

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:*~~

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~~(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. 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 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.

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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 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.

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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
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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.

- (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.
 - 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.

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- (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 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.

- (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 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~~ 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~~

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~~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.~~

~~(d) *Manure and sludge spreading, storage, and disposal.* The spreading and 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, stream, 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 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.~~

~~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:~~

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- ~~(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.~~
 - ~~(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.

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.