

PART II - CODE OF ORDINANCES
Chapter 60 - ZONING
ARTICLE XII. - ENVIRONMENTAL REGULATIONS
DIVISION 4. LAKE AUBURN WATERSHED OVERLAY DISTRICT

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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~~~~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 ~~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.

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.

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~~ 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.
 - 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 (2015/2023), 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 is located to prevent any under drain 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.

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.

- (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 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.

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- (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)

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.