

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

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***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 department of planning and permitting services and the city clerk. The Lake Auburn Watershed Overlay District shall be superimposed over underlying districts within such section. Permitted uses in the underlying districts shall continue subject to compliance with the provisions of the Lake Auburn Watershed 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.*

*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.

*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.~~

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*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.

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

*Lake Auburn Watershed Protection Commission* or *LAWPC* means the commission formed through an interlocal cooperation agreement between and among the City of Lewiston, three commissioners appointed by the Auburn Water District, 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.

*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.

*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.

*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 in order to qualify as organic fertilizer. 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 consistence 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. 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

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

*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.**

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

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- (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 this 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) *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 shown in the definition of Farm, Livestock as shown 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.
- (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

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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.

- (~~e~~) Manure and sludge spreading, storage, and disposal. The spreading 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 may be issued by the director of the city planning, permitting, and code department, or their designee, after consultation with the LAWPC watershed manager:
- 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.

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

#### 1. Subsurface Wastewater Disposal Systems.

(f) Private subsurface wastewater disposal systems. The following regulations shall be adhered to in the development of private subsurface wastewater disposal systems in the Lake Auburn Watershed Overlay District:

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- (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 are met before the LPI finds the design or installation of the system to comply with this section.
  - (2) No new disposal field shall be installed closer than 400 feet to the normal high-water mark of any lake, pond, or year-round or intermittent stream (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.
  - (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.
  - (4) All private subsurface wastewater disposal systems, replacement or new, shall either have:
    - a. A curtain drain installed per Section 11(H) of the Maine Subsurface Wastewater Disposal Rules, 10-144 C.M.R. ch. 241 (2015), 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), 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.

- (5) All private subsurface wastewater disposal systems, replacement or new, shall be installed on the same lot as the 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 a 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 replacement system's location on adjacent lots.
- (6) 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.
- (7) The Auburn Water District 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 health officer, police chief, local plumbing inspector or housing inspector of any observed defects or malfunction that require abatement action by the property owner or operator.
- (8) The local plumbing inspector shall furnish a copy of all site evaluation reports in the Lake Auburn Watershed Overlay District to the Auburn Water District or its designee.

(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)



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

All buildings and structures, except those requiring direct access to the water as an operational necessity, shall be constructed not less than 75 feet inland from the normal high-water mark. Operational necessity shall include private docks, but shall not include boathouses, storage sheds, garages or other structures. Marinas and boat rental facilities shall not be permitted within 75 feet of the normal high-water mark of Lake Auburn.

(Ord. of 9-21-2009, § 5.3D)

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

In any case in which a provision of this section conflicts with a provision of any other section of this chapter, the provision which establishes the more stringent standard shall apply.

(Ord. of 9-21-2009, § 5.3E)

**Secs. 60-955—60-981. Reserved.**