; and~~
  - b. ~~The property owner or lessee has a waste and nutrient management plan developed in compliance with the Natural Resource Conservation Service's standards for waste and nutrient management.~~
- (2) ~~LAWPC's watershed manager approves such use or expansion in writing and so notifies the code enforcement officer.~~ The director of the city planning, permitting, and code department, or their designee, has provided their written finding of conformity with the requirements of this Sec. 952(2)(a) to the property owner or lessee.
- (3) ~~The provisions of this Subsection 2(a) shall apply to all new or expanded agricultural uses of land within the Lake Auburn Watershed Overlay District. For those agricultural uses that exist on July 1, 2024, the property owner or lessee shall comply with the requirements of Subsection 2(a)(1)(b) no later than June 30, 2027.~~
- (4) ~~The provisions of this Subsection 2(a) requiring a showing to the director of the planning, permitting, and code department, or their designee, and the requirement to have a waste and nutrient management plan, shall not apply if the agricultural use of the land is for the production, growing, cultivation, or harvesting of any agricultural commodity or product, (but not for or the raising, shearing, feeding, caring for, training, and management of livestock or poultry), whether for commercial or personal use, if the agricultural use of the land encompasses no more than 1,000 square feet in total on any lot. This provision shall not be construed to exempt the property owner or lessee from any other provision of this Division.~~

(b) ~~Reserved Residential dwellings in the agriculture and resource protection zoning district. Notwithstanding the provisions of subsections 60-145(a)(1), 60-145(b)(18) and 60-146(1)c., new dwelling units are prohibited in the Lake Auburn Watershed Overlay District. Pursuant to 30-A M.R.S.A. 4364(9), 4364-A(1-A), and 4364-B(1-A), each as may be amended from time to time, the affordable housing density, residential density and accessory dwelling unit provisions of P.L. 2021, ch. 672, "An Act to Implement the Recommendations of the Commission to Increase Housing Opportunities in Maine by Studying Zoning and Land Use Restrictions" and any related state regulations do not apply in the Lake Auburn Watershed Overlay District.~~

(c) ~~Number of animal units permitted. The number of animal units of livestock permitted in the Lake Auburn Watershed Overlay District shall be calculated utilizing the formula in the definition of Farm, Livestock in section 60-2. The number of animal units of poultry permitted in the district shall be calculated as 15 animal units per acre of cleared land not to exceed a total of 150 animal units per lot.~~

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~~(ed) Agricultural-Vegetated buffer strip. Where land adjoining Lake Auburn or its perennial tributaries (as depicted on a 7.5 minute series USGS topographic map, dated 1981) is tilled for agricultural purposes, an untilled buffer strip 100 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. Where soil is tilled for agricultural purposes, or livestock or poultry is kept, an untilled, vegetated buffer strip at least 250 feet wide shall be retained between the tilled area and the normal high-water mark of any lake, pond, stream, brook, or NWI Wetland.~~

Vegetated buffer strips shall be constructed and maintained as specified in the latest version of the Maine Department of Environmental Protection, Maine Stormwater Management Design Manual, Phosphorous Control Manual, Volume II & Technical Design Manual Volume III, March 2016.

This subsection shall not be interpreted as permitting agricultural tillage in any zoning district in which it is not otherwise permitted.

~~(de) Manure and sludge spreading, storage, and disposal. The sSpreading and or disposal of manure or sludge within the Lake Auburn Watershed Overlay District is prohibited. Manure shall be stored on an impervious surface which has a roof or cover. All spreading and disposal of manure shall be accomplished in conformance with the then-current edition of the Maine Department of Agriculture, Conservation and Forestry's rules, regulations and guidelines for manure spreading and disposal.~~

~~(f) Fertilizer use and application. The following provisions shall apply to the use, application, or storage of fertilizer in the Lake Auburn Watershed Overlay District.~~

~~(1) The following uses and applications of fertilizer are permitted.~~

- ~~a. Organic fertilizer if a soil test is conducted annually; and~~
- ~~b. The fertilizer that is used or applied does not contain nutrients in excess of the amount recommended by the completed soil test; and~~
- ~~c. No more than two fertilizer applications are made in one calendar year; and~~
- ~~d. For each application, total nitrogen may not exceed 1 lb. per 1,000 square feet.~~

~~(2) The following uses and applications of fertilizer are prohibited.~~

- ~~a. Fertilizer containing phosphorus, unless a waiver for the use of fertilizer containing phosphorus is issued by the city planning, permitting, and code department.~~
- ~~b. Synthetic fertilizers.~~
- ~~c. Fertilizer used within 100 feet of the normal high-water mark of a lake, pond, steam, brook, or NWI Wetland.~~
- ~~d. Fertilizer used when a rain event producing 0.5 inch or more of precipitation in a one-hour period is forecast or is occurring.~~
- ~~e. Fertilizer used on saturated surfaces.~~
- ~~f. Fertilizer used on partially or wholly frozen ground.~~
- ~~g. Fertilizer used on impervious surfaces, if spills occur on impervious surfaces they must be removed immediately.~~
- ~~h. Fertilizer used during the summer dormancy period.~~

~~(3) Waivers of the provisions of this Subsection (f) may be issued by the director of the city planning, permitting, and code department, or their designee, after consultation with the LAWPC watershed manager:~~

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a. upon a showing by the applicant that the use of synthetic fertilizer, or the use of fertilizer containing phosphorus, is necessary because a suitable organic fertilizer product that meets the nutrient needs of the soil as specified in the soil test is unavailable. The waiver may contain additional conditions on the use or application of the waived fertilizer product to minimize the risk to any lake, pond, stream, brook or NWI Wetland.

b. upon a showing by the applicant that a nutrient management plan prepared by the Natural Resources Conservation Service for a specific agricultural use requires a frequency of application greater than that specified in subsection 2(f)(1)(c) of this section and/or a total nitrogen application greater than that specified in subsection 2(f)(1)(d) of this section.

(4) Fertilizers shall be stored, mixed, and loaded:

a. pursuant to the specific manufacturer's storage instructions on the fertilizer label; and

b. must be stored in an impervious container on an impervious surface; and

c. must be mixed and loaded on an impervious surface; and

d. no more than two times the volume needed for a single application may be stored at any one time.

(g) Allowed and prohibited pesticides. For outdoor pest management activities in the Lake Auburn Watershed Overlay District, the following shall apply:

(1) Synthetic substances are prohibited unless specifically listed as "allowed" on the U.S. Department of Agriculture's National List of Allowed and Prohibited Substances (the "National List");

(2) Non-synthetic substances are allowed unless specifically listed as "prohibited" on the National List;

(3) Pesticides determined to be "minimum risk pesticides" pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) 4 and listed in 40 C.F.R. § 152.25(f)(1) or (2), as may be amended from time to time, are allowed; and

(4) The use or application of pesticides (whether natural, organic, "non-synthetic," synthetic or otherwise) within 250 feet of the normal high-water mark of a lake, pond, stream, brook, or NWI Wetland is prohibited.

(5) The following materials, applications, or activities are exempt from the provisions of this subsection (and are so allowed):

a. Pet supplies, such as shampoos and tick and flea treatments, when used in the manner specified by the manufacturer;

b. Disinfectants, germicides, bactericides, miticides and virucides, when used in the manner specified by the manufacturer;

c. Insect repellents when used in the manner specified by the manufacturer;

d. Rat and rodent control supplies when used in the manner specified by the manufacturer;

e. Swimming pool supplies when used in the manner specified by the manufacturer.

(6) The following uses of prohibited pesticides are exempt from the provisions of this subsection (and are so allowed) when the use of the material, application, or activity is more than 250 feet from the normal high-water mark of a lake, pond, stream, brook, or NWI Wetland or when a waiver has been granted by the director of the city planning, permitting, and code department or their designee.

a. Prohibited pesticides may be used to control plants that are poisonous to the touch, such as poison ivy; pests of significant health importance, such as ticks and mosquitoes; animals or insects that may

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cause damage to a structure, such as carpenter ants or termites; invasive species; or when used by a public utility for maintenance of a right-of-way through the Lake Auburn Watershed Overlay District.

b. The director of the city planning, permitting, and code department, or their designee, after consultation with the LAWPC watershed manager, may grant a waiver to use a prohibited pesticide within 250 feet of the high-water mark of a lake, pond, stream, brook, or NWI Wetland when such use is necessary to protect public health or safety.

(7) Pesticides shall be stored, mixed, loaded, and applied:

a. pursuant to the specific manufacturer's storage instructions on the pesticide label or container; and

b. must be stored in an impervious container on an impervious surface; and

c. must be mixed and loaded on an impervious surface; and

d. no more than two times the volume needed for a single application may be stored at any one time; and

e. shall not be applied by aerial spraying.

(eh) Erosion control. The following provisions shall be observed for the control of erosion in the Lake Auburn Watershed:

(1) Any exposing, moving, removal, or stockpiling of soil, or the removal of vegetative cover ~~earth-cutting, moving or removal activities~~ that will result in erosion or runoff which increases sedimentation of Lake Auburn, or any tributaries or other water bodies in the watershed any lake, pond, stream, brook, or NWI Wetland in the Lake Auburn Watershed Overlay District ~~are~~ is 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 Auburn Water District. Such plan will be approved or disapproved on the basis of its conformance with good watershed management practice for domestic water supplies.

(3i) 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 Auburn Water District indicating the changes so that a record can be maintained of watershed water yields to the system.

Tree clearing and forestry. Clearcutting is limited to 25% of the total area of a lot or two acres, whichever is less; provided that on lots of 20 acres or more, one clearcut of not more than two acres in every 20 contiguous acres may be made. Any discrete tree or timber cutting operation on a lot of any size over two acres shall be permitted only pursuant to a harvest plan prepared by a Maine licensed forester meeting the standards in the latest versions of Rule 20 of the rules adopted under the Maine Forest Practices Act, the Maine Department of Agriculture, Bureau of Forestry's manual on Best Management Practices for Forestry: Protecting Maine's Water Quality and, where applicable, the requirements of Chapter 21 of Maine Forest Service's Statewide Standards for Timber Harvesting in Shoreland Areas. All harvest plans must be approved by the director of the city planning, permitting, and code department, or their designee, after consultation with the LAWPC watershed manager. Such harvest plan will be approved or disapproved based on its conformance with this Division, with a focus on its ability to ensure protection of the water quality of Lake Auburn. ~~From time to time,~~ The director, or their designee, may require the approved harvest plan to be

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amended to ensure preventive and corrective actions which may become necessary to protect the water quality of Lake Auburn.

### 3. *Enforcement*

The city planning, permitting and code department shall have authority to enforce all requirements of this Division in accordance with section 60-1403.

(Ord. of 9-21-2009, § 5.3C; Ord. No. 19-12022019, 12-9-2019; Ord. No. 10-06202023, 7-10-2023; Ord. No. 28-11202023, 12-4-2023)

### **Sec. 60-953. Dimensional regulations; building setbacks.**

Any new or expanded buildings or structures, except those requiring direct access to the water as an operational necessity, shall be constructed not less than 100 feet inland from the normal high-water mark of Lake Auburn. 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 100 feet of the normal high-water mark of Lake Auburn.

(Ord. of 9-21-2009, § 5.3D)

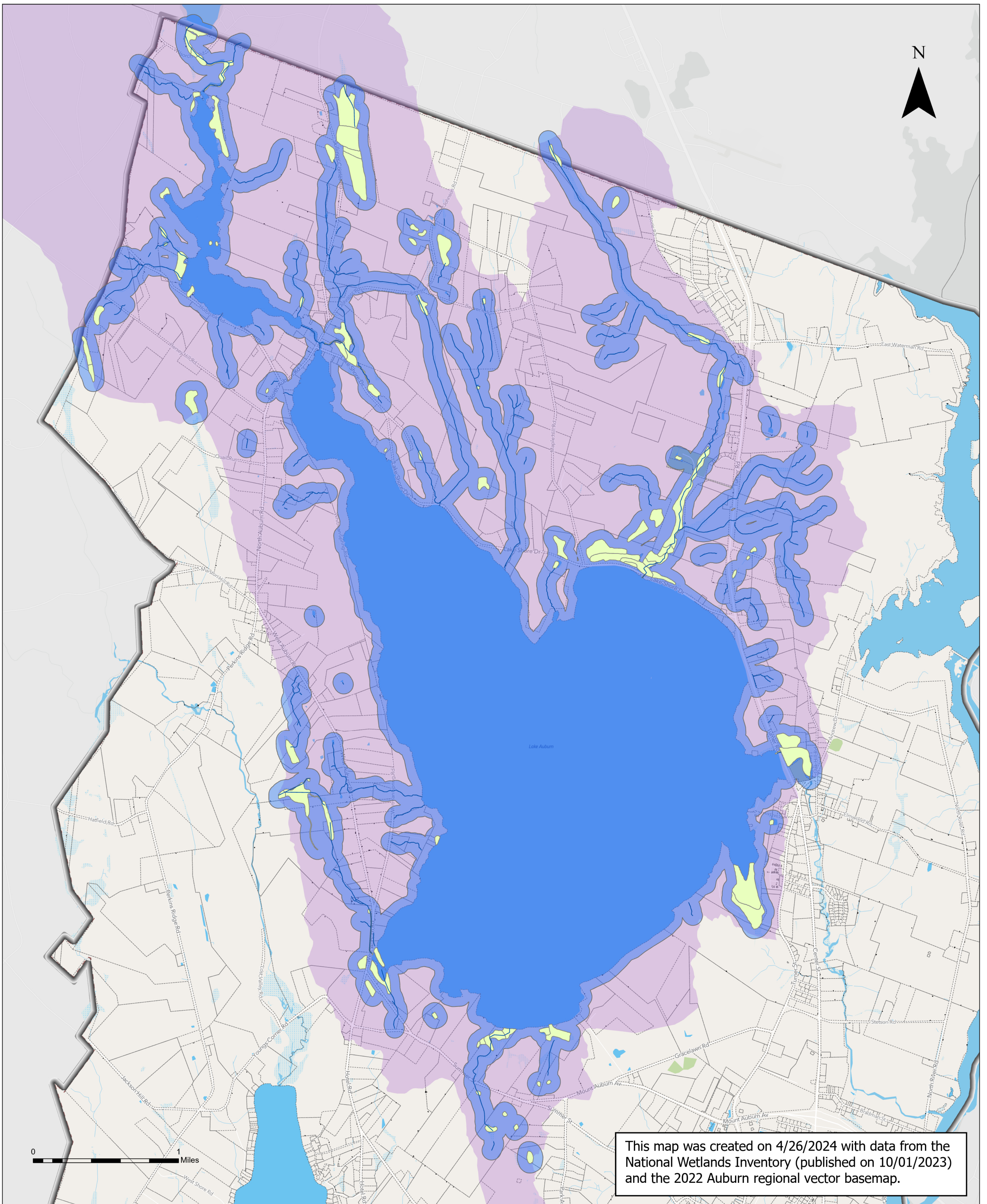
### **Sec. 60-954. Conflicts.**

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.**

# Lake Auburn Watershed Overlay Agricultural Buffer Setbacks



- Streams
- NWI Wetlands
- Lake Auburn Watershed
- Lake Auburn Streams Wetlands Buffer 250 ft





# City Council Ordinance

**AMENDED**  
**IN CITY COUNCIL**

**Be it ordained,** that the City Council hereby amends Sec. 52-320 of the City’s Code of Ordinances as follows:

**Sec. 52-320. Parking prohibited at all times.**

Parking is prohibited at all times upon any of the streets or portions of streets described below:

Second Street	On the easterly side beginning at Mill Street and extending in a southerly direction for a distance of 70 feet.
Fifth Street	On the northwesterly side between South Main Street and Dunn Street.
Seventh Street	On the westerly side beginning at the northwesterly curblineline of Broad Street and extending northerly for a distance of 64 feet.
Academy Street	On the northerly side between High and Main Streets.
	On the southerly side between High and Main.
	On the southerly side beginning at the corner of Main Street and extending in a westerly direction for 140 feet.
Aviation Drive	On the east side from Flight Line Drive to Lewiston Junction Road.
	On the west side from Lewiston Junction Road to Wrights Landing.
Bearce Street	On the west side from Manley Street to the dead end.
Blake Street	On the southeasterly side from Winter Street to Turner Street.
Boone Avenue	On both sides from Seventh Street to Walton Field.
Broad Street	On the southerly side from South Bridge to Mill Street.
	On the north side beginning at Second Street and extending easterly for a distance of 162 feet.
	On the northwesterly side beginning at Ninth Street and extending in a southwesterly direction to CMP Pole #31 for a distance of 300 feet.
Broadview Avenue	On the easterly side beginning at Newall Avenue and extending in a southerly direction for 554 feet.
Brookside Circle	On the westerly side between Dennison Street and the point at which Brookside Circle turns at an angle to the right.
	On the northerly side from the angle in Brookside Circle to the westerly side of Winter Street.
	On the southerly side beginning 68 feet from the westerly curblineline of Winter Street and extending 88 feet around the curve.
Brown Street	On the southerly side beginning at Center Street and extending westerly for 250 feet.
Burns Street	On the easterly side for its full length.
Center Street	On both sides, beginning at the downtown intersection of Turner Street and extending northerly to the northerly intersection of Turner and Center Streets.

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**Timothy M. Cowan**, Ward Two  
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**Jeffrey D. Harmon**, Mayor

**Stephen G. Milks**, Ward Three  
**Adam R. Platz**, At Large  
**Phillip L. Crowell, Jr.**, City Manager



# City Council Ordinance

Charles Street	On the east side south of Western Prom
Church Street	On both sides beginning at Turner Street and extending westerly for 300 feet.
Cleveland Avenue	On the easterly side from Minot Avenue to Marshall Avenue.
Cook Street	On the southeasterly side beginning at Ninth Street and extending in a southeasterly direction for 325 feet.
Court Street	On the north side beginning at the city line on the Longley Bridge and extending westerly to Goff Street.
	On the northerly side from Highland Avenue extending in a westerly direction to the corner of Haskell Street.
	On the northerly side beginning at James Street and extending 80 feet easterly.
	On the southerly side beginning at the point of intersection of the southerly side and an extension in a southerly direction of the easterly line of Highland Avenue, and extending in a westerly direction to a point 55 feet beyond the point of intersection of the southerly side and an of the extension southerly side of the northwesterly line of Haskell Street.
	On the southerly side beginning at the Lewiston City line and extending in a westerly direction across Main Street to a point 80 feet westerly of the westerly curblines of Main Street.
	On the southerly side beginning at Spring Street and extending in a westerly direction across intersecting streets to a point 46 feet westerly from the westerly line of South Goff Street.
	On the south side beginning at the easterly curblines of Harris Street and extending easterly for 46 feet.
	On the south side between Harris Street and Weaver Street.
Cross Street	On the northerly side for the entire length of the street.
Dartmouth Street	On the northerly side beginning at Center Street and extending westerly for 130 feet.
Dartmouth Street West	West—North side at 25 feet from Center Street.
Davis Avenue	On the turnaround at the dead-end portion of the street.
Davis Avenue	On the turnaround at the dead-end portion of the street.
Dennison Street	On the northerly side beginning 42 feet westerly of Winter Street and extending easterly to Whitney Street.
	On the southerly side beginning at Winter Street and extending westerly for a distance of 52 feet.
	On the southerly side beginning at Winter Street and extending easterly for a distance of 50 feet.
Drummond Street	On both sides, beginning at Main Street and extending westerly to the top of the hill.
	On both sides, beginning at Spring Street in a westerly direction to the dead end.
East Bates Street	On the northerly side beginning at Center Street and extending to Coolidge Street.
<u>Eighth St</u>	<u>On the northerly side, beginning at Broad Street in a westerly direction to the dead end.</u>
ELHS	Upper parking lot off Forest Avenue
Elm Street	On the south side beginning at Main Street and extending for 164 feet.
	On either side beginning at Minot Avenue and extending easterly to Spring Street.

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# City Council Ordinance

Fair Street	On the northerly side from Oak Hill Road and extending in a westerly direction to Center Street.
Fairmount Avenue	On the westerly side from Hunton Place to Harris Street.
	On the easterly side beginning at Harris Street and extending northerly for 330 feet.
Fern Street	On the northwesterly side beginning at Lake Street and extending in a southwesterly direction for a distance of 300 feet between the hours of 7:30 a.m. and 4:30 p.m. on days when Lake Street School is in session.
Forest Avenue	On the west side for the entire length of the street.
	From 155 feet south of Court Street to Court Street
Gamage Avenue	On the north side beginning at a point 65 feet from Dennison Street and extending in a westerly direction for a distance of 75 feet.
	On the northerly side beginning at Park Avenue and extending in an easterly direction for a distance of 80 feet.
	On Gamage Avenue southerly from Oakland (no parking from there to corner)
	From 51 Gamage Avenue to drive.
Gill Street	On both sides between Second Street and Third Street.
Goff Street	On the east side beginning at Court Street and extending to Hampshire Street.
	On the westerly side beginning at the corner of Court Street and extending in a northerly direction for a distance of 110 feet.
Gracelawn Road	On the northerly side beginning at CMP #9 and extending westerly for 950 feet.
Granite Street	On the easterly side between Court Street and Fern Street.
Hampshire Street	On both sides between Turner and Pleasant Streets.
	On the north side beginning at the intersection of Pleasant Street and running in a westerly direction for 60 feet.
	On the southerly side beginning at the corner of Pleasant Street and extending in a westerly direction across Troy Street to a point 100 feet westerly from the westerly corner of Troy Street.
Harris Street	On the easterly side beginning at the southerly curblin of Court Street and extending in a southerly direction for a distance of 90 feet.
	On the easterly side beginning at the end of the street and extending northerly for 132 feet.
	No parking on the westerly side.
Haskell Street	On the southeasterly side from Court Street to Lake Street.
High Street	On the west side beginning at the southwesterly corner of Court Street and extending in a southerly direction for a distance of 130 feet.
	On either side beginning at Minot Avenue and extending to Academy Street.
	On the easterly side beginning at the southeasterly corner of Court Street and extending in a southerly direction for distance of 188 feet.
Highland Avenue	Between Hillcrest and Wedgwood (both sides of street)
James Street	No parking on the easterly side for its full length.

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# City Council Ordinance

Lake Auburn Avenue	On the easterly side beginning at the northeasterly corner of Whitney Street and extending in a northerly direction for a distance of 141 feet.
	On the easterly side beginning at Stanley Street and extending southerly for a distance of 80 feet.
	On the southeasterly side beginning at a point 180 feet from the northeasterly corner of Lake Auburn Avenue and Whitney Street and extending in a northeasterly direction on Lake Auburn Avenue for a distance of 325 feet between the hours of 7:30 a.m. and 4:30 p.m. when Washburn School is in session.
Lake Shore Drive	On the northerly side beginning at the intersection of Maple Hill Road and extending in an easterly direction for a distance of 2,640 feet.
Lake Street	On the northeasterly side from a point opposite the intersection of Fern Street to a point opposite the intersection of the southwesterly line of Lake Street and the northeasterly line of Court Street.
	On the southwesterly side beginning at Court Street and extending northerly 116 feet.
Laurel Avenue	On the northerly side beginning at the easterly curblineline of Main Street and extending northeasterly for a distance of 114 feet.
Main Street	On the easterly side beginning at the southerly side of the northerly entrance of Newbury Street and extending in a southerly direction for a distance of 84 feet.
	Beginning at the northerly side of Laurel Avenue and extending northerly for 157 feet.
	On the east side beginning at Laurel Avenue and extending southerly to Newbury Street.
	On the easterly side beginning at the southerly curblineline of Court Street and extending southerly for a distance of 50 feet.
	On the westerly side beginning at the southerly curblineline of Court Street and extending southerly for a distance of 78 feet.
	On the easterly side beginning 180 feet south of the southerly curblineline of Court Street and extending southerly for 120 feet.
	On the easterly side beginning at the southerly curblineline of the northerly alleyway to Miller Street and extending southerly for 42 feet.
	On the easterly side beginning 100 feet northerly of the northerly curblineline of the southerly alleyway to Miller Street and extending northerly for a distance of 76 feet.
Main Street	On the westerly side beginning at the northerly curblineline of Mechanics Row extended and running northerly for a distance of 106 feet.
	On the westerly side beginning 170 feet from the southerly curblineline of Court Street and extending southerly for 76 feet.
	On the easterly side beginning 220 feet northerly of Newbury Street and extending northerly for a distance of 416 feet.
	On the easterly side beginning at the Miller Street entrance at the south end of the Roak Block and extending southerly for a distance of 54 feet.
	On the westerly side between Mechanics Row and Drummond Street.

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# City Council Ordinance

	On the westerly side beginning at the southerly curblineline of Academy Street and extending southerly for a distance of 100 feet.
	On the easterly side beginning at the southerly corner of 220 Main Street and extending southerly for 260 feet.
	On the westerly side beginning at the northerly curblineline of Academy Street and extending northerly for 68 feet.
Manley Court	On the southeasterly side beginning at a point 171 feet northeasterly from Manley Street and extending in a northeasterly direction for a distance of 63 feet and then in a northwesterly direction along the northeasterly terminus of the street for a distance of 28 feet.
Manley Street	On the south side beginning at Willow Street and extending in an easterly direction for a distance of 300 feet.
	On the southwesterly side beginning at Union Street and extending in a northwesterly direction for a distance of 65 feet.
	On the northeasterly side beginning at the corner of Union Street and extending in a northwesterly direction for 53 feet.
Maple Street	On the north side beginning at High Street and extending to Pleasant Street.
Mechanics Row	On both sides beginning at Court Street and extending to the end of the street.
Mill Street	On the northerly side beginning at the easterly curblineline of Second Street and extending westerly for a distance of 80 feet.
	On the northerly side beginning at Pole #11 and extending in a southwesterly direction for a distance of 170 feet.
	On the northerly side beginning at Broad Street and of Third Street and extending in an easterly direction for a distance of 54 feet.
	On the northerly side beginning at Broad Street and extending westerly for a distance of 88 feet.
Miller Street	No parking on both sides.
	On both sides of both alleyways leading to Miller Street from Main Street.
Minot Avenue	On the east side beginning at High Street and extending northerly to the intersection of Fletcher Road.
	On the westerly side beginning at the corner of Court Street and running southwesterly to the intersection of Hatch Road.
	On the westerly side beginning at a point directly opposite the southeasterly corner of the Lown Shoe Company Building and extending in a southerly direction to High Street.
Newbury Street	On the west side extending from Laurel Avenue to Pole #6, Central Maine Power Company.
	On the northeasterly side beginning at a point just opposite Pole #4 and extending easterly for a distance of 134 feet.
Niskayuna Street	On the northerly side beginning at Center Street and extending in a westerly direction for a distance of 200 feet.
Northern Avenue	On the westerly side beginning at Cross Street and extending in a northerly direction for a distance of 166 feet.

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# City Council Ordinance

Old Danville Road	On the westerly side beginning at a point 346 feet from the sideline of Danville Corner Road; thence proceeding in a southerly direction for a distance of 190 feet and being essentially the distance between the two driveways at #711 Old Danville Road.
Park Avenue	On the easterly side beginning at Gamage Avenue and extending in a northerly direction to a point opposite CMP Pole #44, by Auburn Methodist Church.
Parker Street	From Summer Street on both sides northerly to Turner Street. On the westerly side between Summer and Winter Streets.
Pettengill Road	On the easterly side from Oak Hill Road in a northerly direction for a distance of 1,060 feet. On the westerly side beginning at CMP Pole #3 and extending northerly for a distance of 484 feet.
Pleasant Street	On the east side beginning at Hampshire Street and extending in a southerly direction for a distance of 38 feet. On the east side beginning at Court Street and extending in a southerly direction to the intersection of Elm Street. On the east side beginning at Court Street and extending in a southerly direction for a distance of 151 feet. On the easterly side beginning at Turner Street and extending southerly for a distance of 68 feet. On the westerly side beginning at Hampshire Street and extending northerly for a distance of 100 feet. On the westerly side beginning 132 feet from Hampshire Street and extending southerly for a distance of 56 feet.
Poland Road	On the southeasterly side between Minot Avenue and Atwood Street.
Pride Road	On the west side beginning at Minot Avenue and running in a southerly direction for 300 feet.
Pulsifer Street	On the westerly side beginning at a point 250 feet northerly of the northerly curbline of Mill Street and extending 140 feet around the corner onto Second Street.
Reed Street	On the southeasterly side between Turner Street and Whitney Street.
Rowe Street	On the southeasterly side from Winter Street to Turner Street.
Sandy Beach Road	On the southerly side for its full length.
School Street	On both sides, from Troy Street to Union Street Bypass.
Sherwood Drive	On the westerly side from Marian Drive to 19th Street.
South Goff Street	On the easterly side for its full length.
South Main Street	On the east side beginning at Memorial Bridge and extending southerly for 41 feet. On both sides between CMP Poles 87 and 91 as presently located. On the easterly side beginning at a point 83 feet southerly from the end of the Memorial Bridge across the Little Androscoggin River and extending in a southerly direction for a distance of 47 feet. On the westerly side beginning at Mill Street and extending northerly to the Memorial Bridge.

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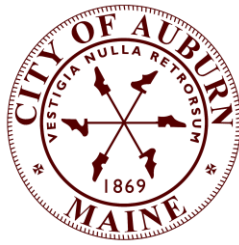
# City Council Ordinance

	On the easterly side beginning at the southerly curbline of Broad Street and extending southerly for distance of 84 feet.
Spring Road	On both sides beginning at the Auburn Water District gate located nearest to West Auburn Road and extending in a southerly direction for a distance of 173 feet, including the turnaround.
Spring Street	On the westerly side beginning at Elm Street and extending in a northerly direction for a distance of 172 feet.
	On the easterly side beginning at Court Street and extending in a northerly direction for a distance of 100 feet.
	On the west side beginning at a point 278 feet from Court Street and extending in a southerly direction for 330 feet.
	On the westerly side between Hampshire Street and Troy Street.
	On the westerly side beginning at Court Street and extending northerly for a distance of 60 feet.
	On the westerly side beginning at Court Street and extending southerly for a distance of 158 feet.
	On the easterly side beginning at Court Street and extending southerly for a distance of 174 feet.
Stetson Road	On the southerly side beginning opposite Central Maine Power Pole #14 and extending easterly for 790 feet.
Stevens Mill Road	On the southwesterly side beginning at the intersection of Court Street and running in a northwesterly direction for a distance of 450 feet.
	On both sides from Minot Avenue to Court Street.
	On the northerly side beginning at Garfield Road and extending westerly to the end of the street.
Summer Street	On the northerly side from Dennison Street to Rowe Street.
Temple Street	On the west side beginning at Manley Street and extending to the dead end.
Troy Street	On both sides, for its full length.
Turner Road	On both sides beginning at the northerly intersection of Turner Street and Center Street and extending northerly to the intersection of Fair Street and Turner Road.
Turner Street	On the easterly side from Court Street to the Turner Street entrance to the Great Falls Plaza.
	On the southerly side beginning at the easterly curbline of Dennison Street and extending easterly for a distance of 104 feet.
	On the easterly side beginning at a point opposite the southerly side of Pleasant Street and extending in a northerly direction to Center Street.
	On the northerly side from Lake Auburn Avenue to French's Lane.
	On the westerly side between Pleasant Street and Center Street.
	On the westerly side beginning at the southerly curbline of Hampshire Street and extending southerly for a distance of 80 feet.
	On the northerly side beginning at Center Street and extending westerly for a distance of 212 feet.
	On the southerly side between Burns Street and Union Street Bypass.
	Opposite Church Street at no parking signs.

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**Phillip L. Crowell, Jr.**, City Manager



# City Council Ordinance

Union Street	On both sides from Court Street to the intersection of Center and Turner Streets.
Vine Street	On the northerly side for its full length.
	On the southerly side beginning at the easterly curblin of High Street and extending in an easterly direction for a distance of 70 feet.
Vining Street	On the southerly side from Winter Street easterly to Summer Street.
Washington Street	On the southbound lane, beginning at Minot Avenue and extending in a southerly direction to Brick Yard Hill.
	On the northbound lane, beginning at Brick Yard Hill and extending in a northerly direction to the intersection of Minot Avenue.
West Auburn Road	On the westerly side beginning at a point opposite the northerly line of Summer Street and extending in a northerly direction for a distance of 1,425 feet.
	On the easterly side beginning at CMP Pole #146 and extending northerly 288 feet.
Western Avenue	On the westerly side beginning at the northerly curblin of Minot Avenue and extending in a northerly direction for a distance of 80 feet.
	Beginning on the easterly side at the northerly curblin of Minot Avenue and extending in a northerly direction for 115 feet.
Western Prom	South side.
Whitney Street	On the northerly side beginning at the northeasterly corner of Lake Auburn Avenue, extending in an easterly direction for a distance of 70 feet.
Willow Street	On the westerly side beginning at Hampshire Street and extending in a northerly direction to Manley Street, between 7:30 a.m. and 4:30 p.m. on days when Webster School is in session.
Wilson Street	On both sides from Field Avenue to the end.
Wood Street	On the easterly side for its full length.
Youngs Corner Road	On the southerly side beginning at a point located 490 feet easterly of Perkins Ridge Road and extending in an easterly direction for 270 feet.
	On the southerly side beginning at a point 1,230 feet easterly of Perkins Ridge Road and extending in an easterly direction for a distance of 310 feet.

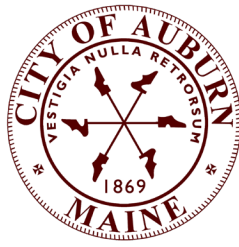
Amended and passed first reading 7-0, 12/2/24.  
 Passed second reading 7-0, 12/16/24.

**Richard S. Whiting**, Ward One  
**Benjamin J. Weisner**, Ward Four  
**Belinda A. Gerry**, At Large

**Timothy M. Cowan**, Ward Two  
**Leroy G. Walker, Sr.**, Ward Five  
**Jeffrey D. Harmon**, Mayor

**Stephen G. Milks**, Ward Three  
**Adam R. Platz**, At Large  
**Phillip L. Crowell, Jr.**, City Manager





**Ordinance 23-12022024**

# City Council Ordinance

**IN CITY COUNCIL**

**Be it ordained,** that the City Council hereby amends Chapter 60 - ZONING of the City's Code of Ordinances as shown on the attached.

Passed second reading/public hearing on  
01/06/25, 4-1 (Walker opposed; Milks and  
Weisner absent).

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**Richard S. Whiting**, Ward One  
**Benjamin J. Weisner**, Ward Four  
**Belinda A. Gerry**, At Large

**Timothy M. Cowan**, Ward Two  
**Leroy G. Walker, Sr.**, Ward Five  
**Jeffrey D. Harmon**, Mayor

**Stephen G. Milks**, Ward Three  
**Adam R. Platz**, At Large  
**Phillip L. Crowell, Jr.**, City Manager

## **ARTICLE II. GENERAL PROVISIONS**

### **Sec. 60-34. Buildings per lot.**

No more than one principal building shall be erected on any lot in residential zoning districts except for:

- (1) Multi-family buildings and/or developments approved under Division 9 of Article IV of this chapter;
- (2) ~~An additional one family detached~~The addition of an accessory dwelling unit in a zoning district where two-family~~ies~~ dwelling units are permitted, and a single-family dwelling currently exists on the lot.
- (3) Four dwelling units may be constructed on vacant lots in the growth area as delineated in the Future Land Use Map in the most recent Comprehensive Plan and must be permissible in compliance with State Law and in accordance with Sec. 60-53 and Sec. 60-54. For the purpose of this Subsection, a vacant lot upon which a new dwelling unit was permitted in 2024 shall be considered a vacant lot for the purpose of calculating the total number of permissible dwelling units that may be constructed on the lot.
- (4) A lot in the growth area as delineated in the Future Land Use Map in the most recent Comprehensive Plan with an existing dwelling unit may add one attached dwelling unit, one detached dwelling unit, or one of each for a total of three dwelling units and must be permissible in compliance with State Law and in accordance with Sec. 60-53 and Sec. 60-54.
- (5) Lots in the designated growth areas that are zoned Urban Residential, Suburban Residential, Rural Residential, and Low-Density Country Residential shall contain no more than two dwelling units per building.

The additional one-family detached dwelling unit shall share a driveway curb cut with the pre-existing dwelling unless it is determined that another driveway location could provide safer access than the existing driveway.

(Ord. of 9-21-2009, § 3.1B; Ord. No. 11-03012021, § 1, 3-15-2021; Ord. No. 18-04052021, 5-3-2021)

### **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.
- (5) Single family dwellings may be converted into two or multi-family buildings if located in the growth area as delineated in the Future Land Use Map of the most recent Comprehensive Plan and pursuant to Sec. 60-53 and Sec. 60-54.
- (6) Lots in the designated growth areas that are zoned Urban Residential, Suburban Residential, Rural Residential, and Low-Density Country Residential shall contain no more than two dwelling units per building.

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

**Secs. 60-53. Additional dwellings permitted to increase housing opportunity.**

Additional dwelling units must be permissible on certain parcels in the City of Auburn pursuant to Sec. 60-34. This table specifies the additional lot area needed for additional units in each zoning district as well as permissible accessory dwelling units. Setback standards shall not be reduced to allow for additional dwelling units and shall not be increased for subsequent dwelling units. Additional dwelling units allowed under this section are prohibited in the Lake Auburn Watershed Overlay District where the underlying zoning district is Agriculture and Resource Protection. Additional dwelling units allowed under this section are subject to more stringent lot size requirements per unit if located in the Taylor Pond Watershed.

<b>Zoning District</b>	<b>Minimum lot area (per unit)</b>	<b>Minimum lot width (per unit)</b>	<b>Accessory Dwelling Unit</b>
<u>Agriculture &amp; Resource Protection</u>	<u>10 acres</u>	<u>250 feet</u>	<u>Permitted if unit meets requirements for single family home in Article IV, Division 2 of this Chapter*</u>
<u>Low Density Country Residence</u>	<u>3 acres for the first unit with accessory dwelling unit. 3 acres for each subsequent unit.</u>	<u>325 feet for the first unit. No width is required for subsequent units.</u>	<u>Permitted</u>
<u>Low Density Rural Residence</u>	<u>1 acre for the first unit with accessory dwelling unit. 1 acre for each subsequent unit.</u>	<u>250 feet for the first unit. No additional width is required for subsequent units.</u>	<u>Permitted</u>
<u>Suburban Residence</u>	<u>21,780 square feet for the first unit with accessory dwelling unit. 21,780 square feet for each subsequent unit.</u>	<u>150 feet for the first unit. No additional width is required for subsequent units.</u>	<u>Permitted</u>

<u>Urban Residence</u>	<u>10,000 square feet for the first unit with accessory dwelling unit. 10,000 additional square feet per unit for each subsequent unit.</u>	<u>100 feet for the first unit. No additional width is required for subsequent units.</u>	<u>Permitted</u>
<u>Multifamily Suburban</u>	<u>10,000 square feet minimum.</u>	<u>100 feet for the first unit. No additional width is required for subsequent units.</u>	<u>Permitted</u>
<u>General Business</u>	<u>10,000 square feet minimum.</u>	<u>100 feet for the first unit. No additional width is required for subsequent units.</u>	<u>Permitted</u>
<u>General Business II</u>	<u>10,000 square feet minimum.</u>	<u>100 feet for the first unit. No additional width is required for subsequent units.</u>	<u>Permitted</u>
<u>Form Based Code</u>	<u>No minimum lot size. See Ch. 60 Article IV Division 14</u>	<u>24 feet minimum width. See Ch. 60 Article IV Division 14</u>	<u>Permitted</u>
<u>Industrial</u>	<u>Housing only permitted as accessory buildings for caretakers (see Sec.60-578)</u>	<u>150 feet</u>	<u>Permitted for legally existing residential dwellings built before January 1, 2024.</u>
<u>Lake Auburn Watershed Overlay District</u>	<u>Please refer to the underlying zone and CH. 60 Article XII Division 4. Sec. 60-</u>	<u>Please refer to the underlying zone and CH. 60 Article XII Division 4.</u>	<u>Permitted subject to Lake Auburn Watershed Overlay District accessory dwelling unit allowances.</u>
<u>Taylor Pond Watershed</u>	<u>Minimum lot size in the underlying zone for the first unit with accessory dwelling unit. Minimum lot size is required for each additional unit.</u>	<u>Minimum width required in the underlying zone. No additional width required for subsequent units.</u>	<u>Permitted</u>

\*Does not apply if within the Lake Auburn Watershed Overlay District.

**Secs. 60-54. Affordable housing density bonus.**

For an affordable housing development, a density bonus of 2.5 times the maximum number of dwelling units permitted in the underlying zone shall be permitted where water and sewer service are available, and the development is in the growth area as delineated in the Future Land Use Map in Auburn’s latest Comprehensive Plan. Off-street parking requirements may not exceed two spaces for every three units.

## ***ARTICLE IV. DISTRICT REGULATIONS***

### ***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 outlined 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)

### ***DIVISION 3. LOW DENSITY COUNTRY RESIDENTIAL DISTRICT***

#### **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), (14) and (15).
- (2) One-family detached dwellings.
- (3) Two-family dwellings.
- (4) Lawn maintenance services.
- (5) Multi-family dwellings with up to four (4) units if in the growth area delineated in the Future Land Use Map in the most recent Comprehensive Plan pursuant to 30-A MRSA §4364 and to Sec. 60-53 and Sec. 60-54 of this Chapter. Subdivision law applies.

(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, (division 2 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.

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(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; Ord. No. 11-03012021, § 9, 3-15-2021; Ord. No. 27-06212021, 7-19-2021)

## ***DIVISION 4. LOW DENSITY RURAL RESIDENCE DISTRICT***

### **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 9 of Article IV and Division 4 of Article XVI 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.
- (11) Multi-family dwellings with up to four (4) units if in the growth area delineated in the Future Land Use Map in the most recent Comprehensive Plan pursuant to 30-A MRSA §4364 and to Sec. 60-53 and Sec. 60-54 of this chapter. Subdivision law applies.

## ***DIVISION 5. SUBURBAN RESIDENCE DISTRICT***

### **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 9 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) Farm, livestock provided that the land area required per animal unit conforms to the definition of 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.
  - (13) Multi-family dwellings with up to four (4) units if in the growth area delineated in the Future Land Use Map in the most recent Comprehensive Plan pursuant to 30-A MRSA §4364 and to Sec. 60-53 and Sec. 60-54 of this chapter. Subdivision law applies.

## *DIVISION 6. URBAN RESIDENCE DISTRICT*

### **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 9 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.
  - (7) Multi-family dwellings with up to four (4) units if in the growth area delineated in the Future Land Use Map in the most recent Comprehensive Plan pursuant to 30-A MRSA §4364 and to Sec. 60-53 and Sec. 60-54 of this chapter. Subdivision law applies.

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## *DIVISION 7. MULTIFAMILY SUBURBAN DISTRICT*

### **Sec. 60-306. Use regulations.**

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

- (1) One-family detached dwellings.
- (2) Two-family dwellings.
- (3) Multi-family 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 9 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 multi-family 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.

### **Sec. 60-554. Form based code use and parking matrix.**

#### **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-4.1, T-4.2B, T-4.2, T-5.1, T-5.2 and T-6 may be provided by the municipality or private parking resources within 500 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.
- (4) Office, service and retail uses limited to 1,500 SF footprint and must include a residential unit; no drive through businesses allowed.
- (5) All projects shall provide a community impact and needs analysis with review and approval from City Council or its designee.
- (6) For an affordable housing development, off-street parking requirements may not exceed 2 spaces for every 3 units.

(Ord. No. 04-03072016, 5-16-2016; Ord. No. 05-04032017, § 2, 4-24-2017; Ord. No. 07-05202019, 6-3-2019; Ord. No. 29-06212021, 7-19-2021; Ord. No. 20-09062022, § 3, 9-19-2022; Ord. No. 02-02132023, 2-17-2023)



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**Sec. 60-608. Parking requirements.**

A minimum number of off-street parking spaces shall be provided with each residential 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	1 dwelling per unit
Multi-family; two-family	1 dwelling per unit
Elderly**	One-half per dwelling unit
<u>Affordable housing development</u>	<u>Off-street parking requirement may not exceed 2 spaces for every 3 units.</u>
**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; Ord. No. 28-06212021, 7-19-2021)

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## 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, woodsheds, 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 dwelling unit* means a self-contained dwelling unit meeting a minimum of 190 square feet and not to exceed 1,500 square feet, that can be located within, attached to or detached from a single-family dwelling unit located on the same parcel of land

*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.

*Affordable Housing Developments* means as defined in 30-A MRSA §4364.

*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.

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*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 tow truck 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.

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*Boardinghouse or lodging house* 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 childcare 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.

*Childcare 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 childcare home. The term "childcare home" includes any family-type facility which provides childcare 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.

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- (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.

*Conservation cemetery* means a type of natural cemetery that includes a conservation management plan that upholds best practices, and provides perpetual protection of the land according to a conservation easement or deed restriction. Burials in conservation cemeteries utilize non-toxic and biodegradable materials.

*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.

*Correctional institution* means a publicly or privately operated facility generally designed for the confinement, correction, and rehabilitation of adult and/or juvenile offenders sentenced by a court.

*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.

*Detention facility.* In the case of an adult or juvenile, "detention" means the confining of an adult or juvenile held in lawful custody in a specially constructed or modified facility designed to ensure continued custody and control. "Detention" may be confinement before trial or another hearing by a court or confinement to serve court-imposed sentences or dispositions and may be in a step-down, jail, half-way house or lock-up facility.

*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.

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*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 accessory dwelling unit must be at least 190 square feet, above grade in size, unless the Technical Building Code and Standards Board, pursuant to 10 M.R.S.A. 9722, adopts a different minimum standard; if so, that standard applies.

*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 unit must be at least 400 square feet above grade in size, and an accessory detached dwelling unit must be 190 square feet, above grade in size, unless the Technical Building Code and Standards Board, pursuant to 10 M.R.S.A. 9722, adopts a different minimum standard; if so, that standard applies.

*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.

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*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.

*Government offices* means a room or group of rooms used for conducting the affairs of a government entity, not entailing the sale of goods except that which is clearly incidental.

*Government services*, for the purposes of this chapter, includes the functions performed by the various government agencies in the city. Government services include the following: government administration, courts, public schools, postal services, public works and municipal utilities.

*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

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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.



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*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.

*Jail* means a specially constructed or modified facility designated by law or regularly used for detention for a period of up to 12 months.

*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.

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*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.

*Lock-up facility* means a facility designated by law or regularly used for detention for a temporary period before trial or transfer to a jail or other facility.

*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)

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- (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.

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*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 400 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 or public utilities and communications facilities* means the use of land for public utility purposes by an entity providing pipeline, gas, electrical, telephone, telegraph, water, or sewage service. "Public utility" also includes the use of land for utility purposes, whether or not owned, controlled, or operated by a public entity, whose services are performed for or commodities delivered to the public or any portion thereof. Facilities that provide for the transmission, transfer, and distribution of telephone service and related activities that are not a minor or major utility facility. For the purposes of the chapter, a municipal or public utility or communications facility includes, but is not limited to, the following: a private telephone company or paging service, any utility regulated by the Maine Public Utilities Commission, and any other commercial communications tower.

*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.

*Natural resource uses* means uses that utilize naturally occurring assets such as air, water, soils, fuel, minerals, plants or animals to provide public benefit through the provision of raw materials and/or energy.

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*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 year round 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.

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*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.

*Public safety services* means facilities operated by public agencies to provide services relating to the general health, safety, and welfare of the population, including but not limited to fire stations and other fire prevention and firefighting facilities; police and sheriff substations and headquarters; and emergency response services, excluding correctional facility, interim incarceration, lock-up or jail facilities.

*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, sports field complexes larger than one acre in area, health and wellness centers, motorhome or recreational vehicle parks or commercial campgrounds, and facilities for wedding or event venues when used for two or more events during a calendar year, or facilities for mass gatherings when used for two or more events during a calendar year. See also *major recreational use of land* and *recreational uses of land, small-scale*.

*Recreational uses of land, small-scale* means permanent uses of outdoor space that are intended or designed for public use that are smaller or lower impact than other types of recreational uses of land, and include, but are not limited to, trails, water access or boat access facilities, foraging, outdoor education or training facilities, sports field complexes one acre or less in area, and public gardens.

*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.

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*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.

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*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.



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*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.

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*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.

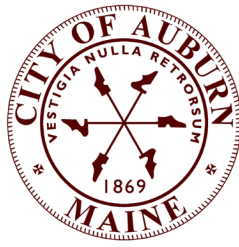
*Yard, front*, means the open space extending across the full width of lot between the front lot line and nearest line of the principal building or any enclosed portion thereof. The depth of such yard shall be the shortest horizontal distance between the front lot line and the nearest point of the building 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; Ord. No. 11-03012021, 3-15-2021; Ord. No. 02-02132023, 2-17-2023; Ord. No. 04-04182023, 5-1-2023; Ord. No. 10-06202023, 7-10-2023; Ord. No. 22-10162023, 11-6-2023)



**Ordinance 24-12022024**

# City Council Ordinance

**IN CITY COUNCIL**

**Be it ordained,** that the City Council hereby amends Chapter 14 – BUSINESS LICENSES AND PERMITS of the City’s Code of Ordinances regarding Blasting as shown on the attached.

Passed first reading 12/2/24, 7-0.

Amended (substitute ordinance) and passed second reading 12/16/24, 7-0.

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**Richard S. Whiting**, Ward One  
**Benjamin J. Weisner**, Ward Four  
**Belinda A. Gerry**, At Large

**Timothy M. Cowan**, Ward Two  
**Leroy G. Walker, Sr.**, Ward Five  
**Jeffrey D. Harmon**, Mayor

**Stephen G. Milks**, Ward Three  
**Adam R. Platz**, At Large  
**Phillip L. Crowell, Jr.**, City Manager

## Chapter 14

### BUSINESS LICENSES AND PERMITS

#### Article XIX

#### BLASTING

##### **Sec. 14-700. - Purpose; statutory authority; enforcement.**

- A. Blasting is an activity essential to the economic viability of Auburn. Unregulated blasting and/or irresponsible blasting may cause undue damage to the people, property and environment of the City.
- B. This chapter establishes specific standards for blasting operations, notice requirements, instrument monitoring requirements of blasting operations, a permit process for blasting and other associated standards and requirements.
- C. It is intended to minimize the effects of air overpressure, ground vibration, dust, and noise associated with blasting which may be detrimental to the enjoyment of life, property and the conduct of business for those individuals affected.
- D. It is also intended to provide standards that will prevent permanent damage to the geologic, hydrogeologic and wildlife resources and ecological balance in the region outside the immediate blast area. The chapter is intended to protect the quality of life and the homes of residents, neighborhoods, property, groundwater, wildlife resources, scenic beauty and/or businesses, all lying outside the approved work area and potentially affected by the blasting.
- E. It is intended to be effectively and efficiently administered without causing undue financial and administrative hardship to blasting operators.
- F. This chapter is enacted pursuant to 30-A M.R.S.A. § 3001, Ordinance power, as well as the City's Home Rule authority under the Maine Constitution, and shall be administered by the Planning, Permitting, and Code Department.
- G. The city planning, permitting, and code department shall have authority to enforce all requirements of this Chapter in accordance with section 60-1403.

##### **Sec. 14-701. - Definitions.**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Air overpressure* means an airborne shock wave resulting from detonation of explosives. Air overpressure may be caused by burden movement or the release of expanding gas into the air. Air overpressure may or may not be audible.

*Applicant* means the owner or other individual, corporation or other business entity who or which applies for the legal right to conduct blasting at real property which it has the legal right to use.

*Blast site* means the area where explosive material is handled during the loading of drilled blastholes, including the perimeter formed by the loaded blastholes and 50 feet in all directions from loaded blastholes.

*Blast size* means, for a

- A. Small blast: trench blast or under 50 cubic yards of rock removed.
- B. Medium blast: removal of 50 to 300 cubic yards of rock material.
- C. Large blast: removal of over 300 cubic yards of rock material.

*Blaster* means an applicant who has been awarded a permit to conduct blasting.

*Blasting* means the use of explosives to break up or otherwise aid in the extraction or removal of rock or other consolidated material.

*Blasting operations* means all processes conducted in association with site or other preparation for blasting, and the detonation of explosives.

*Decibel* means the unit of sound pressure commonly used to measure air overpressure from explosives. The decibel scale is logarithmic.

*Explosives* means any substance, chemical compound or mechanical mixture that is used for the purpose of producing an explosion to fragment rock for mining, quarrying, excavation and construction. Initiating devices (detonators, detonating cords, etc.) are also included under this definition.

*Extractive industry* means any operation engaged in the removal of more than 20 cubic yards, in a twelve-month period, of topsoil, sand, gravel, clay, rock, peat or other like material from its natural location and for transportation off lot within any twelve-month period, except as may be exempted within the extractive industry performance standards in this chapter.

*Flyrock* means rock that is propelled through the air or along the ground, which leaves the secured blast area as a result of the detonation of explosives.

*Ground vibrations* means the energy from a blast that manifests itself in vibrations which are transmitted through the earth away from the immediate blast site. Ground vibrations are to be measured along three principal axes (x, y, z); namely, transverse, vertical, and longitudinal, all of which are subject to the performance standards herein.

*Groundwater* means water beneath the earth's surface often between saturated soil and rock that supplies wells and streams.

*Hertz* means a term used, in the case of blasting, to express the frequency of ground vibrations and air overpressure. One hertz is one cycle per second.

*Particle velocity* means a measure of ground vibration in the case of blasting. Particle velocity describes the velocity at which a particle of ground vibrates when excited by a seismic wave. It is measured in inches per second.

*Pre-blast Survey* means an inspection of the dwellings, water supplies, and other structures within the blasting notice area for the purpose of documenting the physical conditions prior to the commencement of blasting.

*Quarry* means the property designated in the application and permit where rock is excavated in an extractive industry operation.

*Secured blast area* means the area that may be affected by flyrock, dust, or fumes from an explosion that may cause personal injuries, damage to property, or losses in the process. The minimum distance for personnel is 500 feet. Safe distances will be determined based on conditions for each blast by the blasting foreman or designee.

*Seismograph* means an instrument that measures and has the capability to provide a permanent record of hertz and decibel readings concerning ground vibrations caused by blasting.

*Source water* means bodies of water (such as rivers, streams, lakes, reservoirs, springs, and ground water) that provide water to public drinking-water supplies and private wells.

**Sec. 14-702. - Blasting permit required; effect on other regulations.**

- A. No blasting within the City of Auburn shall be allowed unless a permit has been obtained from the city planning, permitting, and code department, except as otherwise exempted per this chapter.
- B. The requirements of this chapter are in addition to any other applicable ordinances, regulations, and statutes. This includes adherence to the standards set forth in NFPA 495. Where different standards are contained within these documents or any other relevant regulations, the more restrictive standards shall apply
- C. This chapter does not replace or negate federal and/or state requirements pertaining to explosives including OSHA CFR 1923.900 and 1910.109

**Sec. 14-703. - Permit requirements.**

A. Blasting permit required.

(1) The following shall require a permit:

- (a) Site plan/subdivisions. If the Planning Board determines that a project involves or may require blasting, it shall expressly state and set out in its conditions of approval for such project that the applicant/developer secure from the director of the city planning, permitting, and code department, or their designee, a proper blasting permit in advanced of blasting, and as required herein.
- (b) General construction. For any specific construction project, whether reviewed or not reviewed by the Planning Board as part of site plan or subdivision, that is found to need blasting at any time, the owner/developer, or responsible general contractor, shall secure a blasting permit, as described herein, from the director of the city planning, permitting, and code department, or their designee, prior to any blasting.
- (c) Extractive industry and gravel pits. Any party who operates a gravel pit or who otherwise engages in extractive industry or earth removal operations shall secure from the director of the city planning, permitting, and code department, or their designee, a blasting permit, as described herein, prior to any blasting.
- (d) All other blasting locations. Any other person or party, regardless of prior review, and regardless of purposes, that may need to conduct blasting shall be required to obtain a blasting permit, as described herein, from the city planning, permitting, and code department.

- (2) No person or party may conduct any blasting within the boundaries of the City of Auburn without first having obtained review and approval from the director of the city planning, permitting, and code department, or their designee.

B. Notice required.

- (1) Blasting activities for Extractive Industries and Quarries shall require an application for a permit to conduct blasting operations at least 30 days prior to conducting blasting or drilling. The application for permit to conduct blasting shall contain the information described in Paragraph C, referred to as the "blast plan"

- (a) Following the issuance of permit, notice of the blasting shall be made public in at least one newspaper of general circulation in the area at least 10 days before initiation of blasting at the site.
    - (b) Annually thereafter, extractive industry sites and quarries shall renew their permit by providing a new application at least 30 days prior to expiration of their permit.
  - (2) All other proposed blasting activities in the City of Auburn shall require an application for a permit to conduct blasting operations at least 14 days prior to conducting blasting or drilling. Notice of blasting to be given to the city planning, permitting, and code department, in writing, at least 10 business days prior to the proposed start of blasting. Notice of the blasting shall be made public in at least one newspaper of general circulation in the area at least 10 days before such blasting is scheduled to take place.
- C. Blasting application information. All applications for permits to conduct blasting shall contain the following information, referred to as the "blast plan."
  - (1) Applicant: the applicant's name, address, daytime telephone number, fax number, and e-mail address.
  - (2) Owner's name, address, daytime telephone number, fax number, and e-mail address.
  - (3) Blasting contractor: the blasting contractor's name, address, daytime telephone number, fax number, and e-mail address (if other than the blaster). Contractor shall submit written evidence of license(s) held, experience and qualifications of the individual who will be responsible for loading and firing each shot.
  - (4) General contractor: the general contractor's name, address, daytime telephone number, fax number, and e-mail address.
  - (5) Work site: the street address and Tax Assessor's map and lot number for the proposed blasting activity. If the blast plan is for a property shown on a plan reviewed by the Planning Board, the blast area for which the permit is requested shall be included on the plan.
  - (6) Information about the blast plan to include the following:
    - (a) Purpose of blast: a brief description of the work for which the blasting activity is requested.
    - (b) Volume of material: the estimated number of cubic yards (measured in place) of material to be loosened or fragmented by blasting.
    - (c) Number of blasts: the estimated number of blasts required to loosen or fragment the specified amount of material.
    - (d) Blast period: the planned starting and ending dates of the blasting activity.
    - (e) Site diagram: a sketch or diagram showing the property where blasting will be conducted, including: the location of adjacent structures and distance to those structures; description and location of blasting signs.
    - (f) Description of test blast drill pattern.
    - (g) Explosives to be used during both wet and dry conditions.
    - (h) Description of matting that will be used to prevent flyrock.

- (i) Type, number, and planned locations of seismograph, and any other instrumentation proposed for use to monitor vibrations and air overpressures.
  - (j) Description of proposed transport and storage of explosives.
  - (k) Description of safety procedures, security measures, and warning procedures to be employed before, during and after the blast period.
  - (l) Signature of blasting contractor testifying to the accuracy of the blast plan.
  - (m) Dig safenumber
- D. Liability insurance. Blasting contractors and/or applicants shall carry general liability insurance in accordance with the following:
  - (1) The amount insured must be a minimum amount of \$2,000,000 combined single limit per occurrence.
  - (2) The insurance policy must contain specific reference to blasting as an activity covered by the insurance.
  - (3) The policy shall indemnify and hold harmless the City, its agents and/or representatives, employees, and residents from and against any or all claims, damages, losses and expenses including legal fees arising out of or resulting from performance of the work, provided that such claim, damage, loss or expense is attributable to bodily injury or death, or to injury to or destruction to tangible personal or real property, including the loss of use, resulting in whole or in part from the blasting activity by any negligent act or omission of the contractor or any of its officers, agents, employees, representatives, subcontractors, and/or anyone directly or indirectly employed by any of them or anyone for whose acts any of them would be liable regardless of whether it is caused in part by a party indemnified hereunder and the contractor shall, at its own expense, defend and protect said indemnified parties against all such claims and demands.
  - (4) The City shall be named as a certificate holder to ensure the liability insurance is maintained throughout the duration of the blasting operation. The certificate must provide that the City of Auburn shall be notified at least 10 days prior to any cancellation
- E. Public hearing. A public hearing is not required prior to the issuance of a blasting permit by the director of the city planning, permitting, and code department, or their designee.
- F. Fees. Fees for blasting permits shall be as determined, and amended from time to time, by City Council order.
- G. Permit duration.
  - (1) Extractive Industries and Quarry permits shall be valid for one year. No blasting after one year shall occur except as permitted herein.
  - (2) All other blasting permits shall be valid for a period of 90 days. No blasting after 90 days shall occur except as permitted herein.
  - (3) Lapse and extension. Any party that does not complete its blasting within the defined permit period may apply to the director of the city planning, permitting, and code department, or their designee, for a reasonable extension, not to exceed 60 days. The director shall have full discretion as to the length and condition of any extension. If the ninety-day period lapses prior to a request for extension, the director may require that the



party reapply for a new blasting permit.

H. Notice and pre-blast survey.

- (1) The following notification and pre-blast survey requirements shall be required for all blasting permits prior to commencing blasting:

	Small blast (feet)	Medium blast (feet)	Large blast (feet)
Notice required	500	700	900
Pre-blast survey to be offered	100	300	500

- (2) The blasting contractor will hire an independent qualified seismologist, blasting consultant or engineer to perform pre-blast surveys on all structures and wells in the areas outlined in Subsection H(1) above, contingent upon property owner agreement. The independent seismologist or blasting consultant shall not be an employee of the contractor, subcontractor, explosives manufacturer, or explosives distributor.
- (3) Pre-blast survey offer notice: Prior to commencement of the pre-blast surveys, the blasting contractor shall provide the following documentation to the city planning, permitting, and code department:
- (a) A list of property owners to be contacted (in accordance with the distances listed in the table above).
  - (b) Verification that the subject property owners were notified of the pre-blast survey work.
  - (c) A copy of the pre-blast survey offer notice.
  - (d) Whether each offer to conduct a pre-blast survey was either accepted, rejected, or there was no response. The blasting contractor shall retain a copy of each pre-blast survey offer notice for their records until the development project receives a final certificate of occupancy or is otherwise deemed complete by the City. Nothing herein shall be construed to discourage repeated efforts by the blasting contractor to contact eligible property owners via phone, hand delivery, or other method in addition to provision of the required offer notice letter.
- (4) Pre-blast survey documentation. All pre-blast surveys shall include documentation of interior subgrade and above-grade accessible unobscured walls, ceilings, floors, roof and visible exterior as viewed from the grade level. Where significant cracks or damage exist, or for more complex structural defects, photographs or video shall be taken. A high-quality digital video or videotape survey with appropriate audio description of the locations, conditions, and defects may substitute for a written pre-blast survey. Where necessary, notes and sketches may also be used as part of a video pre-blast survey in order to highlight or elaborate on certain aspects of the video documentation.
- (5) Pre-blast survey conditions report. All pre-blast surveys shall include an existing conditions report for each property. The conditions report may be presented as narrative, photographs, video or a combination thereof. Conditions reports shall summarize the condition of each building and define areas of concern, including deteriorated structures or utilities, structures housing sensitive equipment, and/or manufacturing processes that

are sensitive to vibrations.

- (6) Verification that all pre-blast surveys and conditions reports have been completed shall be submitted to the city planning, permitting, and code department at least two weeks prior to commencing any drilling and/or blasting operations.
- (7) The blasting contractor shall maintain a copy of the pre blast survey conditions report for a minimum of six years after the conclusion of blasting.
- (8) The blasting contractor shall make a copy of the pre-blast survey conditions report available to the property owner.

#### **Sec. 14-704. - Performance standards.**

All blasters shall comply with the following performance standards:

##### **A. Hours of detonation.**

- (1) Extractive industry blasting. Hours of detonation are limited to between 10:00 a.m. and 5:00 p.m., Monday through Friday inclusive, excluding the following legal holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving, and Christmas.

(2) At the discretion of the Director of Planning, Permitting, and Code Department, small scale blast of less than 25 pounds of explosives which occur more than 500 feet from a structure may be permitted on weekends and holidays.

(2)(3) All other blasting. Hours of detonation are limited to between sunrise and sunset but no earlier than 7:00 a.m. and no later than 7:00 p.m., Monday through Friday inclusive, excluding the following legal holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving and Christmas, unless otherwise more restrictive hours of detonation are specified by the Planning Board.

(3)(4) Emergency situations. Blasting of any type may occur at any time in situations deemed to be emergencies by the director of the city planning, permitting, and code department, or their designee, after consultation with other City staff as may be determined to be necessary by the director. Emergency situations may include, but are not limited to, blasting to install utilities damaged by weather events, unanticipated needs for blasting to complete City infrastructure project when the delay would significantly affect project timelines or City services, or blasting to correct a misfire of explosives in an otherwise permitted blast event.

(4)(5) In consideration of the safety hazards and community concerns associated with adverse weather conditions, this ordinance permits the adjustment of blasting operations in response to lightning-related disruptions, wind-related community concerns, and atmospheric conditions, including pressure variations. When such conditions are present, operators are authorized to modify the timing and duration of blasting activities as necessary to ensure the safety of all personnel, minimize impacts on the surrounding community, and maintain compliance with regulatory requirements. Any adjustments made must be promptly communicated to the appropriate authorities and property owners.

- B. Water quality protection. Water is a precious resource, and the applicant must take measures to ensure that the quality of source water is protected. Prior to the initial blast, the applicant must offer water quality tests on all non-applicant-owned wells within distances outlined in Sec. 14-703(H) above. Water quality testing must also be completed post-blast if requested by the property owner because of evidence of a substantive change in water quality. Turbidity in wells tested shall be no greater than that which existed prior to the blasting as established in the pre-blast survey.

C. Ground vibration, Air Overpressure, Flyrock and Gases

- (1) Ground vibration, Air Overpressure, Flyrock and gases shall be controlled and shall not exceed the limits defined in NFPA 495.
- (2) Measurements shall be required for all blasts. Ground vibration shall be measured as particle velocity. Particle velocity shall be recorded in three mutually perpendicular directions (x, y, z). The maximum allowable peak particle velocity shall apply to each of the three measurements. Any blast made with less than 25 pounds of explosives in an Extractive Industry or Quarry operation which occurs more than 500 feet from a structure, building, or source water is exempt from this seismological measurement requirement.
- (3) Seismographic record. A seismographic record for all blasts shall be retained by the applicant and provided to the city planning, permitting, and code department or the Planning Board, if requested. The applicant is responsible for such record and for providing proper instrumentation as specified in this chapter. Personnel conducting such monitoring shall be properly trained in the operation of the equipment being used.
- (4) Measurements. The requirements established herein shall be measured at the closest building(s) on abutting properties as determined by the director of the city planning, permitting, and code department, or their designee,

D. Other permits. The applicant must also comply with all standards and conditions contained in other permits issued for such projects and local, state and federal statutes and regulations.

E. Blasting seismographs used to monitor ground vibrations and air overpressure shall comply with the ISEE document, "Performance Specifications for Blasting Seismographs" and all seismographs shall be deployed in the field according to ISEE document, "Field Practice Guidelines for Blasting Seismographs."

**Sec. 14-705. - Notices.**

A. Required notification of blasting for Quarry Operations.

- (1) Initial notice. State licensed quarry operations are subject to public notification and public hearing processes prior to State licensure. This initial notification is to serve as notice to residents of the commencement of blasting at a new quarry site. The blaster must send, by first-class mail an advisory notice to all property owners within 2,000 feet of the secured blasting area. Notifications shall be mailed no later than 10 calendar days and no earlier than 14 calendar days prior to the initiation of blasting. A certificate of mailing shall be submitted to the city planning, permitting, and code department as verification that said mailings were done. Said notice must include the description of the blasting signals to be utilized during the operation. The blaster of either an earth removal operation or other project must provide notice to a property owner who has made a written request to the blaster.
- (2) Twenty-four-hour notice. Prior to every blast, the blaster shall notify all property owners within 2,000 feet of the production quarries. Such notification shall be given by telephone, or by door hangers on the door of the residence or business, between 24 hours and 48 hours prior to the blast. The notification shall state the time the blast is proposed to occur, and the blast may occur as early as one hour prior to the noticed time and as late as one hour after the noticed time. The burden of proof of notification is the responsibility of the blaster.

B. Required notification of blasting for all other blasting. The following notice requirements for any

blast requiring a blasting permit shall be adhered to by the blaster.

(1) Initial notice. The blaster must send initial notice by first-class mail an advisory notice to all property owners within the distances outlined in Sec. 14-703H(1) of the secured blasting area. Notification shall be mailed no later than 10 calendar days and no earlier than 14 calendar days prior to the initiation of blasting. A certificate of mailing shall be submitted to the city planning, permitting, and code department as verification that said mailings were done. Said notice must include the description of the blasting signals to be utilized during the operation. The blaster of either an earth removal operation or other project must provide notice to a property owner who has made a written request to the blaster.

(2) Twenty-four-hour notice. Prior to every blast, the blaster shall notify all property owners within 300 feet of the secured blasting area. This will be done whether or not the property owners requested to be notified. The blaster shall also notify all others who have requested in writing to be so notified. Such notification shall be given by telephone, or by door hangers on the door of the residence or business, between 24 hours and 48 hours prior to the blast. The notification shall state the time the blast is proposed to occur, and the blast may occur as early as one hour prior to the noticed time and as late as one hour after the noticed time. The burden of proof of notification is the responsibility of the blaster.

- C. **Emergency Services Notification:** The 911 dispatch center servicing the City of Auburn must be notified at least 24 hours prior to any explosive detonation. The notification shall include the address for the blast site as well as the anticipated start time for blasting and anticipated time that blasting will conclude for the day.

**Sec. 14-706. - Inspection, monitoring, and recordkeeping.**

- A. Entry. The director of the city planning, permitting, and code department, or their designee, may enter the secured blasting area or adjacent area to conduct site evaluations and observe any authorized blasting operations and may order that additional ground vibration and air overpressure measurements using approved instrumentation be made by persons responsible for blasting operations to ensure that the limits specified in this chapter are not exceeded, if excess readings are indicated.
- B. Additional monitoring. The blaster shall maintain a record of each blast. All records shall be retained at least three years following cessation of the blasting operation, and shall be available for inspection by the director of the city planning, permitting, and code department, or their designee, or any property owner within the distances outlined in Sec. 14-703H(1) of the secured blasting area, and shall contain the following minimum data for traceability purposes:
- (1) Name and contact information of responsible party: the name and contact information of the person(s) responsible for the blasting operation.
  - (2) Location, date, time, number and pattern/spacing of blast holes, total charge weight, charge weight per delay, date and time of each blast.
  - (3) Blaster: the name(s) of blaster in charge.
  - (4) Weather: the weather conditions (including such factors as wind direction, cloud cover, etc.).
  - (5) Data: seismograph and air overpressure readings, including date, time, and location of instrument.

- (6) Notice: name, addresses, date and time of all persons who were notified prior to every blast.

**Sec. 14-707. - Compliance schedule.**

- A. Applicability. Upon adoption of this chapter, all existing and new blasting operations are subject to the terms herein and must obtain a permit to conduct any further blasting.
- B. Review. A complete review of all activities under this chapter shall be undertaken by the director of the city planning, permitting, and code department 12 months after adoption of this chapter to determine if the levels are adequate and reasonable to achieve the purpose for which this chapter is intended. The results of this review shall be reported to the City Manager, who will report to the City Council with recommendations of the review.

**Sec. 14-708. - Exceptions for undue hardship.**

- A. Application. Applications for a permit for exception from the performance standards designated in this chapter may, on the basis of hardship, be made to the director of the city planning, permitting, and code department, or their designee. Any permit granted hereunder shall contain all conditions upon which said permit has been granted and shall specify a reasonable time that the permit shall be effective.
- B. Standards. The director of the city planning, permitting, and code department, or their designee, may grant the exception as applied for only if:
  - (1) Limited in scope: the activity or operation will be of a temporary duration, i.e., a limited number of blasts at a specific site, and cannot be done in a manner that would comply with this chapter;
  - (2) Reasonable alternative: no other reasonable alternative is available to the applicants; and
  - (3) Safety: the applicants represent, and the director of the city planning, permitting, and code department, or their designee, finds, that blasting as permitted will not violate recognized safety standards.
- C. Conditions. Upon the issuance of any exception permit, the director of the city planning, permitting, and code department, or their designee, may limit the scope of the exception and prescribe any reasonable conditions or requirements he deems necessary to minimize adverse effects.

**Sec. 14-709. - Violations and penalties.**

- A. Penalties. The submission of false information required by this chapter, or the violation of this chapter or the violation of any condition attached to a permit granted under this chapter shall constitute a land use violation for which an enforcement action may be commenced by the City in accordance with 30-A M.R.S.A. § 4452.
- B. Reporting. A copy of the violation report and consent agreement reached between the City and the person or entity found in violation of any portion of this chapter will be filed in the permit or license file.

**Sec. 14-710. - Conflict.**

Blasting in Auburn shall be conducted in compliance with all pertinent section of the City Code of Ordinances, and, except as superseded by the provision of this article, the NFPA 1 Fire Prevention

Code, and NFPA 495 Explosive Materials Code as adopted by the State of Maine. In any particular instance where these regulations are in conflict with any other rules, regulations or ordinances of the City, the more restrictive regulation or provision shall prevail.

**Sec. 14-711. - Appeal of denial of a blasting permit.**

If the city planning, permitting, and code department has denied a blasting permit under this article, the applicant may appeal the denial to the Zoning Board of Appeals within 30 days of the decision by filing a written notice of appeal.

**Sec. 14-712 to 725 Reserved.**