

**City Council Workshop & Meeting
Agenda
November 20, 2023
Auburn Hall, Council Chambers**

5:30 P.M. City Council Joint Workshop of the City Council and School Committee

- A. Audit - Runyon Kersteen Ouellette
- B. Fund Balance Discussion – Phil Crowell
- C. American Rescue Plan Act (ARPA) Update – Phil Crowell
- D. 87 Mill Street Garage Removal for Riverside Trail Access – John Blais and Derek Boulanger

7:00 P.M. City Council Meeting - Roll call votes will begin with Councilor Walker

Pledge of Allegiance

- I. Consent Items – None**
- II. Minutes – November 6, 2023, Regular City Council Meeting**
- III. Communications, Presentations and Recognitions**
 - Council Communications (about and to the community)
- IV. Open Session – *Members of the public are invited to speak to the Council about any issue directly related to City business or any item that does not appear on the agenda.***
- V. Unfinished Business**
- VI. New Business**
 - 1. Order 146-11202023**
Approving the Mass Gathering Permit for the New Year Auburn Event to be held on December 31, 2023 in Festival Plaza. Public hearing and vote.
 - 2. Order 147-11202023**
Allocating funds from the American Rescue Plan Act (ARPA) for the Public Safety Wellness Program.
 - 3. Order 148-11202023**
Recreation Department Youth Scholarships.
 - 4. Order 149-11202023**
Approving the Miller Street discontinuance.

5. Order 150-11202023

Approving Tax Increment Financing (TIF) District #29, 186 Main Street.

6. Order 151-11202023

Approving Tax Increment Financing (TIF) District #30, Diamond Point Storage.

7. Ordinance 24-11202023

Amending the zoning map to rezone all areas in the LDRR or RR zoning district within the Lake Auburn watershed to the LDCR zoning district. First reading.

8. Ordinance 26-11202023

Amending the zoning map for parcel ID 289-001, 289-002, and 277-026 from AGRP to GB. First reading.

9. Ordinance 27-11202023

Amending the zoning map to reflect the actual drainage boundary based on existing topography of the land and known groundwater flows. First reading.

10. Ordinance 28-11202023

Amending the Chapter 60, Article XII, Division 4 – Lake Auburn Watershed Overlay District pertaining to animal farms, agricultural buffer strips, septic system buffer strips, and private sewage disposal systems and subsurface wastewater standards and requirements. First reading.

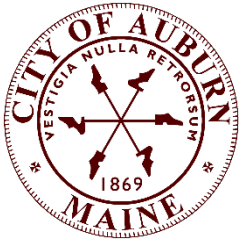
VII. Open Session - *Members of the public are invited to speak to the Council about any issue directly related to City business or any item that does not appear on the agenda*

VIII. Reports (from sub-committees to Council)

- a. Mayor's Report
- b. City Councilors' Reports
- c. City Manager Report

IX. Executive Sessions

X. Adjournment



**City of Auburn
City Council Information Sheet**

Council Workshop or Meeting Date: November 20, 2023

Author: Eric J. Cousens, Planning and Permitting Director

Subject: Workshop on 87 Mill Street Garage Removal for Riverside Trail Access – Comprehensive Plan Implementation Funding.

Information: In 2012 Rolly's (R&K Properties LLC) acquired a piece of Parcel 221-074 from the City of Auburn to construct an addition to the restaurant in exchange for giving the City a piece of Parcel 221-076 that would allow for the future construction of a trail along the Little Androscoggin River that connects from South Main Street to Anniversary Park(see attached property map). Part of that agreement was to demolish the rear portion of the garage that now sits on the land acquired by the City. The garage was built in two sections and the demolition of the rear portion is technically possible, but we have determined through contractors estimates that it will cost significantly more than demolishing the entire structure and replacing the portion retained by R&K Properties LLC. Removal and repair of the rear wall was promised to the property owner and has taken some time to work out the details. The existing building has been used primarily for community storage and personal storage and the owner has prioritized community storage of seasonal decorations and the Marshall Popcorn Truck.

We are ready to remove the structure and the property owner is open to replacement of a structure of a similar size to match the existing front portion of the building in the approximately same location. We have demolition cost estimates that are dependent on timing during the off season this fall/winter for \$30,000. We are working on finalizing an updated budget and building specification for the replacement structure and expect to have agreements with the owner and budget pricing soon. Completion of this project is required to complete previous agreements with the owner and is the most cost-effective way to create access for the trail and eliminate the deteriorating rear portion of the structure. We have CDBG and demolition funding to complete the demolition already appropriated. We need the Council to approve expending available Comprehensive Plan implementation funds for the replacement structure in order to move this forward. This is for Council information and background and we will have a not to exceed budget proposal for the use of already approved CIP Comprehensive Plan Implementation Funds at the December 4, 2023 Council Meeting.

Staff is preparing estimates and will balance the desire to minimize costs with the goals of creating an attractive, flexible use structure that can continue to meet the private and community needs that the existing structure has served.

City Budgetary Impacts: Demolition and Replacement Costs.

Staff Recommended Action: Staff Recommended Action: Staff recommends that the Council discuss the proposal and provide any feedback as we prepare for considering allocating funds on December 4th.

Previous Meetings and History:

City Manager Comments:

Phillip Crowell Jr.

I concur with the recommendation. Signature:

Attachments: Map, Property Swap approval 2012, Comprehensive plan excerpts

87 Mill Street Property Map – Demolition and replacement of garage



Red Box/X indicates garage location. In 2012 Rolly's (R&K Properties LLC) acquired a piece of Parcel 221-074 from the City of Auburn to construct an addition to the restaurant in exchange for giving the City a piece of Parcel 221-076 that would allow for the future construction of a trail along the Little Androscoggin River that connects from South Main Street to Anniversary Park. Part of that agreement was to demolish the rear portion of the garage that now sits on the land acquired by the City. The garage was built in two sections and the demolition of the rear portion is technically possible, but we have determined through contractors estimates that it will cost significantly more than demolishing the entire structure and replacing the portion owned by R&K Properties LLC.

Comprehensive Plan Excerpts

2021 Recreation Chapter Strategies:

Strategy E.1.2.b: Support the connection of local recreational facilities along the Androscoggin River with riverfront facilities in other communities, such as the Androscoggin Riverlands and Lewiston.

Strategy E.1.2.c: Identify and develop new land and water access points that create connectivity with the Androscoggin and Little Androscoggin Rivers and surrounding recreational opportunities. Utilize public and private resources to mitigate financial, recreational, and cultural impacts.

New Auburn Master Plan Strategies

Recreation Objective B: Encourage LA Trails' efforts to create a trail system, where feasible, within the "greenbelt" linking the open spaces to the sidewalk network and major destinations such as schools and the business district (see Map 2, page 20).

- i. Support efforts to develop a trail connection between the Barker Mill Trail and Moulton/West Pitch Park through the establishment of a pedestrian bridge across the Little Androscoggin River.

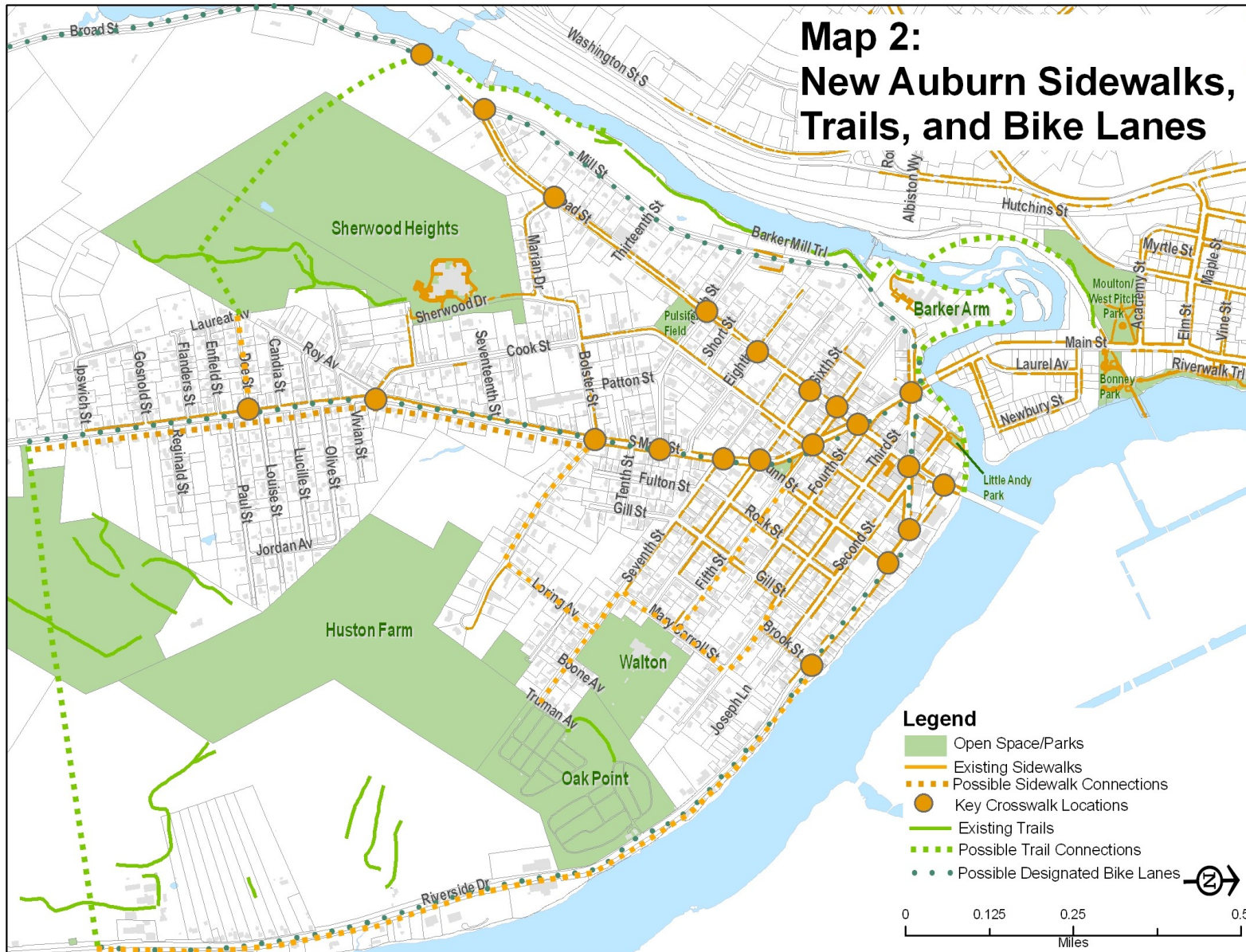
Recreation Objective 1.C: Support organizations such as the Androscoggin Land Trust and LA Trails in their efforts to develop and maintain boat launches and other riverfront recreational amenities.

Page 23 New Auburn Master Plan Table 3: Priority Recreation/Conservation Connections (Map 2, page 20)

Barker Mill Trail along Little Androscoggin River Broad Street/Sherwood Forest connection

A Second Street riverfront corridor from Mill St./Main St. to Broad St.

An east/west trail corridor connection between Riverside Dr. and So Main St. Barker Mill Trail connection to Moulton/West Pitch Park



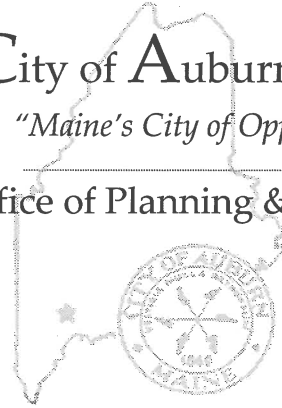
City of Auburn, Maine

"Maine's City of Opportunity"

Office of Planning & Permitting

July 26, 2012

Ken Blais
R&K Properties, LLC
87 Mill Street
Auburn Maine 04210



Re: **87 Mill Street, Auburn Maine 04210 / Property ID # 221-076, 221-075 and a portion of 221-074 / Zoning Conformance Letter**

Dear Mr. Blais:

I am writing in regard to the property located at 87 Mill Street, Auburn Maine 04210 (PID # 221-076). The subject property is located within the General Business (GB) zoning district and is occupied by an existing building and business, namely Rolly's Diner. City records indicate that the abutting lot (PID 221-075) is held in common ownership with 87 Mill Street (PID#221-076). As we have discussed the owner of the above mentioned properties intends to acquire a portion of the abutting parcel (PID#221-074) best described as a 25' wide strip of land along the western side of the property as shown on the attached map. With that acquisition and the combination of the three parcels noted above, the City will consider the parcels as one lot for zoning and permitting purposes.

The GB zoning district requires the following for setbacks:

- a. *Rear.* There shall be behind every building a rear yard having a minimum depth of 35 feet or 35 percent of the average depth of the lot, whichever is less.
- b. *Side.* There shall be a distance of five feet between any side property line, plus the side yard setback shall be increased one foot for every two feet or part thereof increase in street frontage over 60 feet to a maximum of 25 feet for side yard setback.
- c. *Front.* There shall be in front of every building a front yard having a minimum depth of 25 feet or 25 percent of the average depth of the lot, whichever is less. No front yard need to be any deeper than the average depth off front yards on the lots next thereto on either side. A vacant lot or a lot occupied by a building with a front yard more than 25 feet shall be considered as having a front yard of 25 feet.

To determine the front setback for the parcel, we need to look at the *lots next thereto on either side*. The land to the west between the parcel in question and the Little Androscoggin River is a Public Easement and not a lot for the purposes of this determination. The first lot to the

northwest along Main Street is 374 Main Street (PID#221-073) which is occupied by a building with a zero (0) front setback. The first lot to the southeast along Main Street/South Main Street is 80 Mill Street (PID#221-078) which is occupied by a building with a zero (0) setback along South Main Street. Therefore, the average depths of *lots next thereto on either side* is zero (0) and the front setback requirement for the combined parcels to be known as 87 Mill Street will be zero (0). Any new structures or additions on that parcel will be allowed a zero (0) front setback along Main Street.

The side setback for this parcel will be 25' and will be met on the 25' strip of land that the owner of the above mentioned property intends to acquire.

Should you have any questions regarding this matter please don't hesitate to contact me at 333-6601 Extension 1154.

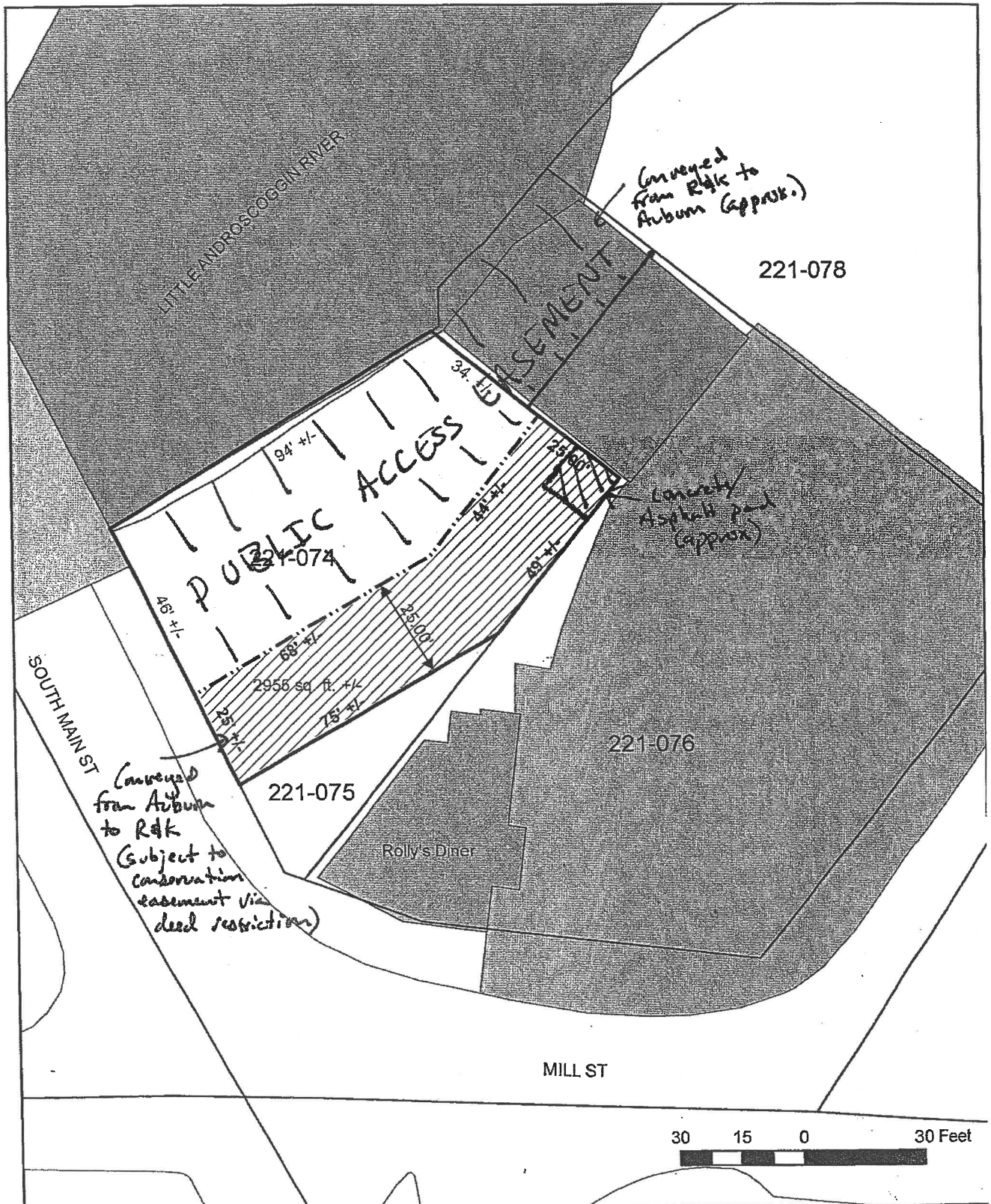
Sincerely,

A handwritten signature in black ink, appearing to read "Eric Cousens". The signature is fluid and cursive, written in a dark ink on a white background.

Eric J. Cousens
Director of Planning and Permitting

Cc: Planning Department Property File

Proposed Conveyance to R & K Properties LLC



IN COUNCIL REGULAR MEETING NOVEMBER 6, 2023, VOL. 37 PAGE 99

Mayor Levesque called the meeting to order at 7:00 P.M. in the Council Chambers of Auburn Hall and led the assembly in the salute to the flag. Councilor Whiting had an excused absence. All other Councilors were present.

7:00 P.M. City Council Meeting

Pledge of Allegiance

Moment of Silence and In Memoriam to pay respect to the 18 victims of the October 25, 2023 mass shooting event in Lewiston.

I. Consent Items – All items with an asterisk (*) are considered routine and will be enacted by one motion. There will be no separate discussion of these items unless a Council member or a citizen requests, in which event, the item will be removed from the Consent Agenda and considered in its normal sequence on the agenda.

1. Order 142-11062023

Appointing Warden's and Ward Clerks for the Nov. 7, 2023 Election.

Motion was made by Councilor Morin and seconded by Councilor Walker for passage.

Passage 6-0.

II. Minutes

October 16, 2023, Regular City Council Meeting

Motion was made by Councilor Walker and seconded by Councilor Milks to approve the minutes of the October 16, 2023, Regular City Council Meeting.

Passage 6-0.

October 23, 2023, Special City Council Meeting

Motion was made by Councilor Walker and seconded by Councilor Milks to approve the minutes of the October 23, 2023, Special City Council Meeting.

Passage 6-0.

III. Communications, Presentations and Recognitions

- Mayor Levesque recognized Hilary Dacko-Roy, Todd Pelletier, and Dan Hall, representatives of Hannaford Supermarket for Hannaford's generous donation to be used for a second Project Support You responder in the city.
- Communication – Special Event/Mass Gathering Application for New Year's Eve Auburn Event
- Public Safety Wellness Program presented by Police Chief Jason Moen and Fire Chief Robert Chase and guests Dr. Ben Stone and Vince Pallozzi who attended via Zoom
- Council Communications (about and to the community)

Mayor Levesque reminded the public that the polls open at 7:00 am tomorrow and encouraged residents to vote; on Friday, December 1st there will be a tree lighting and

IN COUNCIL REGULAR MEETING NOVEMBER 6, 2023, VOL. 37 PAGE 100

Christmas Shopping Village opens in Anniversary Park; there will be a holiday shopping event at the Hilton Garden on Thursday, November 30th from 5:00 to 7:00 pm.

Manager Crowell provided an update on the recycling program. He also announced that starting Wednesday night at 7:00 pm, the St. Louis Bells will ring 18 times over the course of 18 weeks to honor the 18 victims of the October 25th shooting event. He reminded Councilors that they have two more meetings for the remainder of this term, November 20th and December 4th. Some items coming up are a report from our auditors, the Miller Street discontinuance, and the Lake Auburn ordinance amendments.

Councilor Staples thanked the City Clerk for the work put into the upcoming election.

Councilor Walker announced that there will be a Thanksgiving Dinner held on Thursday, November 23rd at the Senior Community Center hosted by the Age Friendly Community Committee. They are asking for donations of \$5.00 and are also requesting that anyone interested in attending call the Recreation Department at ext. 2101 by November 20th so they can get a count on how many will be attending.

Councilor Gerry said she has been asked what we have planned for people to get out of the elements as it gets colder.

IV. Open Session – No one from the public spoke.

V. Unfinished Business

1. Ordinance 22-10162023

Amending the Auburn Zoning Ordinance – Minimum Dwelling Size. Public hearing and second reading.

Motion was made by Councilor Staples and seconded by Councilor Hawes for passage.

Public hearing – No one from the public spoke.

Passage 6-0. A roll call vote was taken.

2. Ordinance 23-10162023

Amending the Auburn Zoning Map, Area B change, from UR, SR, and LDCR to T4.2B. Public hearing and second reading.

Motion was made by Councilor Staples and seconded by Councilor Milks for passage.

Public hearing – Scott Crane, 271 Vickery Road, reiterated what fellow neighbors and citizens have said and would like council to vote no on this item.

Pam Rousseau, 745 West Auburn Road, also would like council to vote no on this item adding that she does not think it is right to allow 16 units per acre.

Failed 0-6. A roll call vote was taken.

3. Public hearing - Miller Street Discontinuance.

The Mayor opened the public hearing at 7:40 pm. No one from the public spoke. The Mayor closed the public hearing at 7:40 pm.

VI. New Business

1. Order 143-11062023

Approving the discontinuance of Chestnut Street.

Motion was made by Councilor Staples and seconded by Councilor Morin for passage.

Public comment - No one from the public spoke.

Passage 5-1 (Councilor Walker opposed).

2. Order 144-11062023

Amending the Downtown Omnibus TIF #10. Public hearing and vote.

Motion was made by Councilor Staples and seconded by Councilor Morin for passage.

Public hearing – No one from the public spoke.

Passage 5-1 (Councilor Gerry opposed).

3. Order 145-11062023

Allocating \$10,000.00 from ARPA (American Rescue Plan Act) funds to Rebuilding Together Lewiston/Auburn who will make necessary repairs to homes of those financially unable to do so.

Motion was made by Councilor Gerry and seconded by Councilor Staples for passage.

Public comment – David Trask spoke on behalf of Rebuilding Together Lewiston - Auburn, thanked the City Council for considering this request.

Passage 6-0.

4. Open Session

Chaplain Eddie Greyfox Burgess urged Veterans to go to the Auburn Mall for a Hire a Vet Campaign and Resource Fair on November 9th. The Green Ladle will be holding lunch on the 8th and there will be many resources at the Fall Festival at Cabella's. He added that there are also many services for active-duty individuals.

5. Reports (from sub-committees to Council)

IN COUNCIL REGULAR MEETING NOVEMBER 6, 2023, VOL. 37 PAGE 102

Mayor Levesque announced that the Auburn Exchange Club will be offering a free Annual Veteran's lunch at the Green Ladle on November 8th and encouraged veterans to join him. He reported on the School Committee meeting that was held on Wednesday. Last, he noted that the Victims Resiliency Center will be opening up on the 13th of November at 184 Main Street in Lewiston.

City Manager Crowell thanked the team in Auburn for collaborating and working alongside Lewiston during the October 25th incident. He also commended the communications team at the 9.1.1 center that fielded over 700 calls between 7:00 pm and midnight. He thanked the City Council, the Mayor, members of the community and city staff for their efforts.

IX. Executive Sessions - None

X. Adjournment

Motion was made by Councilor Morin and seconded by Councilor Hawes to adjourn.

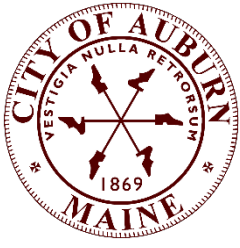
Unanimously approved and the meeting adjourned at 7:58 pm.

A TRUE COPY

ATTEST

Susan Clements-Dallaire

Susan Clements-Dallaire, City Clerk



**City of Auburn
City Council Information Sheet**

Council Workshop or Meeting Date: November 20, 2023

Author: Jennifer Boenig, Downtown Coordinator

Subject: Approving the Mass Gathering for New Year's Auburn event

Information: New Year's Auburn is scheduled for Sunday, December 31, 2023 from 3:00-9:00 PM. The event will be held in Festival Plaza and on Main Street which will be closed with public works trucks and barricades. This free community event will feature live music, craft brews, food trucks and more.

A mass gathering is defined as any gathering held outdoors with the intent to attract the continued attendance of 1,000 or more persons for two or more hours.

City Budgetary Impacts: This event is budgeted through the Communications Department.

Staff Recommended Action: Hold the public hearing and motion to approve the mass gathering.

Previous Meetings and History: Communication to council on November 6, 2023.

City Manager Comments:

I concur with the recommendation. Signature:

Attachments:

- Application for New Year's Auburn mass gathering
- Public Notice
- Order

Date received: _____
Date approved: _____



CITY OF AUBURN SPECIAL EVENT/MASS GATHERING APPLICATION

Required for any special event on city property that will attract up to 1,000 people, or any outdoor event with continued attendance of 1,000 or more persons for 2 or more hours.

Applications must be submitted to the Clerk at least 45 days prior to the event if the gathering is expected to attract up to 5,000 people.

Application must be submitted at least 90 days prior to the event if the gathering is expected to attract more than 5,000 people.

Date of Application: 10.31.2023

SPONSOR INFORMATION

Name of Sponsoring Organization: City of Auburn

Name of Contact Person for Event: Jennifer Boenig

Title of Contact Person: Downtown Coordinator

Mailing Address: 60 Court Street, Auburn, ME 04210

Daytime Telephone: 207.333.6601 ext.1132 Cell Phone: 207.576.5348

Email Address: jboenig@auburnmaine.gov

Contact Name and Cell Phone Number DURING the Event: Jennifer Boenig, 207.576.5348

Is your organization incorporated as a non-profit organization? Yes No

Non-Profit Number: _____

EVENT INFORMATION

Name of Event: New Year's Auburn

Type of Event (walk, festival, concert, etc.): festival

Date of Event: Sunday, December 31, 2023 Rain Date: na

Times of Event: Start Time including set-up: 9 AM Ending time including clean up: 12A

Actual Event Start Time: 3 PM Actual Event End Time: 9 PM

Estimated Attendance: 4,500 people

Location of Event: Festival Plaza and Main Street

Have you held an event at this location within the last 12 months? Yes No

If the location is a city park, have you applied for use of the property with the Recreation Department and has your request been approved?

Yes No Pending Date submitted to the Recreation Department: _____

TYPES OF PERMITS/PERMISSIONS NEEDED – PROVIDE AN ANSWER FOR EACH LINE:

Permit Fee	Permission/Permit Type	YES	NO	NOT SURE
Not permitted	CROSS-STREET BANNERS Please note that the city no longer allows cross-street banners.			
Separate fee and permit possible	FOOD – Will food or beverages be sold? If yes, list what types of food or beverages: Auburn licensed food trucks and vendors will be selling food. Note - A food service license may be required and must be submitted 14 days prior to the event. Other requirements and/or restrictions may apply.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Separate fee and permit possible	NON-FOOD ITEMS – Will products be sold or given away (such as t-shirts, crafts, souvenirs, etc.)? If yes, list what items: possible band merch for sale. Note - A peddler permit may be required and must be submitted 14 days prior to the event.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
N/A	LIVE MUSIC – Will there be any outdoor musical performances? If yes, please describe: 3 bands will be taking the stage.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
N/A	SOUND AMPLIFICATION – Will there be a microphone or speaker system to project sound?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Separate fee and permit possible	ALCOHOL – Will alcoholic beverages be sold? Note – Vendor must hold a valid State of Maine liquor license and submit an Off Premise Catering Event application 14 days prior to the event.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Separate fee and Permit required	CARNIVAL – Will carnival rides be offered? If yes, attach a copy of the state permit. A city permit is required as well.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Separate fee and Permit required	FIREWORKS – Will there be a fireworks display? If yes, a permit from the Fire Department is required.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
N/A	PARADE – Will there be a parade? If yes, describe route: Note – A permit from the Police Department is required.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
N/A	RUN/WALK/CYCLE – Will event involve participants doing a walk-a-thon, road race, etc.? If yes, describe route:	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Separate permit required	BURN PERMIT – Will there be any open flame such as a bonfire? If yes, describe activity: Note - A permit from the Fire Department is required.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

N/A	TENT/CANOPY – Will you be setting up a tent or canopy? If yes, list number and sizes: three 20x40 tents in the plaza along with some 10x10 ez-ups; covered stage	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Separate fee and permit required	ELECTRICAL POWER/EQUIPMENT – Will electrically powered equipment be utilized, if so, provide a brief description of the equipment and the entity responsible for the installation of the electrical equipment? sound, audio production equipment provided by HPA Productions	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
N/A	ROAD/INTERSECTION CLOSURE – Will any roads need to be closed to accommodate your event? If yes, please list: Main Street from Miller Street to Court Street, hard closures with PW trucks.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
N/A	MAP/DIAGRAM – Is a map or diagram attached detailing this event and depicting the placement of such items as tables, tents, port-a-potties, stage, parking, food service areas, etc.? This is a mandatory requirement for this application and must be included.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
N/A	PARKING ACCOMODATIONS – What will be the anticipated need for parking and what is your parking plan? 131 Main Street and city parking garage	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
N/A	TOILETS – Please list amount at event and/or nearest location: 12 portable toilets inside the alcohol permitted area.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
N/A	WASTE DISPOSAL – Please list process and location: 12 trash cans throughout the plaza and Main Street	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
N/A	HAND WASHING FACILITIES – Please list amount at event and/or nearest location: portable toilets and hand sanitizer available at food & beer vendors and entry points.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
N/A	POTABLE WATER – Please list amount at event and location: bottled water in pump house	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
N/A	FIRST AID FACILITIES – Please list location at event: Auburn Fire on-site	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
\$	TOTAL FEE INCLUDED – Checks payable to "City of Auburn"			

EVENT LIABILITY INSURANCE COVERAGE FOR EVENT

For an event such as a walk-a-thon, race, festival, concert, etc., the city requires general liability insurance coverage. The **City of Auburn** is to be named as "additionally insured" for the event activities on that date. Once the event is approved, the Certificate of Insurance will need to be received at least 30 days before the event and before permits can be issued. Please have the City of Auburn listed on the Certificate of Insurance (minimum coverage \$1,000,000 Bodily Injury or Death, per occurrence, and \$300,000 Property Damage, per occurrence). It should contain a clause providing that the policy may not be cancelled by either party except upon not less than 30 days written notice to the city. Please have your insurance company fax a copy to: City Clerk 207-333-6623.

DESCRIPTION OF EVENT – Please describe what will occur during your event

New Year's Auburn is a free community event, celebrating the new year with live music, local craft brews, food trucks, fireworks and fun in the heart of downtown Auburn.

Signature of Applicant:  Printed Name: Jennifer Boenig Date Submitted: 10-31-23

Please note that you will be contacted by City Staff if you require additional permitting.

Please return this completed application with diagram and any applicable fee to:

MAIL: City Clerk's Office
60 Court Street
Auburn, ME 04210
FAX: 207-333-6623
EMAIL: sdallaire@auburnmaine.gov
PHONE: 207-333-6600

******FOR STAFF USE******

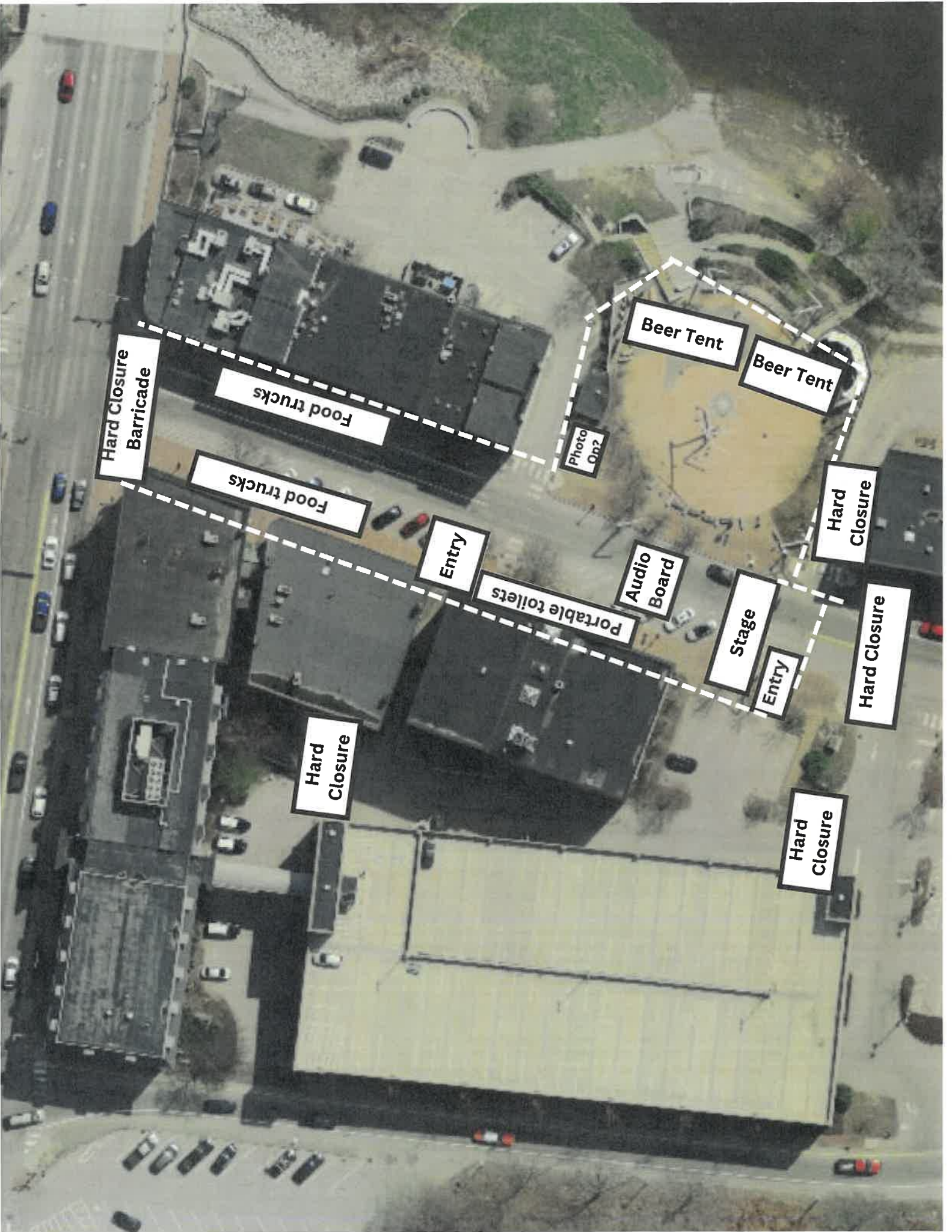
DEPARTMENT COMMENTS AND RECOMMENDATIONS:

DEPARTMENT	APPROVE	DENY	DATE	INITIALS
Sanitarian/Health Inspector				
Code Officer/Land Use & Zoning				
Fire Department				
Police Department				
Public Works Department				
Recreation Department				

COMMENTS/CONDITIONS from any of the above departments:

City Council Public Hearing date, if applicable: _____

License Approved/Denied: _____ Date applicant notified: _____



Hard Closure
Barricade

Food trucks

Food trucks

Entry

Portable toilets

Audio
Board

Stage

Entry

Hard
Closure

Hard
Closure

Beer Tent

Beer Tent

Photo
Booth

Hard
Closure

Hard
Closure

**CITY OF AUBURN
NOTICE OF PUBLIC HEARING**

A public hearing will be held by the Auburn City Council on November 20th, 2023, at 7:00 p.m. or as soon as possible thereafter, in the Council Chambers of Auburn Hall, 60 Court Street, to consider the Special Event/Mass Gathering application for:

New Year's Auburn, to be held at Festival Plaza/Main Street and surrounding areas on December 31st.

All interested persons may appear and will be given the opportunity to be heard before final action is taken.



ORDER 146-11202023

City Council Order

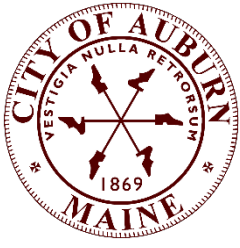
IN CITY COUNCIL

ORDERED, that the City Council hereby approves the Mass Gathering permit for the December 31, 2023 New Year's Auburn event sponsored by the City of Auburn.

Richard Whiting, Ward One
Joseph Morin, Ward Four
Belinda A. Gerry, At Large

Ryan Hawes, Ward Two
Leroy G. Walker, Ward Five
Jason J. Levesque, Mayor

Stephen G. Milks, Ward Three
Dana Staples, At Large
Phillip L. Crowell, Jr., City Manager



**City of Auburn
City Council Information Sheet**

Council Workshop or Meeting Date: November 20, 2023

Author: Police Chief Jason Moen and Fire Chief Robert Chase

Subject: Public Safety Wellness Program

Information: According to national statistics, first responders are more likely to develop heart disease at rates that supersede rates of heart disease found in civilian populations, develop heart disease at younger ages than observed in civilian populations and most importantly law enforcement/fire-fighters develop heart disease absent of clinical markers classically associated with early-onset heart disease. Additionally, Maine’s “presumption laws” has identified many forms of cancer where a firefighter received the injury or contracted the disease arising out of and in the course of employment.

In an effort to proactively reduce the risk of developing heart disease and cancer, the Chief’s of the Auburn Police and Fire Departments are requesting an allocation \$150,000.00 from the American Rescue Plan Act (ARPA) funds to implement a comprehensive cardiac and cancer laboratory screening evaluations for all personnel that includes nutritional and exercise recommendations. The evaluation will also include a cardiopulmonary/ EKG exercise stress test and offer dietary and exercise recommendations during a physician consultation.

The implementation of this program is an allowable expenditure under ARPA’s final rule – 3.3 – *Public Health-Negative Economic Impact: Public Sector Workforce: Other*

City Budgetary Impacts: None

Staff Recommended Action: Vote to allocate \$150,000.00 from ARPA funds to implement a Public Safety Wellness Program for personnel of the Auburn Police and Fire Departments.

Previous Meetings and History: Presentation to City Council – November 7, 2023.

City Manager Comments:

I concur with the recommendation. Signature:

Attachments:

- Power Point presentation

Auburn Public Safety

Wellness Project



Why Wellness?

46%

Of 1st responders are OBESE, which is 8% above the general population

(Univ. Buffalo NY 2019)

25x

1st responders are 25x more likely to die from MI or stroke than killed in the line of duty

(Arch. Env. Ocu Health 2020).

48%

The percentage of at-risk individuals beneath the age of 42yrs. Based on low HDL, BP, elevated trig., BMI, and elevated fasted glucose.

(Sigma Health)

18-60

Number of pension payments paid to 1st responders upon retirement prior to death.

(Society of Act. 2015)

Three Questions Plaguing Public Safety

- 1 First Responders develop heart disease at rates that supersede rates of heart disease found in civilian populations
- 2 First Responders develop heart disease at younger ages than observed in civilian populations
- 3 Law-Enforcement/Fire-Fighters develop heart disease absent of clinical markers classically associated with early-onset heart disease

Maine Presumption Laws

Title 39-A §328-B. Cancer suffered by a firefighter

Cancer suffered by a firefighter is governed by this section.

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Cancer" means kidney cancer, non-Hodgkin's lymphoma, colon cancer, leukemia, brain cancer, bladder cancer, multiple myeloma, prostate cancer, testicular cancer, breast cancer or gynecologic cancer.

C. "Firefighter" means a member of a municipal fire department or volunteer fire association whose duties include the extinguishment of fires, an investigator or sergeant in the Office of the State Fire Marshal or an employee in the forest protection unit within the Department of Agriculture, Conservation and Forestry, Bureau of Forestry whose duties include the extinguishment or investigation of fires.

2. Presumption. If a firefighter who contracts cancer has met the requirements of subsections 3, 6 and 7, there is a rebuttable presumption that the firefighter contracted the cancer in the course of employment as a firefighter and as a result of that employment, that sufficient notice of the cancer has been given and that the disease was not occasioned by any willful act of the firefighter to cause the disease.

Title 39-A §328. Cardiovascular injury or disease and pulmonary disease suffered by a firefighter or resulting in a firefighter's death

Cardiovascular injury or disease and pulmonary disease suffered by a firefighter or resulting in a firefighter's death are governed by this section

1. Firefighter defined. For the purposes of this section, "firefighter" means an active member of a municipal fire department or of a volunteer firefighters association if that person is a member of a municipal fire department or volunteer firefighters association and if that person aids in the extinguishment of fires, regardless of whether or not that person has administrative duties or other duties as a member of the municipal fire department or volunteer firefighters association.

2. Presumption. There is a rebuttable presumption that a firefighter received the injury or contracted the disease arising out of and in the course of employment, that sufficient notice of the injury or disease has been given and that the injury or disease was not occasioned by the willful intention of the firefighter to cause self-injury or injury to another if the firefighter has been an active member of a municipal fire department or a volunteer firefighters association, as defined in Title 30-A, section 3151, for at least 2 years prior to a cardiovascular injury or the onset of a cardiovascular disease or pulmonary disease and if:

A. The disease has developed or the injury has occurred within 6 months of having participated in fire fighting, or training or drill that actually involves fire fighting; or

B. The firefighter had developed the disease or had suffered the injury that resulted in death within 6 months of having participated in fire fighting, or training or drill that actually involved fire fighting.

Sigma Tactical Cardiac Screening

- Sigma has pioneered a new system of cardiac/metabolic screening correlating known risk factors, genetics, and occupational stressors that are characteristic of public safety. Over the last five years, Sigma have shown massive potential in eliminating the catastrophic effects of cardiovascular disease amongst first responders.
- Sigma's unique approach uses Advanced Metabolic Testing (AMP) to assess precise nutritional status of each individual and recommend key nutritional changes based on that person's individual goals. For first responders, nutritional status underwrites on-duty performance. Sigma's unique methodology gives each first responder a perfect understanding of how to fuel themselves, not only for on-duty performance, but will also lead to increased focus, alertness, less fatigue, and, in general, higher competency to perform the duties required regardless of the situation.

Dr. Ben Stone

Sigma Tactical Cardiac Screening

- Sigma offers a comprehensive cardiac laboratory screening evaluation that includes nutritional and exercise recommendations. This evaluation includes a CIMT (carotid intima-media thickness test) and an advanced lipid panel test to assess early stages of coronary disease development and identify inflammatory markers (PLA2) that can predict the risk of heart attack. Additionally, a cardiopulmonary/EKG exercise stress test is performed on a stationary bicycle to measure functional capacity, identify any ischemia (lack of blood flow to the heart muscle), and offer dietary and exercise recommendations during the physician consultation using indirect calorimetry.
- Because the demands of public safety are so extreme, studies have shown that each decade of law enforcement effectively doubles each responder's risk for heart attack or stroke. With Sigma's approach, responders are not only shown the effect of their current nutritional status, but they are guided by a licensed professional and taught which lifestyle modifications, based on results from Sigma's metabolic analysis, that are most effective in decreasing BMI, fatigue, and cardiovascular risk factors while realizing an increase in focus and on-duty adaptability.

Cancer Screening

- The Centers for Disease Control and Prevention (CDC) and the National Institute for Occupational Safety and Health (NIOSH) have found that cancer is a significant health issue for first responders. In fact, cancer is responsible for approximately 61% of deaths among U.S. firefighters. Furthermore, first responders have a higher risk of being diagnosed with cancer compared to the general population. It is important to prioritize the health and well-being of these professionals by providing comprehensive screening and diagnostic tests, as well as addressing potential health risks and mental health concerns.
- Unfortunately, the first responder community is also plagued by other health issues such as obesity, metabolic syndrome, smoking, alcohol use, and stress, which can compound the risk of cancer and other diseases. It is essential to address these health issues proactively to reduce the risk of developing cancer and other diseases.

Cancer Screening



Benefits of early disease detection

Early detection of diseases through regular screening and diagnostic tests is critical for several reasons:

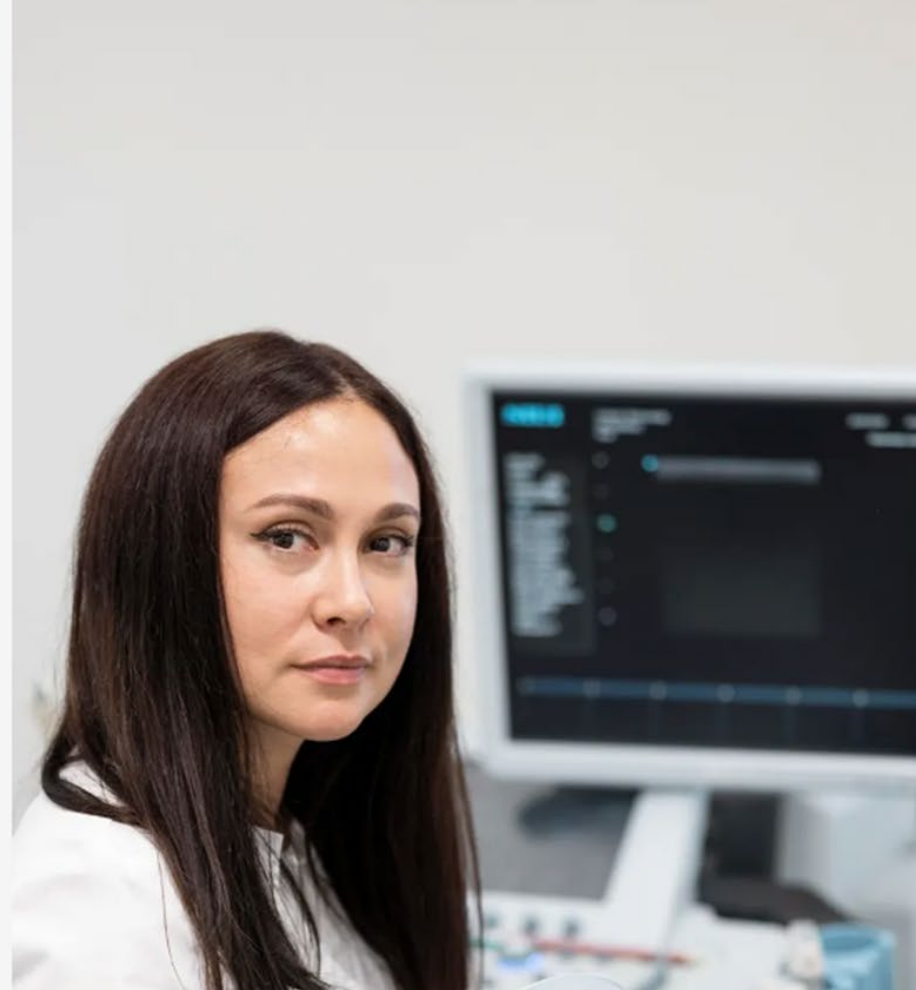
- Early detection allows for prompt treatment, which can improve the chances of successful recovery and reduce the need for more invasive and costly interventions.
- Regular screening and diagnostic tests can help monitor the health of individuals in high-risk occupations, such as first responders or healthcare workers, and allow for early detection of work-related health issues.
- Early detection and prevention can not only improve the overall population health by reducing the burden of disease and lowering the risk of transmission, but it can also help individuals maintain their physical and mental health, thus enhancing their quality of life.
- Early detection and treatment can prevent or delay the onset of chronic diseases and reduce the risk of disability and premature death.

Cancer Screening

Tests and procedures

Comprehensive Screening – Ultrasound

- Echocardiogram (Valve Function, Heart Pumping Ejection Fraction)
- Carotid Doppler
- Abdominal Aortic Aneurism (AAA)
- Thyroid
- Abdominal and Bladder Ultrasound
- Testicular or Pelvic Ultrasound



Costs

Cardiac Screening

- Cardiac Laboratory Screening – includes nutritional & exercise recommendations
- Advanced Metabolic Testing
- Cardiopulmonary/EKG exercise stress test
- \$799 per responder

Cancer Screening

- Echocardiogram
- Carotid Doppler
- Abdominal Aortic Aneurism
- Thyroid
- Abdominal & Bladder Ultrasound
- Testicular or Pelvic Ultrasound
- \$325 per responder

ARPA Funding Request

115 First Responders (64 Firefighters, 55 Police Officers)

Cardiac Screening 119 x \$799 = \$95,081

Cancer Screening 119 x \$325 = \$38,675

Total Costs - \$133,765



ORDER 147-11202023

City Council Order

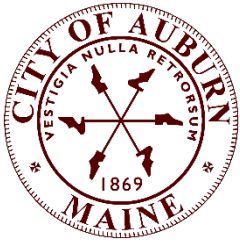
IN CITY COUNCIL

ORDERED, that the City Council allocate \$150,000.00 of American Rescue Plan Act (ARPA) funds to implement a Public Safety Wellness Program for personnel of the Auburn Police and Fire Departments.

Richard Whiting, Ward One
Joseph Morin, Ward Four
Belinda A. Gerry, At Large

Ryan Hawes, Ward Two
Leroy G. Walker, Ward Five
Jason J. Levesque, Mayor

Stephen G. Milks, Ward Three
Dana Staples, At Large
Phillip L. Crowell, Jr., City Manager



**City of Auburn
City Council Information Sheet**

Council Workshop or Meeting Date: November 20, 2023

Author: Phil Crowell, City Manager

Subject: Recreation Department Youth Scholarships

Information: The mass shootings at Just-In-Time Recreation and Schemengees on October 25, 2023, will forever leave a void and heartbreak in the twin cities of Lewiston and Auburn. Multiple children have been directly impacted by the loss of a parent.

In honor and remembrance of the 18 individuals who perished and 13 individuals who were injured, the City of Auburn Recreation Department would like to provide Youth Scholarships – to include individual sports and summer camps – for each of these children.

City Budgetary Impacts: The Recreation Department will absorb associated costs.

Staff Recommended Action: City Council authorizes the implementation of Recreation Department Youth Scholarships for the children of those who perished or were injured in the October 25, 2023, mass shootings.

Previous Meetings and History: None

City Manager Comments:

I concur with the recommendation. Signature:

Attachments:



ORDER 148-11202023

City Council Order

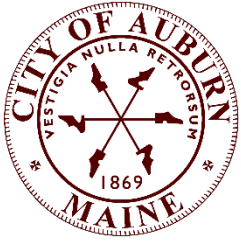
IN CITY COUNCIL

ORDERED, that the City Council authorizes the Recreation Department to implement Youth Scholarships - to include individual sports and summer camps - for the children of the 18 individuals who perished and 13 individuals who were injured in the mass shootings in the City of Lewiston on October 25, 2023.

Richard Whiting, Ward One
Joseph Morin, Ward Four
Belinda A. Gerry, At Large

Ryan Hawes, Ward Two
Leroy G. Walker, Ward Five
Jason J. Levesque, Mayor

Stephen G. Milks, Ward Three
Dana Staples, At Large
Phillip L. Crowell, Jr., City Manager



**City of Auburn
City Council Information Sheet**

Council Meeting Date: November 20, 2023

Author: John Blais

Subject: Vote, discontinuance of 90.94+/- Miller Street as a city street per § 3026-A

Information: Step three, in a three- step process once a recommendation is made by the Planning Board. 1.) File order of discontinuance for notification of abutters. (9.19.23) 2. Public Hearing, notification to abutters (11. 6. 23). **3.Approval of order minimum 10 days after the public hearing (11.20.23).**

Today the City Council should hold a public hearing on the discontinuance of Miller Street.

- A. The Location of the town way or public easement is attached.
- B. Notification of abutting property owners is complete via Certified Mail.

City Budgetary Impacts: None known.

Staff Recommended Action: Vote to approve discontinuance of Miller Street

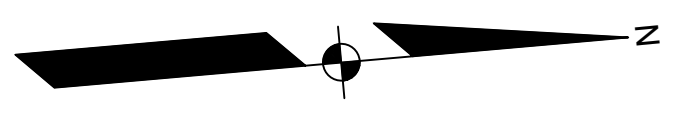
Previous Meetings and History: PB workshop August 10, 2023, PB Public Hearing September 12, 2023 City Council Workshop August 7, 2023, City Councilor Order and 1st vote September 19, 2023, October 16, 2023., Public Hearing November 6th.

City Manager Comments:

Phillip Crowell Jr.

I concur with the recommendation. Signature:

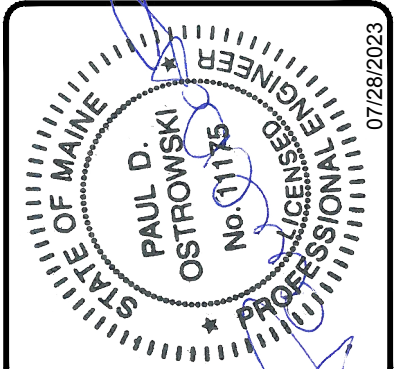
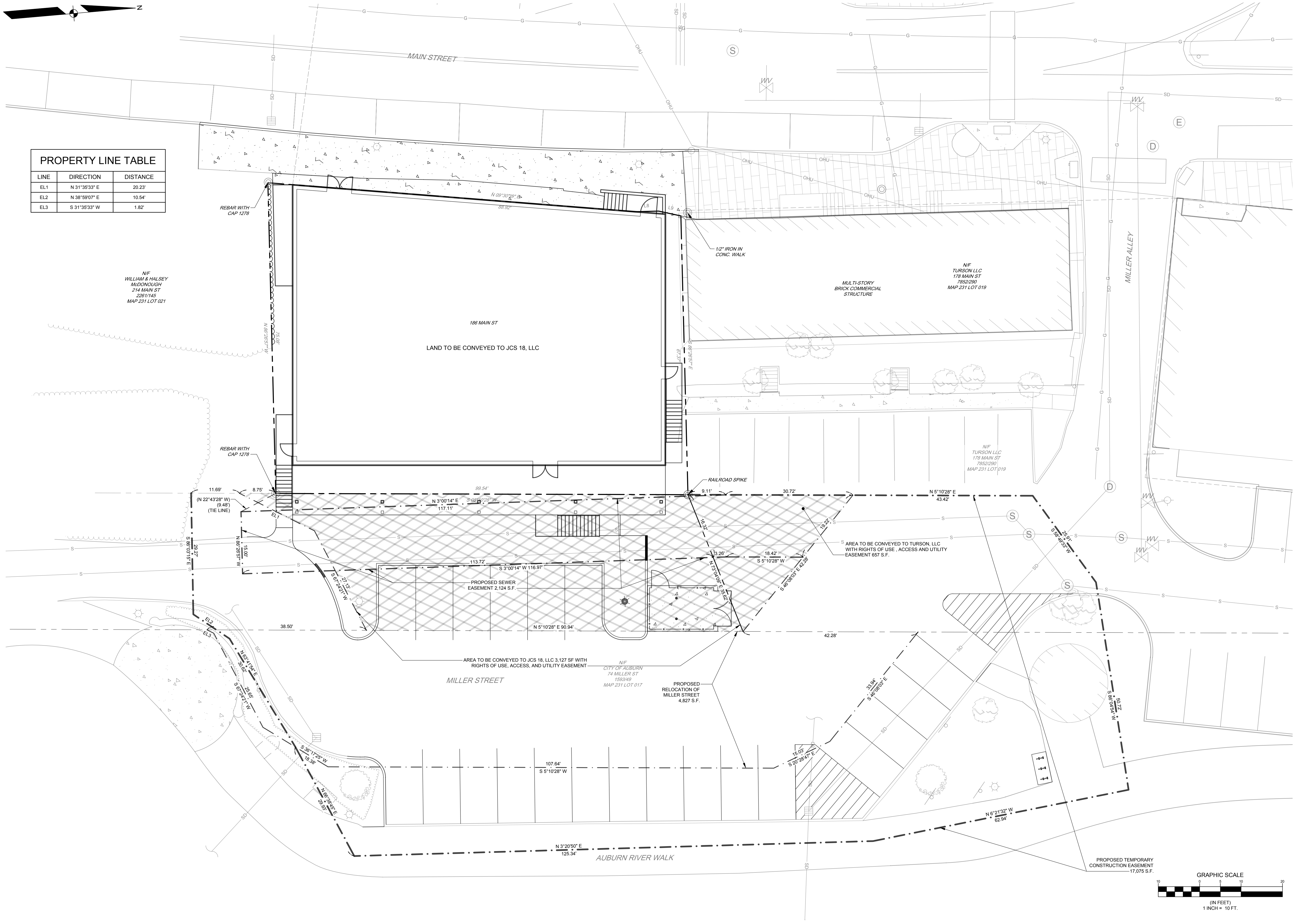
Attachments: Order of Discontinuance, site plan



PROPERTY LINE TABLE

LINE	DIRECTION	DISTANCE
EL1	N 31°35'33" E	20.23'
EL2	N 38°59'07" E	10.54'
EL3	S 31°35'33" W	1.82'

NF
WILLIAM & HALSEY
MC DONOUGH
214 MAIN ST
2261/145
MAP 231 LOT 021



REV.	BY	DATE	STATUS
H	PDO	07/29/2023	REVISED EASEMENT PLAN
G	PDO	06/05/2023	ISSUED FOR FLOOD HAZARD DEVELOPMENT & NRPA PBR
F	PDO	06/02/2023	REVISED EASEMENT PLAN
E	PDO	05/22/2023	REVISED EASEMENT PLAN
D	PDO	05/18/2023	REVISED & RESUBMITTED PER CITY OF AUBURN COMMENTS
C	PDO	05/05/2023	ISSUED TO CITY OF AUBURN FOR SITE PLAN SUBMISSION
B	ACH	01/27/2023	REVISED PER CLIENT AND CITY OF AUBURN COMMENTS

THIS PLAN SHALL NOT BE MODIFIED WITHOUT WRITTEN PERMISSION FROM SEBAGO TECHNICS, INC. ANY ALTERATIONS, AUTHORIZED OR OTHERWISE, SHALL BE AT THE USER'S SOLE RISK AND WITHOUT LIABILITY TO SEBAGO TECHNICS, INC.

SEBAGO
TECHNICS
WWW.SEAGOTECHNICS.COM
75 John Roberts Rd.
Sullivan, ME 04106
South Portland, ME 04106
Tel. 207-200-2100

EASEMENT PLAN
OF
186 MAIN STREET
186 MAIN STREET
AUBURN, MAINE 04210
FOR:
JCS 18, LLC
20 MECHANIC STREET
GORHAM, MAINE 04038

DESIGNED	TFG
DRAWN	ABB
CHECKED	PDO
DATE	05/05/2023
SCALE	1" = 10'
PROJECT	220503-01

SHEET 3 OF 10

F:\Projects\220503\220503.DWG Design\220503 EASEMENT PLAN.dwg - 7/28/2023 3:32 PM - TANNER, F. GOODINE

220503 EASEMENT PLAN.dwg, TAB 6 EASEMENT PLAN



City of Auburn, Maine

Office of Planning & Permitting

Eric Cousens, Director

60 Court Street | Auburn, Maine

04210 www.auburnmaine.gov |

207.333.6601

October 18, 2023

RE: Notice of City Council Public Hearing – November 6, 2023

William McDonough
61 Winter Street (mailing address)
Gardiner, Maine 04345
PID: 231-021

Dear Mr. McDonough:

You are receiving this notice pursuant to Title 23 M.R.S.A § 3026-A, 1-6 because the City of Auburn, City Council will conduct a Public Hearing on **Monday, November 6, 2023, at 7:00 p.m.** in the City Council Chambers, 60 Court Street, Auburn, Maine to hear public comment on the following item located abutting property you own:

PUBLIC HEARING/ Miller Street Relocation: 186 Main Street: See attached attested order dated September 25, 2023, and site plan.

In addition, a waiver of damages form is included for your convenience. Please sign and send back to the address found on the waiver:

Additional information is available and may be obtained from the Auburn Planning & Permitting Department by contacting John Blais at (207) 333-6601 ext. 1334 or jblais@auburnmaine.gov.

Regards,

John Blais
Deputy Director of Planning, Permitting and Code



City of Auburn, Maine

Office of Planning & Permitting

Eric Cousens, Director

60 Court Street | Auburn, Maine

04210 www.auburnmaine.gov |

207.333.6601

October 18, 2023

RE: Notice of City Council Public Hearing – November 6, 2023

William T. Turner
368 Minot Avenue
Auburn, Maine 04210
PID: 231-019

Dear Mr. Turner:

You are receiving this notice pursuant to Title 23 M.R.S.A § 3026-A, 1-6 because the City of Auburn, City Council will conduct a Public Hearing on **Monday, November 6, 2023, at 7:00 p.m.** in the City Council Chambers, 60 Court Street, Auburn, Maine to hear public comment on the following item located abutting property you own:

PUBLIC HEARING/ Miller Street Relocation: 186 Main Street: See attached attested order dated September 25, 2023, and site plan.

The development includes new parking and has been proposed as six (6) additional public parking spaces will be available at 2-hour increments and will be available at will to tenants between 6 PM to 7:00 AM. In addition, to replace the seven (7) R permit location paid for by the abutter the city will offer replacement spots within the city garage at the same rate of \$45 a month (\$945 quarterly).

In addition, a waiver of damages form is included for your convenience. Please sign and send back to the address found on the waiver:

Additional information is available and may be obtained from the Auburn Planning & Permitting Department by contacting John Blais at (207) 333-6601 ext. 1334 or jblais@auburnmaine.gov.

Regards,

John Blais
Deputy Director of Planning, Permitting and Code



City Council Order

IN CITY COUNCIL

ORDERED, that Miller Street, as laid out on plan and titled “Easement Plan”, as recommended by the Auburn Planning Board and approved by the Auburn City Council and to be recorded at the Androscoggin County Registry of Deeds, is hereby discontinued 90.94’ +/- as a City Street as provided in Title 23 M.R.S.A § 3026-A, 1-6 et sequ:

LOCATION:

**Exhibit A
Proposed Street Relocation
Miller Street**

A certain lot or parcel of land with the improvements thereon on the easterly sideline of the current location of Miller Street in the City of Auburn, County of Androscoggin, and State of Maine depicted as “Proposed Relocation of Miller Street 4,827 S.F.” as shown on an Easement Plan made for JCS 18, LLC by Sebago Technics dated May 5, 2023 as revised through July 28, 2023 (Sheet 3, Job #220503-01), and being more particularly bounded and described as follows:

Commencing at a railroad spike in pavement on the now or former westerly sideline of Miller Street at the northeasterly corner of land now or formerly of City of Auburn as described in a deed recorded in Book 3233, Page 1 and southeasterly corner of land now or formerly of Turson, LLC as described in a deed recorded in said Registry in Book 7852, Page 290, thence N 73°04’09” E across said Miller Street a distance of 35.62 feet to the northeasterly corner of “Proposed Discontinuation of Miller Street 3,784 S.F.” as shown on said Plan, and the now or former easterly sideline of said Miller Street, and the **Point of Beginning**;

1. Thence N 05°10’28” E by said easterly sideline of said Miller Street a distance of 42.28 feet;
2. Thence S 46°08’03” E through land of the Grantor a distance of 33.94 feet;
3. Thence S 20°28’47” E through said land of the Grantor a distance of 15.03 feet;
4. Thence S 05°10’28” W through said land of the Grantor a distance of 107.64 feet;
5. Thence S 36°17’25” W through said land of the Grantor a distance of 18.38 feet;
6. Thence S 67°24’21” W through said land of the Grantor a distance of 25.65 feet;
7. Thence S 31°35’33” W through said land of the Grantor a distance of 1.82 feet to the easterly sideline of said Miller Street;
8. Thence N 05°10’28” E by the now or former easterly sideline of said Miller Street a distance of 38.50 feet to the easterly side of said Proposed Discontinuation of Miller Street;
9. Thence N 05°10’28” E by said Proposed Discontinuation of Miller Street a distance of 90.94 feet to the **Point of Beginning**.

Richard Whiting, Ward One
Joseph Morin, Ward Four
Belinda A. Gerry, At Large

Ryan Hawes, Ward Two
Leroy G. Walker, Ward Five
Jason J. Levesque, Mayor

Stephen G. Milks, Ward Three
Dana Staples, At Large
Phillip L. Crowell, Jr., City Manager

Meaning and intending to describe the area depicted as “Proposed Relocation of Miller Street 4,827 S.F.” as shown on an Easement Plan made for JCS 18, LLC by Sebago Technics dated May 5, 2023 as revised through May 18, 2023 (Sheet 3, Job #220503-01).

Subject to a proposed Temporary Construction Easement as shown on said plan.

Subject to and Together with any easements or restrictions of record.

Bearings are referenced to Grid North, Maine State Plane Coordinate System, West Zone, NAD83.

July 28, 2023

JMS/mwe

ABUTTERS:

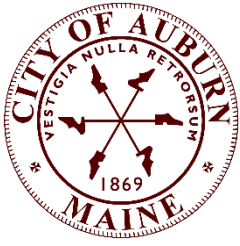
William T. Turner
178 Main Street(physical address)
368 Minot Avenue (mailing address)
Auburn, Maine 04210
PID: 231-019

William McDonough
214 Main Street (physical address)
61 Winter Street (mailing address)
Auburn, Maine 04210
PID: 231-021

DAMAGES:

Amount of Damages: \$0 The discontinuance does not affect any property owner in any way as access is not effected to the property.

PUBLIC EASEMENT: All rights for public and private utilities are retained per § 3026-A, (6)



**City of Auburn
City Council Information Sheet**

Council Workshop or Meeting Date: November 20, 2023

Author: Glen E. Holmes, Director of Business & Community Development

Subject: TIF #29 – 186 Main St

Information:

The 186 Main Street Tax Increment Financing District & Development Program (#29) will enable the construction of a mixed-use building, including 18 residential apartments, retail and restaurant space. 186 Main Street is a mixed-use ~23,116 SF facility that will be the home of a Mason's Brewing location, an additional ~1,500SF commercial retail location along Main Street and 18 residential apartments ranging from studios to one and two bedrooms. This project has received approval from the City's Planning Board and a Traffic Movement Permit from the Maine Department of Transportation.

City Budgetary Impacts:

The City intends to establish new Tax Increment Financing Districts for the purpose of capturing tax revenues from new assessed value generated by investments made on these properties. The captured revenue will be spend in a manner which limits impacts on the city budget for planned infrastructure improvements and services as outlined within the Project Cost budget included.

Staff Recommended Action:

Approval of Order as presented.

Previous Meetings and History:

n/a

City Manager Comments:



I concur with the recommendation. Signature:

Attachments:

TIF#29 Application



**Department of Economic and Community Development
Municipal Tax Increment Financing
Application**



The legislature finds a need for new development in areas of municipalities and plantations to: (A) Provide new employment opportunities; (B) Improve and broaden the tax base; and (C) Improve the general economy of the State. The municipal tax increment financing (TIF) program, established under 30-A M.R.S.A. Chapter 206 §5221-5235, is designed to assist municipalities and plantations to develop a program for improving a district of the municipality or plantation: (A) To provide impetus for industrial, commercial, transit-oriented or arts district development, or any combination; (B) To increase employment opportunities; and (C) To provide the facilities outlined in the development program adopted by the legislative body of the municipality or plantation. The TIF Statute provides that before final designation of a tax increment financing district, the Department of Economic and Community Development (DECD) commissioner shall review the proposed district and development program to ensure compliance with statutory requirements.

Before designating a development district within the boundaries of a municipality or plantation, or adopting a development program for a designated development district, the municipal or plantation legislative body or the municipal or plantation legislative body's designee must:

- a) Hold at least one public hearing,
 - b) Publish notice of the hearing at least 10 days before the date of the hearing in a newspaper of general circulation within the municipality or plantation,
 - c) At the hearing, the legislative body of a municipality or plantation must consider:
 - i. Whether the proposed district or development program will contribute to the economic growth or well-being of the municipality or plantation or to the betterment of the health, welfare or safety of the municipal or plantation inhabitants,
 - ii. Any claim by an interested party that the proposed district or development program will result in a substantial detriment to that party's existing business in the municipality or plantation and produces substantial evidence to that effect.
-

Mail completed application, with tabs separating exhibits, to:

DECD/Office of Business Development (MTIF)

111 Sewall Street

Augusta, ME 04330

(e-mailed applications are not accepted)

Refer to "CHECKLIST FOR MTIF APPLICATION" to ensure application completeness.



Department of Economic and Community Development
Municipal Tax Increment Financing
Application



Municipalities wishing to create a municipal tax increment financing district to fund development programs must apply to DECD using the following application including all attachments noted below, in the order listed:

1. Table of Contents
2. Completed DECD MTIF Application, provided by DECD
Refer to “Checklist for Municipal Tax Increment Financing (MTIF) Application” to ensure application completeness
3. Exhibit A: Statutory Thresholds and Requirements form, provided by DECD
4. Exhibit B: Assessor’s Certificate of Original Assessed Value
5. Exhibit C: Map of District Location within Municipality
6. Exhibit D: Map of District Boundaries
7. Exhibit E: Annual Revenue Spreadsheet
8. Exhibit F: Annual Tax Shift Spreadsheet
9. Exhibit G: Copy of 10-Day notice of public hearing, including name and date of publication
10. Exhibit H: Minutes of Public Hearing, attested to with dated signature
11. Exhibit I: Record of District designation and Development Plan adoption by municipal legislative body

If applicable,

1. Exhibit J: Project Costs Spreadsheet
Refer to MTIF Application, “Checklist For MTIF Application” for required information
2. Exhibit K: For Downtown TIF application, include a comprehensive Downtown Redevelopment Plan with the completed Downtown Redevelopment Plan Criteria Checklist and verification of municipal legislative body approval
3. Exhibit L: For Transit-Oriented Development District, include a map clearly identifying transit facilities plus areas and corridors respective of §5222 (20), (22) & (23)
4. Exhibit M: If an amendment and not already provided, a copy of any executed credit enhancements agreements.
5. Exhibit N: Copy of any municipality/plantation TIF policy



**Department of Economic and Community Development
Municipal Tax Increment Financing
Application**



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**see “Checklist for Municipal Tax Increment Financing (MTIF) Application” for instructions [to automatically update the Table of Contents](#).



**Department of Economic and Community Development
Municipal Tax Increment Financing
Application**



Section 1- Cover Letter and Application Cover Sheet

1. **Name of municipal tax increment financing (TIF) district and development program:** #29 186 Main St
2. **This is an original application. If an amendment, what amendment number?** Choose a number.
3. **Is this a Downtown designated TIF?** No.
If yes, provide the following information regarding the *Downtown Redevelopment Plan*:
 - a. **Name:** Click here to enter text
 - b. **Date approved by municipal legislative body:** Click to enter a date. (Include verification of this approval with Exhibit I)

The Downtown Redevelopment Plan must contain the components outlined in the DECD “Downtown Redevelopment Plan Criteria Checklist”
4. **Is this development district considered a/an [check the appropriate box(es)]?**
 Industrial Commercial Transit-oriented Arts
If this is a transit-oriented development designation, a map is required identifying transit facilities plus areas and corridors pursuant to MRS 30-A §5222(20), (22) & (23). (Exhibit L)
5. **Municipality name:** City of Auburn
6. **Municipality address:** 60 Court St Auburn, ME 04210
7. **Municipality county:** Androscoggin
8. **Municipal telephone number:** 207-333-6601 ext. 1159
9. **Municipal official’s name:** Phillip Crowell
10. **Municipal official’s title:** City Manager
11. **Municipal official’s e-mail address:** pcrowell@auburnmaine.gov
12. **If different from #9 above, contact person/consultant:** Zakk W. Maher
13. **Municipal contact/consultant phone number:** 207-333-6601 Ext. 1336
14. **Municipality contact/consultant e-mail address:** zmaher@auburnmaine.gov
15. **Municipality’s assessor’s name:** Karen Scammon
16. **Municipality’s assessor’s e-mail address:** KScammon@auburnmaine.gov

The municipal official named below, certifies he/she has the authority to submit this Application to DECD and further certifies all the information contained in this Application, and its attachments, are true and correct to the best of his/her knowledge.

Signature

Date

Print municipal official’s name & title



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Section 2 - Purpose/Basis Original/Amended Application

1. **Provide a brief, “headline” sentence explaining purpose/basis of this application.**

The 186 Main Street Tax Increment Financing District & Development Program (#29) will enable the construction of a mixed-use building, including 18 residential apartments, retail and restaurant space.

2. **If needed, provide additional information related to the purpose/basis of this application. If this is an amendment, provide a brief, concise overview of the purpose of the original application and each amendment submitted to date.**

186 Main Street is a mixed-use ~23,116 SF facility that will be the home of a Mason’s Brewing location, an additional ~1,500SF commercial retail location along Main Street and 18 residential apartments ranging from studios to one and two bedrooms. This project has received approval from the City’s Planning Board and a Traffic Movement Permit from the Maine Department of Transportation, and is fully developed for bid plans.

186 Main Street is a vibrant mixed-use offering located in the center of Auburn Maine. This project will bring density to the City’s downtown area by providing 18-modern market rate apartments and a couple extremely attractive sense of place commercial offerings - one of which is an extremely popular and high quality restaurant and brewery: Mason’s Brewing. This sense of place contributor will increase job opportunities for the service industry, housing options in the City center as well as improve the overall enjoyment and quality of life for Auburn community members and beyond by providing an exciting, attractive, and family-friendly restaurant and brewery.

During construction, it is estimated that 30-40+ local businesses will be involved employing local construction professionals to build this vibrant downtown urban center offering. In addition, once online, Mason’s brewing will employ many service industry professionals in the area. The exact number of employees and wages are not yet known though since the offering is occupying a vacant site, it will significantly add to the employment options in the City of Auburn’s urban center.

Under this Development Program, the City will capture the increased assessed value of taxable real property over the original assessed value of the District and retain the tax revenues generated by the captured assessed value for designated economic development purposes. The calculation of TIF Revenues (as defined below) is more specifically described below in Section VI – Financial Plan. In the Assessor’s Certificate attached as Exhibit B hereto, the Assessor has certified the original assessed value of the District.

By adopting this Development Program, the City is creating a TIF district that will: (1) maintain existing tax revenues; (2) enjoy enhanced future tax revenues generated by new development within the District; and (3) shelter the captured assessed value from impacting the overall State valuation for the City of Auburn, thereby minimizing: (a) potential decreases in the City’s State school subsidy and State revenue sharing, and (b) potential increases in the City’s county tax assessments and local school district contributions.

Further, approval of this Development Program and the designation of the District will have a neutral impact on



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the existing tax base; only the increased assessed value over the original assessed value within the District will be captured. In addition, at the end of the District and Development Program, the City expects to emerge with a substantial amount of new taxable property value to add to its municipal tax base.

This Development Program is structured and proposed pursuant to Chapter 206 of Title 30-A of the Maine Revised Statutes, as amended (the "TIF Statute"). Subsequent to a City Council vote designating the District and adopting this Development Program, evidenced by Exhibit I hereto, the designation of the District and adoption of this Development Program are effective upon approval by the DECD.



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Section 3 - Company/Developer Information

A. Business General Information

[include whenever a company/developer is part of a TIF district proposal (regardless of whether a CEA is offered)]:

1. **Business name:** JCS 18, LLC
2. **Business address:** 20 Mechanic St Gorham, ME 04038
3. **Business phone number:** 207-839-2744
4. **Business contact person:** Jonathan Smith
5. **Business contact person e-mail address:** jon@greatfallsinc.com
6. **Principal place of business:** Gorham, ME
7. **Company structure (e.g. corporation, sub-chapter S, etc.):** Corporation
8. **Place of incorporation:** Maine
9. **Name of Officer(s):** Jonathan Smith, President & Cynthia Smith, Vice President
10. **Name of principal owner(s) name:** Jonathan & Cynthia Smith

11. **Address:** 20 Mechanic St Gorham, ME 04038
12. **Brief project description:** JCS 18, LLC will be the Property owner, an affiliated company of Great Falls Construction both owned by Jon and Cindy Smith. Once in operations, the property will be managed by JCS Property Management. JCS Property Management is the Development Property Management and Maintenance division of Great Falls Construction.
13. **Total amount of project new investment by company/developer:** \$ \$7,325,000
14. **Will there be a credit enhancement agreement with this business?** Yes. If so, complete the rest of this section and Section 4.

B. Disclosure, only in cases where a CEA is offered to the above business:

1. Check the public purpose(s) that will be met by the business using this incentive:

- | | | |
|----------------------------------------------------------------------------------|----------------------------------------------------------|--------------------------------------------------------|
| <input type="checkbox"/> job creation | <input type="checkbox"/> job retention | <input type="checkbox"/> capital investment |
| <input type="checkbox"/> training investment | <input checked="" type="checkbox"/> tax base improvement | <input type="checkbox"/> public facilities improvement |
| <input type="checkbox"/> other (list): Click here to enter text. | | |

2. Check the specific item(s) for which TIF revenues will be used by the business:

- | | | |
|----------------------------------------------------------------------------------|---------------------------------------------------------|-----------------------------------------|
| <input checked="" type="checkbox"/> real estate purchase | <input type="checkbox"/> machinery & equipment purchase | <input type="checkbox"/> training costs |
| <input checked="" type="checkbox"/> debt reduction | | |
| <input type="checkbox"/> other (list): Click here to enter text. | | |



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Section 4 - Employment Goals/Data

Company Goals for Job Creation and Job Retention. (If a developer, check box , and skip to Section 5)

A. Job Creation Goals			
Occupational Cluster*	# of Full-time Positions	# of Part-time Positions	Annual Wage Level
1. Executive, Professional & Technical	1		\$60,000
2. Administrative/Clerical Support	4		\$48,000
3. Sales & Service	18	15	\$33,000
4. Agriculture, Forestry & Fishing			
5. Maintenance, Construction, Production & Transportation			
Total	23	15	Leave blank
B. Job Retention Goals			
Occupational Cluster*	# of Full-time Positions	# of Part-time Positions	Annual Wage Level
1. Executive, Professional & Technical			
2. Administrative/Clerical Support			
3. Sales & Service			
4. Agriculture, Forestry & Fishing			
5. Maintenance, Construction, Production & Transportation			
Total			Leave blank
*See Occupational Cluster Descriptions for more information.			

INSTRUCTIONS

A. Job Creation Goals. Please list the number, type and wage level of jobs created as a result of the economic development incentive. NOTE: For this form, “full-time” employment means 30 hours or more; “part-time” employment means less than 30 hours. “Wage level” means the average annual wage paid for jobs created within an occupational cluster, e.g. either their annual salary, or their hourly wage times their annual hours. Also, “type” means “occupational cluster” which refers to the 12 categories listed in the “Occupational Cluster Descriptions.” Please include the number of your employees (both full-time and part-time) working within the category that most closely reflects their job duties.

B. Job Retention Goals. Please list the number, type and wage level of jobs retained as a result of the economic development incentive. Part B should be completed using same definitions in Part A.



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Section 5 - Development Program

Public Project(s)

1. **Will there be any public facilities, improvements, or programs financed in whole or in part by the development program?**
Yes. See Exhibit J.

Private Project(s)

2. **Will there be any commercial facilities, arts districts, improvements or projects to be financed in whole or in part by the development program: Yes. If yes, provide a brief, clear description: Developers intend to construct a new mixed use building containing commercial space and rental residential housing.**

Program Duration

3. **Duration of development district (may not exceed 30 years):**
 - a. **District term: Original application: 30.**
If an amendment, adding how many years? Choose a number totaling how many years? Choose a number.
 - b. **Start date of April 1, 2024 with fiscal year beginning July 1, 2024 (captured assessed value as of April 1, 2024). [Must begin with tax year in which development district designation is effective pursuant to MRS 30-A §5226, or the subsequent tax year (MRS Title 30-A §5224 (2)(H))]**
 - c. **End date of March 31, 2054 with fiscal year June 30, 2054.**



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Original Assessed Value

4. Provide the taxable assessed value of the development district as of the March 31st of the tax year preceding the property tax year in which the district was designated by the legislative body.

		OAV of Real Property	OAV of Personal Property	As of (complete year)	Total acres	
Original district		\$40,000.00	\$0.00	3/31/2023		0.160
Amendment: (If applicable, with any property added/removed)	#1	-			-	
		+		3/31/____	+	
	#2	-			-	
		+		3/31/____	+	
	#3	-			-	
		+		3/31/____	+	
	#4	-			-	
		+		3/31/____	+	
	#5	-			-	
		+		3/31/____	+	
	#6	-			-	
		+		3/31/____	+	
	#7	-			-	
		+		3/31/____	+	
	#8	-			-	
		+		3/31/____	+	
	#9	-			-	
		+		3/31/____	+	
	#10	-			-	
		+		3/31/____	+	
Total	N/A			N/A		

***Municipal Assessor must certify above original assessed value(s) (Exhibit B).



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Section 6 - Financial Plan

Increased Assessed Value Information

1. **Total estimated cost for the development program: \$ \$7,325,000** (Should match "total" from Exhibit J)
2. **Municipality will capture 100 of real property only increased assessed value for each year of the district term, to apply to the development program.** [Click here to enter text, if needed.](#)
3. **If #2 above's captured assessed value is less than 100%, besides the district's original assessed value, what percentage of increased assessed value will be deposited into the General Fund, or if an unorganized territory, to Education and Services fund?** [Click here to enter % to be deposited in General Fund/Education & Services fund.](#)

Public Indebtedness

4. **Will there be public indebtedness?** Yes, to be determined.
 - a. **If yes, what is the projected amount of public indebtedness to be incurred?** The City will not incur any indebtedness at this time; however, the City may elect to do so at a future date at the discretion of its City Council.
 - b. **If an amendment, have any bonds been issued to date pertaining to the approved projects of this district?** Choose an item. If yes, provide the status, such as years left on bond and amount of outstanding debt. [Click here to enter text.](#)

Anticipated Revenues

5. **Describe sources of anticipated revenues for public projects (clearly and briefly stated):** The source of the revenue to be used to pay the costs of the public projects set forth in this Development Program is the Tax Increment on the increased Assessed Value of the District. Tax increment means all property taxes assessed by the City, in excess of any state, county or special district tax, upon the increased assessed value of all real property in the District. Increased assessed value means the valuation amount by which the current assessed value of the District exceeds the taxable original assessed value of the real property in the District. Current assessed value means the taxable assessed value of the real property in the District certified by the municipal assessor as of April 1st of each year that the District remains in effect. Property taxes means any and all ad valorem property taxes levied, charged or assessed against real property by the City. Original assessed value means the taxable assessed value of real property in the District as of March 31, 2023 (April 1, 2022). All property tax on the original assessed value shall continue to be deposited into the City's general fund.
6. **Describe sources of anticipated revenues for private projects (clearly and briefly stated):** A portion of the Tax Increment from the District as described above will be used to finance a portion of the construction of the Company's new mixed-use development to be located within the District. The percentage of the Tax Increment will be paid to the Company under the terms of a Credit Enhancement Agreement as set forth below.

Credit Enhancement Agreement (CEA)

7. **Describe terms and conditions of any agreements, contracts or other obligations related to the development program (e.g. CEAs). Ensure to clearly state the reimbursement percentage, along with, if applicable, any local triggers/caps.**
 - a. **Will CEAs be offered as part of this development program?** Yes.
 - b. **List name(s) of company/developer to be offered a CEA:** JCS 18, LLC
 - i. **Provide the CEA reimbursement percentage, term, conditions for each listed company/developer:** 75% CEA reimbursement for 12 years with a cap not to exceed \$950,000.



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- c. **Is this an omnibus application?** No.
If an omnibus, provide clear reimbursement percentage(s) and term(s)/condition(s): [Click here to enter text.](#)
- d. **Does the municipality have a TIF policy?** Yes. Include a copy in Exhibit N.

If this is an amendment, and if applicable, include a copy of all executed CEAs as Exhibit M.



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Development Program Fund and Tax Increment Revenues

Read below. Authorized municipal official must initial in provided spaces, acknowledging understanding of the below information:

If a municipality/plantation has designated captured assessed value, the municipality/plantation shall:

A. Establish a development program fund that consists of the following:

1. A project cost account that is pledged to and charged with the payment of project costs that are outlined in the financial plan and are paid in a manner other than as described in subparagraph (2); and
2. In instances of municipal/plantation indebtedness, a development sinking fund account that is pledged to and charged with the payment of the interest and principal as the interest and principal fall due and the necessary charges of paying interest and principal on any notes, bonds or other evidences of indebtedness that were issued to fund or refund the cost of the development program fund;

B. Annually set aside all tax increment revenues on captured assessed values and deposit all such revenues to the appropriate development program fund account established under paragraph A in the following order of priority:

1. To the development sinking fund account, an amount sufficient, together with estimated future revenues to be deposited to the account and earnings on the amount, to satisfy all annual debt service on bonds and notes issued under section 5231 and the financial plan; and
2. To the project cost account, an amount sufficient, together with estimated future revenues to be deposited to the account and earnings on the amount, to satisfy all annual project costs to be paid from the account;

C. Make transfers between development program fund accounts established under paragraph A as required, provided that the transfers do not result in a balance in the development sinking fund account that is insufficient to cover the annual obligations of that account; and

D. Annually return to the municipal or plantation general fund any tax increment revenues remaining in the development sinking fund account established under paragraph A in excess of those estimated to be required to satisfy the obligations of the development sinking fund account after taking into account any transfers made under paragraph C. The municipality/plantation, at any time during the term of the district, by vote of the municipal or plantation officers, may return to the municipal/plantation general fund any tax increment revenues remaining in the project cost account established under paragraph A in excess of those estimated to be required to satisfy the obligations of the development project cost account after taking into account any transfer made under paragraph C. In either case, the corresponding amount of local valuation may not be included as part of the captured assessed value as specified by the municipality or plantation.

X _____
Initial & date

At the end of the district TIF term, all taxable real and/or personal property value captured in the district will be added to the general tax rolls.

X _____
Initial & date



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Relocation of Person(s)/Business(es)

8. No persons will be displaced as a result of the development activities proposed within the District.

Transportation Improvements

9. As part of this development, a portion of Mill Street as well as the tangential public parking spaces along the Androscoggin River will be realigned as requested by the City's Planning Board. Except for these improvements, the existing transportation facilities of the City will be adequate to accommodate the development activities within the District.

Environmental Controls

10. The improvements made under this Development Program will meet or exceed all federal and state environmental regulations and will comply with all applicable land use requirements of the city.

District Operation

11. **After the planned capital improvements are completed, provide a brief statement of the proposed operation of the development district pertaining to:**
 - a. **Public capital improvements:** The City expects to construct improvements to Miller Street, including a relocation of the right of way and underlying utilities and parking on adjacent City-owned land. Otherwise, the day-to-day operations of the District will not require substantial efforts by the City, other than staffing and programming primarily conducted by the City Manager's office and the Business and Community Development Office.
 - b. **Private capital improvements:** The private improvements contemplated to occur within the District are expected to be funded by the developer, in part through the reimbursement of tax increment revenue pursuant to a credit enhancement agreement. Other than the credit enhancement agreement, the City will not be responsible for the funding or operation of private capital improvements within the District.



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Section 7 - Notice and Hearing

- Date of public notice (must be minimally 10 days before the public hearing):** [Click to enter a date.](#)
For Exhibit G, provide a legible copy of the newspaper page showing the public hearing , newspaper name and date of publication.
- Date of public hearing:** November 20, 2023
For Exhibit H, provide a copy of the public hearing minutes, attested to with dated signature.
- Date municipal or plantation legislative body approved original district designation:** [Click to enter a date.](#)
Date municipal or plantation legislative body adopted original development program: [Click to enter a date.](#)
If an amendment, is it to the:
 - district. Provide date municipal or plantation legislative body approved:** [Click to enter a date.](#)
 - development program. Provide date municipal or plantation legislative body approved:** [Click to enter a date.](#)
 - district and development program. Provide date municipal or plantation legislative body approved:** [Click to enter a date.](#)[date.](#)
For Exhibit I, provide verification of district designation and adoption of development program by municipal legislative body including vote tally.
- Is a municipal official authorized to make technical revisions to this District application/development program to facilitate the process for review and approval by DECD, as long as such revisions are not inconsistent with the basic structure and intent of the development program?** Yes. See Exhibit I



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Exhibit A - Statutory Requirements & Thresholds

**round to second decimal place

SECTION A. Acreage Caps		
1. Total municipal acreage		41,430
2. Acreage of proposed Municipal TIF District (if amendment, proposed updated total acreage)		0.16
3. Downtown-designation ¹ acres in proposed Municipal TIF district		0
4. Transit-Oriented Development ² acres in proposed Municipal TIF district		0
5. Total acreage [=A2-A3-A4] of proposed Municipal TIF district counted toward 2% limit		0.16
6. Percentage [=A5÷A1] of total acreage in proposed Municipal TIF district (CANNOT EXCEED 2%)		0.002%
7. Total acreage of all <u>existing/proposed</u> Municipal TIF districts in municipality including Municipal Affordable Housing Development districts: ³ See attached list	Existing	661.87
	Proposed	0.16
	Total	662.03
30-A § 5223(3) EXEMPTIONS⁴		
8. Acreage of an <u>existing/proposed</u> Downtown Municipal TIF district		247.86
9. Acreage of all <u>existing/proposed</u> Transit-Oriented Development Municipal TIF districts:		0
10. Acreage of all <u>existing/proposed</u> Community Wind Power Municipal TIF districts:		0
11. Acreage in all <u>existing/proposed</u> Municipal TIF districts common to ⁵ Pine Tree Development Zones per 30-A § 5250-I (14)(A) excluding any such acreage also factored in Exemptions 8-10 above:		0
12. Total acreage [=A7-A8-A9-A10-A11] of all <u>existing/proposed</u> Municipal TIF districts counted toward 5% limit		414.17
13. Percentage of total acreage [=A12÷A1] of all <u>existing/proposed</u> Municipal TIF districts (CANNOT EXCEED 5%)		1.00%
14. Real property in proposed Municipal TIF District that is:	ACRES	% [=Acres÷A2]
a. A blighted area		
b. In need of rehabilitation, redevelopment or conservation		
c. Suitable for commercial or arts district uses	0.16	100%
TOTAL (except for § 5223 (3) exemptions a., b. OR c. must be at least 25%)		100%

¹ Before final designation, the Commissioner will seek advice from MDOACF and MDOT per 30-A § 5226(2).

² For Transit-Oriented Development (TOD) definitions see 30-A § 5222 sub-§§ 19-24.

³ For AH-TIF acreage requirement see 30-A § 5247(3)(B). Alternatively, Section B must exclude AH-TIF valuation.

⁴ Downtown/TOD overlap nets single acreage/valuation caps exemption.

⁵ PTZ districts approved through December 31, 2008.



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SECTION B. Valuation Cap		
1. Total TAXABLE municipal valuation—use most recent April 1	\$2,253,171,176	
2. Taxable Original Assessed Value (OAV) of proposed Municipal TIF District as of March 31 preceding municipal designation—same as April 1 prior to such March 31	\$40,000	
3. Taxable OAV of all <u>existing/proposed</u> Municipal TIF districts in municipality excluding Municipal Affordable Housing Development districts: See attached list	Existing	\$105,145,300
	Proposed	\$40,000
	Total	\$105,185,300
30-A § 5223(3) EXEMPTIONS		
4. Taxable OAV of an <u>existing/proposed</u> Downtown Municipal TIF district	\$80,002,900	
5. Taxable OAV of all <u>existing/proposed</u> Transit-Oriented Development Municipal TIF district	0	
6. Taxable OAV of all <u>existing/proposed</u> Community Wind Power Municipal TIF district	0	
7. Taxable OAV of all <u>existing/proposed</u> Single Taxpayer/High Valuation ⁶ Municipal TIF districts	0	
8. Taxable OAV in all <u>existing/proposed</u> Municipal TIF districts common to Pine Tree Development Zones per 30-A § 5250-I (14)(A) excluding any such OAV also factored in Exemptions 4-7 above:	0	
9. Total taxable OAV [=B3-B4-B5-B6-B7-B8] of all <u>existing/proposed</u> Municipal TIF districts counted toward 5% limit	\$25,182,400	
10. Percentage of total taxable OAV [=B9÷B1] of all <u>existing/proposed</u> Municipal TIF districts (CANNOT EXCEED 5%)	1.118%	

COMPLETED BY			
PRINT NAME	Alyssa Tibbetts		
SIGNATURE		DATE	
<p>If this form has not been completed by the municipal or plantation assessor, the assessor must sign and date below, acknowledging he/she agrees with the information reported on this form, and understands the OAV stated in Section B, line 2, will be used to determine the IAV for this District.</p>			
PRINT NAME	Karen Scammon		
SIGNATURE		DATE	

⁶ For this exemption see 30-A §5223(3)(C) sub-§§ 1-4.

Existing Active TIF Districts

District Number	District Name	OAV	Acreage
6	Proctor & Gamble (Tambrands II)	\$ 520,900.00	84
10	Downtown Omnibus	\$ 80,002,900.00	247.86
12	Auburn Industrial Park	\$ 334,200.00	144
13	Retail Development	\$ 5,425,400.00	29.67
14	Mall Revitalization	\$ 11,328,400.00	38.91
15	Mall Area Hotel	\$ 4,900.00	1.5
16	Webster School (affordable housing)	\$ -	1.4
19	Hartt Transportation Center	\$ 1,278,600.00	43
20	62 Spring Street	\$ 474,300.00	0.81
21	477 Minot Avenue (affordable housing)	\$ -	3.83
22	Hampshire Street (affordable housing)	\$ -	1.01
23	Memory Care	\$ 327,100.00	8.61
24	Gracelawn	\$ 262,600.00	2.92
25	FutureGuard	\$ 3,838,700.00	26.2
26	North River Road Apartments	\$ 60,300.00	3.32
27	Stable Ridge	\$ 235,500.00	13.19
28	Agren Appliicance	\$ 1,051,500.00	11.64
29	186 Main Street (pending approval)	\$ 40,000.00	0.16
30	Diamond Point Storage (pending approval)	\$ 518,900.00	5.46
	TOTAL	\$ 105,704,200.00	667.49



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Exhibit B - Assessor's Certificate

EXHIBIT B: Assessor's Certificate

**CITY OF AUBURN
CERTIFICATE OF ASSESSOR**

The undersigned assessor of the City of Auburn, Maine, does hereby certify pursuant to the provisions of Title 30-A M.R.S.A. Section 5227 that the assessed value of the taxable real property within the boundaries of the Auburn Municipal Tax Increment Financing District #29, the 186 Main Street Development District, as described in the Development Program for the District and as identified in more detail below, was \$40,000 as of March 31, 2023 (April 1, 2022).

Map/Lot	Address	Acres	Original Assessed Value
231-020	186 Main Street	0.16	\$40,000
	TOTAL	0.16	\$40,000

This Certificate has been executed as of this ____ day of October, 2023.

Karen Scammon, Municipal Assessor

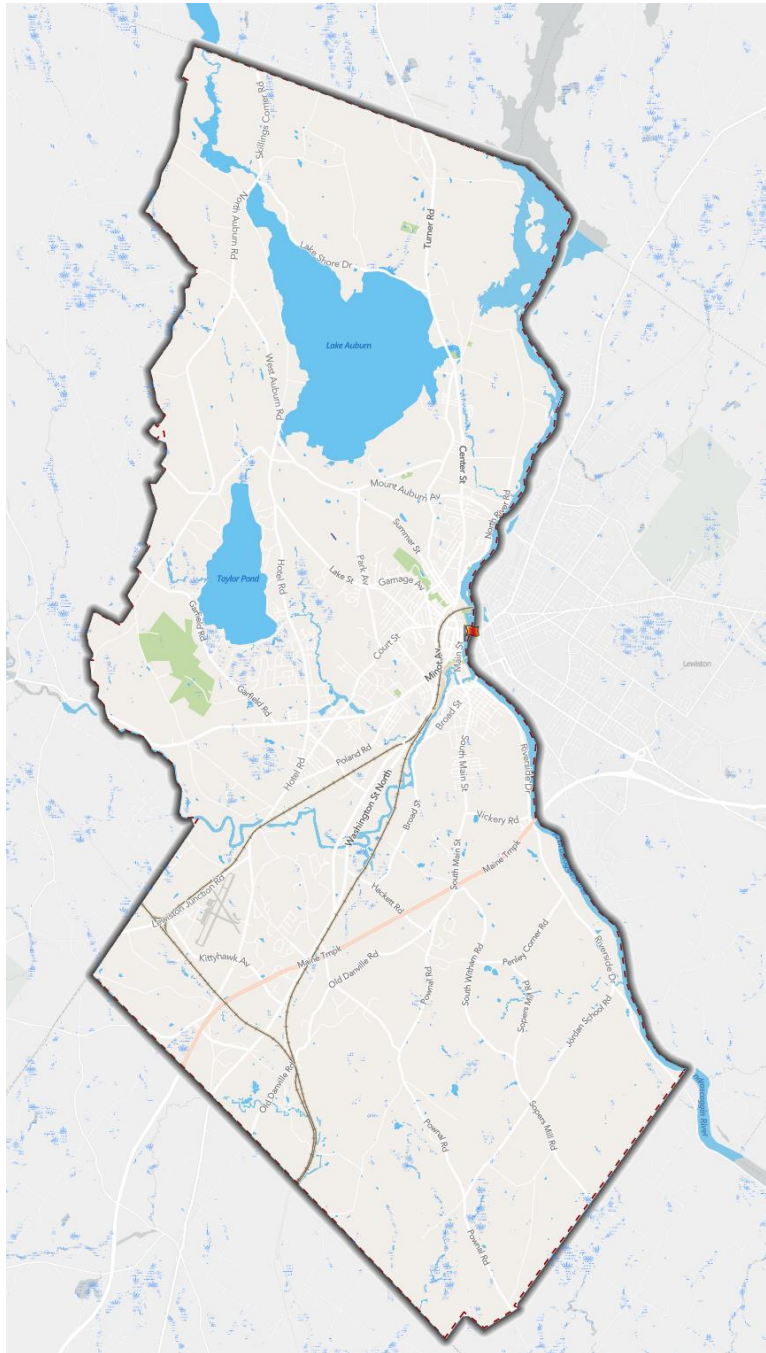


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Exhibit C - Map of District Location within Municipality

TIF #29 – Exhibit C Map of District Location within Municipality



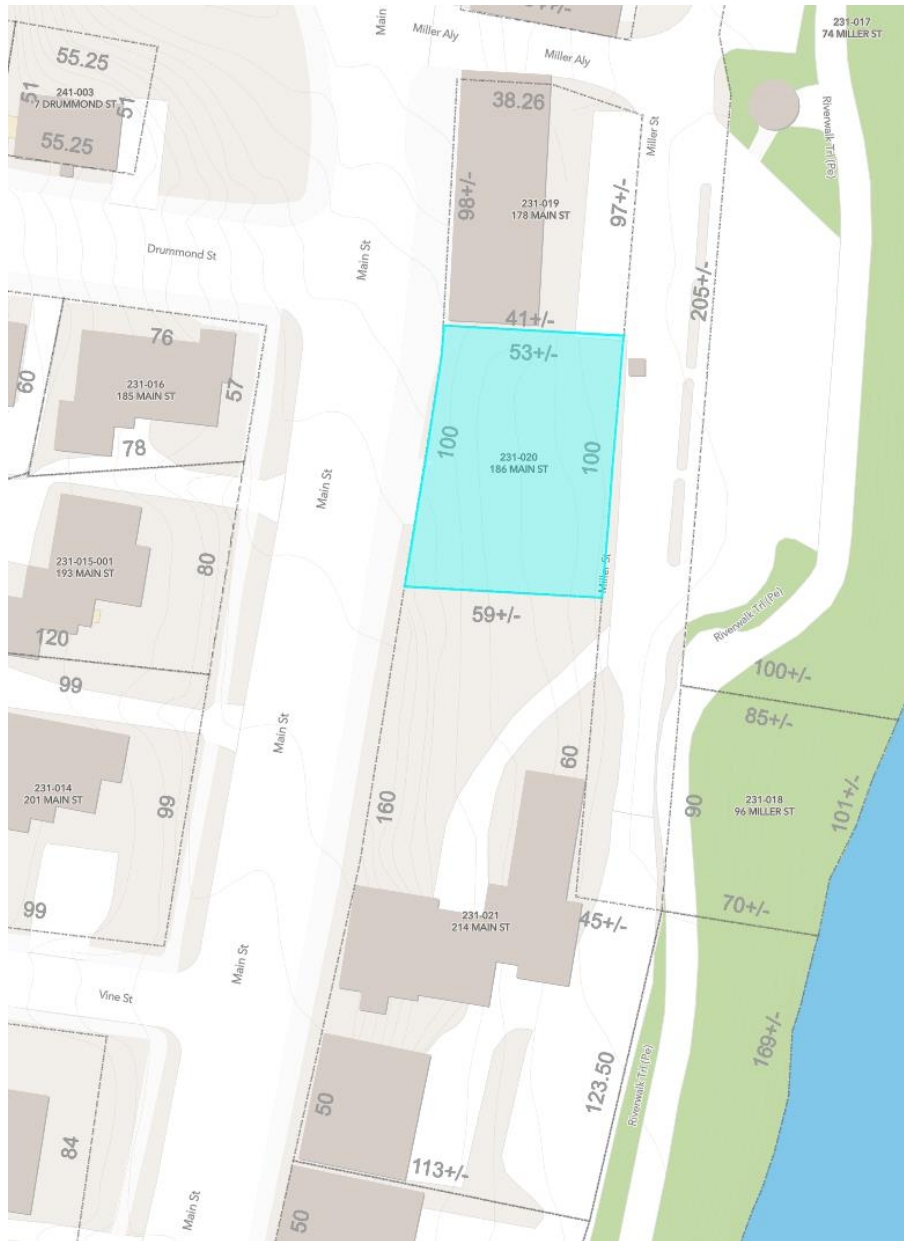


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Exhibit D - Map of District Boundaries

TIF #29 – Exhibit D
Map of District Boundaries





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Exhibit E - Annual Revenue Spreadsheet

EXHIBIT E : Annual Revenue Spreadsheet TIF Name: **TIF #29 - 186 Main St**

TIF Year	Tax Year April 1,	Fiscal Year End June 30,	Original Assessed Value (OAV)	Increased Assessed Value (IAV)	Captured Assessed Value (CAV) %	MIL Rate	Tax Revenue on OAV	Tax Revenue on IAV	Tax Revenue on CAV	CEA Payments to Developer %	Net Revenue on CAV to Development
1	2024	2025	\$40,000.00		100.0%	\$22.75	\$910.00			75.0%	
2	2025	2026	\$40,000.00	\$4,761,250	\$4,761,250	\$22.75	\$910.00	\$108,318.44	\$108,318.44	\$81,238.83	\$27,079.61
3	2026	2027	\$40,000.00	\$4,761,250	\$4,761,250	\$22.75	\$910.00	\$108,318.44	\$108,318.44	\$81,238.83	\$27,079.61
4	2027	2028	\$40,000.00	\$4,761,250	\$4,761,250	\$22.75	\$910.00	\$108,318.44	\$108,318.44	\$81,238.83	\$27,079.61
5	2028	2029	\$40,000.00	\$4,761,250	\$4,761,250	\$22.75	\$910.00	\$108,318.44	\$108,318.44	\$81,238.83	\$27,079.61
6	2029	2030	\$40,000.00	\$4,761,250	\$4,761,250	\$22.75	\$910.00	\$108,318.44	\$108,318.44	\$81,238.83	\$27,079.61
7	2030	2031	\$40,000.00	\$4,761,250	\$4,761,250	\$22.75	\$910.00	\$108,318.44	\$108,318.44	\$81,238.83	\$27,079.61
8	2031	2032	\$40,000.00	\$4,761,250	\$4,761,250	\$22.75	\$910.00	\$108,318.44	\$108,318.44	\$81,238.83	\$27,079.61
9	2032	2033	\$40,000.00	\$4,761,250	\$4,761,250	\$22.75	\$910.00	\$108,318.44	\$108,318.44	\$81,238.83	\$27,079.61
10	2033	2034	\$40,000.00	\$4,761,250	\$4,761,250	\$22.75	\$910.00	\$108,318.44	\$108,318.44	\$81,238.83	\$27,079.61
11	2034	2035	\$40,000.00	\$4,761,250	\$4,761,250	\$22.75	\$910.00	\$108,318.44	\$108,318.44	\$81,238.83	\$27,079.61
12	2035	2036	\$40,000.00	\$4,761,250	\$4,761,250	\$22.75	\$910.00	\$108,318.44	\$108,318.44	\$81,238.83	\$27,079.61
13	2036	2037	\$40,000.00	\$4,761,250	\$4,761,250	\$22.75	\$910.00	\$108,318.44	\$108,318.44	\$56,372.89	\$51,945.55
14	2037	2038	\$40,000.00	\$4,761,250	\$4,761,250	\$22.75	\$910.00	\$108,318.44	\$108,318.44		\$108,318.44
15	2038	2039	\$40,000.00	\$4,761,250	\$4,761,250	\$22.75	\$910.00	\$108,318.44	\$108,318.44		\$108,318.44
16	2039	2040	\$40,000.00	\$4,761,250	\$4,761,250	\$22.75	\$910.00	\$108,318.44	\$108,318.44		\$108,318.44
17	2040	2041	\$40,000.00	\$4,761,250	\$4,761,250	\$22.75	\$910.00	\$108,318.44	\$108,318.44		\$108,318.44
18	2041	2042	\$40,000.00	\$4,761,250	\$4,761,250	\$22.75	\$910.00	\$108,318.44	\$108,318.44		\$108,318.44
19	2042	2043	\$40,000.00	\$4,761,250	\$4,761,250	\$22.75	\$910.00	\$108,318.44	\$108,318.44		\$108,318.44
20	2043	2044	\$40,000.00	\$4,761,250	\$4,761,250	\$22.75	\$910.00	\$108,318.44	\$108,318.44		\$108,318.44
21	2044	2045	\$40,000.00	\$4,761,250	\$4,761,250	\$22.75	\$910.00	\$108,318.44	\$108,318.44		\$108,318.44
22	2045	2046	\$40,000.00	\$4,761,250	\$4,761,250	\$22.75	\$910.00	\$108,318.44	\$108,318.44		\$108,318.44
23	2046	2047	\$40,000.00	\$4,761,250	\$4,761,250	\$22.75	\$910.00	\$108,318.44	\$108,318.44		\$108,318.44
24	2047	2048	\$40,000.00	\$4,761,250	\$4,761,250	\$22.75	\$910.00	\$108,318.44	\$108,318.44		\$108,318.44
25	2048	2049	\$40,000.00	\$4,761,250	\$4,761,250	\$22.75	\$910.00	\$108,318.44	\$108,318.44		\$108,318.44
26	2049	2050	\$40,000.00	\$4,761,250	\$4,761,250	\$22.75	\$910.00	\$108,318.44	\$108,318.44		\$108,318.44
27	2050	2051	\$40,000.00	\$4,761,250	\$4,761,250	\$22.75	\$910.00	\$108,318.44	\$108,318.44		\$108,318.44
28	2051	2052	\$40,000.00	\$4,761,250	\$4,761,250	\$22.75	\$910.00	\$108,318.44	\$108,318.44		\$108,318.44
29	2052	2053	\$40,000.00	\$4,761,250	\$4,761,250	\$22.75	\$910.00	\$108,318.44	\$108,318.44		\$108,318.44
30	2053	2054	\$40,000.00	\$4,761,250	\$4,761,250	\$22.75	\$910.00	\$108,318.44	\$108,318.44		\$108,318.44
30 Year TIF Totals=							\$27,300.00	\$3,141,234.69	\$3,141,234.69	\$950,000.00	\$2,191,234.69
Annual Average=									\$104,707.82	\$81,238.83	\$73,041.16

Assumptions:
 The OAV of the District consists of the parcel(s) identified within the Certificate of Assessor (Exhibit B) and a map of the District can be found in Exhibit C-D.
 The IAV are estimates only based on the preliminary development plan. Actual IAV figures in each year may vary and as a result the projections are subject to change.
 The City intends to capture: 100.0% of both real & personal property within the district.
 The Mil Rate is \$22.75 and is based on the current rate at time of application. This rate may change each year and as a result projections are subject to change.
 The Development Program authorizes the city to enter into a credit enhancement agreement for reimbursement up to 75.0%
 The Development Program established a cap of total cumulative reimbursement of no more than \$950,000.00
 This table contains projections that are subject to a number of risks and uncertainties that could cause the actual values to differ materially from any projections relied upon herein and the actual values are likely to vary especially in later years.



Department of Economic and Community Development
Municipal Tax Increment Financing
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Exhibit F - Annual Tax Shift Spreadsheet



Department of Economic and Community Development
Municipal Tax Increment Financing
Application



Exhibit G - 10-Day Notice of Public Hearing

**CITY OF AUBURN
NOTICE OF PUBLIC HEARING**

The Auburn City Council hereby provides notice that it will hold a public hearing at 7:00 p.m. on November 20, 2023 in the Council Chambers of Auburn City Hall, 60 Court Street, Auburn, Maine, for purposes of receiving public comments on the designation of the proposed new Municipal Tax Increment Financing District #29 the “186 Main Street” Development District, and the adoption of a Development Program for said new District pursuant to the provisions of Chapter 206 of Title 30-A of the Maine Revised Statutes, as amended.

The proposed new District will consist of 0.16 acres, which includes one parcel located on Main Street, identified on the City’s tax maps as Map 231, Lot 020. The proposed new District and Development Program will enable the City to capture tax revenues from new assessed value generated by investments made on these properties within the District related to the construction of a new mixed-use building to include 18 residential apartments, retail and restaurant space.

The City proposes to offer the developer of this project a reimbursement of 75% of the property taxes paid by the developer on the new assessed property value in the District resulting from the project over a period of up to 12 years, not to exceed \$950,000 total. This reimbursement will enable the developer to construct the project and related infrastructure within the District. In addition, the City proposes to allocate the remainder of the tax increment revenues generated from the commercial development activities within the District to municipal projects such as road improvements, municipal infrastructure, public safety, and economic development, as well as other costs of public improvements and projects as identified in the Development Program for the District as may be approved and permitted pursuant to Section 5225 of Title 30-A of the Maine Revised Statutes, as amended. The City’s use of tax increment revenues may also be used to pay debt service on bonds issued to finance said public projects.

A copy of the proposed Development Program for the new District is on file with the City Clerk at City Hall, 60 Court Street, Auburn, Maine, and may be reviewed during normal business hours. All interested residents are invited to attend the hearing and to be heard at that time.



Department of Economic and Community Development
Municipal Tax Increment Financing
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Exhibit H - Minutes of Public Hearing



Department of Economic and Community Development
Municipal Tax Increment Financing
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Exhibit I - Record of District Designation and Development Plan Adoption

ORDER OF THE AUBURN CITY COUNCIL
November 20, 2023

WHEREAS, the City is authorized pursuant to Chapter 206 of Title 30-A of the Maine Revised Statutes, as amended, to adopt a Tax Increment Financing District and Development Program; and

WHEREAS, the City has received a proposal from JCS 18, LLC for the commercial development of certain property within its Downtown Traditional Center zoning district located on Main Street and abutting the Riverwalk Trail; and

WHEREAS, adopting and implementing the proposed District and Development Program will provide opportunities for significant new commercial development within the City and new employment opportunities for residents of the City and surrounding communities, and will improve and broaden the tax base of the City and improve the general economy of the City, the region and the State of Maine; and

WHEREAS, the City has held a public hearing on the proposed 186 Main Street Municipal Development and Tax Increment Financing District #29 (the “District”) in accordance with the requirements of 30-A MRSA §5226(1) upon at least ten (10) days prior notice published in a newspaper of general circulation within the City; and,

WHEREAS, the City desires to designate the proposed District and adopt the proposed Development Program as presented to the City Council this day and as has been on file in the City Clerk’s Office at City Hall; and

WHEREAS, it is anticipated that the Commissioner of the Maine Department of Economic and Community Development (“DECD”) will approve the designation of the District and adoption of the Development Program;

NOW THEREFORE, the City Council hereby Orders as follows:

Section 1. The City Council hereby finds and determines that:

(a) Adoption and implementation of the District and the Development Program will generate substantial economic benefits for the City and its residents, including employment opportunities, broadened and improved tax base and economic stimulus, and therefore constitute a good and valid public purpose and will contribute to the economic growth or well-being of the inhabitants of the City or to the betterment of the health, welfare or safety of the inhabitants of the City; and

(b) The City Council has considered all evidence presented to it with regard to any adverse economic effect on or detriment to any existing business and has found and determined that adoption and implementation of the District and the Development Program will not result in a substantial detriment to any existing business in the City, and any adverse economic effect of the District and the Development Program on any existing

EXHIBIT I: RECORD OF DISTRICT DESIGNATION AND DEVELOPMENT PLAN ADOPTION

business in the City is outweighed by the contributions expected to be made by the projects and improvements described in the District and the Development Program to the economic growth or well-being of the City or to the betterment of the health, welfare or safety of the inhabitants of the City.

Section 2. Pursuant to Chapter 206 of Title 30-A of the Maine Revised Statutes, as amended, the City Council hereby designates the City of Auburn Municipal Development and Tax Increment Financing District #29 (the “186 Main Street Development District”) as presented to the City Council.

Section 3. Pursuant to Chapter 206 of Title 30-A of the Maine Revised Statutes, as amended, the City Council hereby adopts the Development Program for the 186 Main Street Development District in the form presented to the City Council.

Section 4. The foregoing designation of the District and adoption of the Development Program shall automatically become final and shall take full force and effect upon approval of the District and Development Program by the Commissioner of the State of Maine Department of Economic and Community Development (DECD), without requirement of any further action by the City, the City Council, or any other party.

Section 5. Pursuant to the provisions of 30-A M.R.S.A. §5227, the percentage of the Increased Assessed Value to be retained as Captured Assessed Value in the District and the term of said District is confirmed as set forth in the Development Program.

Section 6. The City Manager be and hereby is authorized and directed, on behalf of the City of Auburn, Maine, to submit to the Commissioner of DECD for review and approval, pursuant to the requirements of 30-A M.R.S.A. §5226(2), the application and such other documentation as may be necessary or appropriate for the final approval of this District and the Development Program. The City Manager is further authorized and empowered, at his or her discretion from time to time, to make such technical revisions to the District or the Development Program for the District, or to the scope, cost or description of the public improvements to be financed with the portion of tax increment revenues generated by the District and retained by the City as described in the Development Program, as the City Manager deems reasonably necessary or convenient in order to facilitate the process for review and approval of the District and Development Program by DECD, or for any other reason, so long as such revisions are not inconsistent with these resolutions or the basic structure and intent of the District and the Development Program.

Section 7. The City Manager be and hereby is authorized, empowered and directed to enter into the agreements contemplated by the Development Program, in the name of and on behalf of the City, such agreements to be in such form and to contain such terms and provisions, not inconsistent with the Development Program, as the City Manager may approve, the City Manager’s approval to be conclusively evidenced by his or her execution thereof.

This Order shall take effect immediately upon adoption.



Department of Economic and Community Development
Municipal Tax Increment Financing
Application



Exhibit J - Public Project Costs

EXHIBIT J: Public Project Costs

	Project	Maximum Percentage of CAV	Cost Estimate*	Statutory Citation
1	<u>Administrative & Professional Services Costs:</u> Costs of prorated portion of salaries of City staff for time associated with creation and administration of District, and fund costs of professional services associated with creation and administration of District. Costs related to the administration and facilitation of management and monitoring of this TIF, not to exceed the indicated percentage of the revenue generated from captured assessed value of the development district. ³	5.0%	\$157,062	30-A M.R.S. §5225(1)(A)(4); (1)(A)(5); (1)(A)(7)
2	<u>Economic Development Programs:</u> Costs of the City's economic development programs, including, but not limited to, marketing costs, prorated portions of staff salaries devoted to supporting and administering TIF programming, and other related operating expenses for the City's Economic Development Department. Costs related to the economic development programs, not to exceed the indicated percentage of the revenue generated from the captured assessed value of the development district. ^{2,3}	5.0%	\$157,062	30-A M.R.S. § 5225(1)(C)(1); (1)(C)(3);
3	<u>Road Improvements within our outside the district:</u> Design, construction, engineering, other associated costs of road construction, sidewalk and pedestrian crossing safety improvements on roads located within the District or outside the District but directly related to or made necessary by the District, not to exceed the indicated percentage of the revenue generated from the captured assessed value of the development district. ³	15.0%	\$471,185	30-A M.R.S. § 5225(1)(A)(1); (1)(B)(1)
4	<u>Public Safety Facility within the city:</u> Costs related to the construction or operation of a public safety facility in the City, the need for which is related to general economic development within the City, not to exceed 15% of the revenue generated from the captured assessed value of the development district. ^{1, 3}	15.0%	\$471,185	30-A M.R.S. § 5225 (1)(C)(9)

EXHIBIT J: Public Project Costs

5	<p><u>Public Infrastructure within or outside the district:</u> Eligible recreational trail-related development district capital costs include but are not limited to new or existing trails, including bridges that are part of the trail corridor, used all or in part for all-terrain vehicles, snowmobiles, hiking, bicycling, cross-country skiing or other related multiple uses, signs, crosswalks, signals and warning systems and other related improvements, not to exceed the indicated percentage of the revenue generated from the captured assessed value of the development district.</p>	10.0%	\$314,123	30-A M.R.S. §5225(1)(A)(2)
6	<p><u>Housing Development within the city:</u> Costs associated with the development and operation of housing, including, but not limited to, authorized project costs for improvements as described in section 5249 even if such improvements are not made within an affordable housing development district as defined in section 5246, subsection 2, not to exceed the indicated percentage of the revenue generated from the captured assessed value of the development district.⁴</p>	0%	\$0	30-A M.R.S. § 5225 (1)(A)(9); 30-A M.R.S. § 5249 (1)(A)(5); (1)(A)(7)
7	<p><u>Economic Development related to Housing within the city:</u> Costs of improvements that are made outside the tax increment financing district but are directly related to or are made necessary by the establishment or operation of the district, including, but not limited to project costs for improvements as described in section 5249 in support of municipal economic development activities regardless of whether such costs are within an affordable housing development district as defined in section 5246, subsection 2, not to exceed the indicated percentage of the revenue generated from the captured assessed value of the development district.⁴</p>	0%	\$0	30-A M.R.S. § 5225 (1)(B)(4); 30-A M.R.S. § 5249 (1)(A)(8)
8	<p><u>Administrative Facilities:</u> Capital costs related to the construction or renovation of the City's central administrative office, the need for which is related to economic development within the City, up to 50% of such costs, not to exceed 15% of the captured assessed value within the District.</p>	8.0%	\$251,299	30-A M.R.S. § 5225(1)(C)(12)

EXHIBIT J: Public Project Costs

9	<p><u>Capital Costs within the district:</u> Costs of improvements made within the district related to the acquisition or construction of land, structures, fixtures or equipment, or the demolition, alteration, remodeling, repair or reconstruction of buildings, structures and fixtures for public, recreational trail, commercial or transit use including, but not limited to site preparation, finishing work, real property assembly costs and other capital costs or debt service related to such improvements such as licensing, permitting, planning, engineering and architectural and legal expenses, and credit enhancement agreement payments, not to exceed the indicated percentage of the revenue generated from the captured assessed value of the development district. ³</p>	42.0%	\$1,319,319	30-A M.R.S. § 5225 (1)(C)(9); (1)(B)(1)
	TOTAL	100.0%	\$3,141,235	

*These are estimates only. The City may allocate revenues generated by the district across approved project cost categories as needed.

Similar program costs contained within other current and future TIFs may be combined.

¹ The use of TIF revenue for this project cost has also been authorized in the following TIF Districts within the City: #27, #26, #25, and #6.

² The use of TIF revenue for this project cost has also been authorized in the following TIF Districts within the City: #27, #26, #25, #10, #6.

³ The use of TIF revenue for this project cost has also been authorized in the City's TIF District #28.

⁴ Project costs #7 and #8 are not currently projected projects at this time, but the City reserves the right to authorize such project costs in the future.



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Exhibit K - Comprehensive Downtown Redevelopment Plan

N/A



Department of Economic and Community Development
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Exhibit L - Transit-Oriented Development District Map

N/A



Department of Economic and Community Development
Municipal Tax Increment Financing
Application



Exhibit M - Credit Enhancement Agreement(s)

CREDIT ENHANCEMENT AGREEMENT

between

THE CITY OF AUBURN, MAINE

and

JCS 18, LLC

DATE: _____, 2023

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THIS CREDIT ENHANCEMENT AGREEMENT dated as of _____, 2023, between the City of Auburn, Maine (the “City”), a municipal corporation and political subdivision of the State of Maine, and JCS 18, LLC (the “Developer”), a Maine limited liability company with a principal place of business located at 20 Mechanic Street, Gorham, ME 04038.

WITNESSETH THAT

WHEREAS, the Developer owns property located on Main Street in Auburn, Maine (the “Property”), and intends to construct an approximately 24,000 square foot, mixed-use facility to include residential apartments, a new brewery and retail space on the Property (the “Project”); and

WHEREAS, the City designated the 186 Main Street Tax Increment Financing Development District #29 (the “District”) pursuant to Chapter 206, subchapter 3 of Title 30-A of the Maine Revised Statutes, by vote at a City Council Meeting held on _____ (the “Vote”), and

WHEREAS, the City received the approval of the District and the Development Program by the Maine Department of Economic and Community Development dated _____; and

WHEREAS, the City authorized the execution and delivery of a credit enhancement agreement as described in the Development Program pursuant to an Order of the City Council, adopted on _____; and

WHEREAS, the City and the Developer desire and intend that this Credit Enhancement Agreement be and constitute the credit enhancement agreement contemplated and described in the Development Program; and

WHEREAS, the estimated cost of off-site improvements required in connection with the development of the Property is estimated to be approximately \$7,325,000; and

WHEREAS, the cost to construct the Project and maintain the commercial activity and employment opportunities in the City of Auburn requires financial assistance from the City to ensure completion of the Project; and

WHEREAS, completion of the Project will contribute to the economic growth and well-being of the City, and enable public facilities and improvements to the betterment of the health, welfare and safety of its inhabitants; and

WHEREAS, the City has decided to induce the Developer to undertake the Project through the use of this Agreement.

NOW, THEREFORE, in consideration of the foregoing and in consideration of the mutual promises and covenants set forth herein, the parties hereby agree as follows:

ARTICLE I

DEFINITIONS

Section 1.1. Definitions.

The terms defined in this Article I shall, for all purposes of this Agreement, have the meanings herein specified, unless the context clearly requires otherwise:

“Act” means chapter 206 of Title 30-A of the Maine Revised Statutes and regulations adopted thereunder, as amended from time to time.

“Agreement” shall mean this Credit Enhancement Agreement between the City and the Developer dated as of the date set forth above, as such may be amended from time to time.

“CEA Year(s)” shall have the meaning given such term in Section 2.3(a) hereof.

“City” shall have the meaning given such term in the first paragraph hereto.

“City Project Cost Subaccount” means that portion of the Project Cost Account of the Development Program Fund set aside for the City uses as described in the Financial Plan Section of the Development Program and established and maintained pursuant to Article II hereof.

“City Payments” means for each CEA Year the Developer Percentage of the Increased Assessed Value payable in accordance with the terms of this Agreement.

“Commissioner” means the Commissioner of the Maine Department of Economic and Community Development.

“Current Assessed Value” means the then current assessed value of real property within the District as determined by the City Tax Assessor as of April 1 of each Tax Year during the term of this Agreement.

“Department” means the Maine Department of Economic and Community Development.

“Developer” shall have the meaning given such term in the first paragraph hereto.

“Developer Percentage” means seventy-five percent (75%) of the Increased Assessed Value in each Tax Year on which Property Tax payments are made by the City to the Developer as City Payments under the terms of this Agreement, subject to the limitations set forth herein.

“Developer Project Cost Subaccount” means that portion of the Project Cost Account of the Development Program Fund set aside for the Developer as described in the Financial Plan Section of the Development Program and established and maintained pursuant to Article II hereof

“Developer Property” or “Property” means the total of 0.16 acres that comprise the District, consisting of one parcel identified on the City’s tax maps as Map 231, Lot 020.

“Development Program” means the development program and financial plan for the District adopted by the City, as amended.

“Development Program Fund” means the 186 Main Street Municipal Development and Tax Increment Financing Development Program Fund described in the Financial Plan section of the Development Program and established and maintained pursuant to Article II hereof and 30-A M.R.S.A § 5227(3)(A).

“District” shall have the meaning given such term in the first recital hereto, which is more specifically comprised of approximately 0.16 acres of real property and identified in Exhibits B, C and D to the Development Program and any future improvements to such real property.

“Financial Plan” means the financial plan described in the “Financial Plan” Section of the Development Program.

“Fiscal Year” means July 1 to June 30 each year or such other fiscal year as the City may from time to time establish.

“Increased Assessed Value” means, for each CEA Year, the amount by which the Current Assessed Value for such year exceeds the Original Assessed Value. If the Current Assessed Value is less than or equal to the Original Assessed Value in any given Tax Year, there is no Increased Assessed Value in the corresponding CEA Year.

“Incremental Property Tax Payments” means all real property tax payments related to the Increased Assessed Value, inclusive of interest thereon and the net proceeds of the redemption or sale of property sold as a result of foreclosure of the lien to the extent of the amount of such lien and interest thereon, in each case to the extent attributable to such levy.

“Original Assessed Value” means \$40,000, the taxable assessed value of the real property within the District as of March 31, 2023 (April 1, 2022).

“Project Cost Account” means that portion of the Development Program Fund for the District as defined in the Financial Plan Section of the Development Program and established and maintained according to Title 30-A M.R.S.A. § 5227(3)(A)(1) and Article II hereof.

“Property Tax” means any and all *ad valorem* property taxes levied, charged or assessed against real property located in the District by the City, or on its behalf.

“State” means the State of Maine.

“Tax Increment Revenues” means that portion of all real property taxes assessed and paid within the District to the City in any Tax Year, excluding any state, or special district tax, including any scheduled payments thereof, interest thereon and the net proceeds of the redemption or sale of property sold as a result of foreclosure of the lien to the extent of the amount of such lien and interest thereon, in each case to the extent attributable to such levy.

“Tax Payment Date” means the date(s) on which property taxes levied by the City are due and payable from the owners of property located within the City.

“Tax Year” shall have the meaning given such term in 30-A M.R.S.A. §5222(18), as amended, to wit: April 1 to March 31. Each Tax Year corresponds to a particular Fiscal Year. Each CEA Year occurs during a Fiscal Year.

Section 1.2. Interpretation and Construction.

In this Agreement, unless the context otherwise requires:

- (a) The terms “hereby,” “hereof,” “hereto,” “herein,” “hereunder” and any similar terms, as used in this Agreement, refer to this Agreement, and the term “hereafter” means after, and the term “heretofore” means before, the date of delivery of this Agreement.
- (b) Words importing a particular gender mean and include correlative words of every other gender and words importing the singular number mean and include the plural number and vice versa.
- (c) Words importing persons mean and include firms, associations, partnerships (including limited partnerships), trusts, corporations and other legal entities, including public or governmental bodies, as well as any natural persons.
- (d) Any headings preceding the texts of the several Articles and Sections of this Agreement, and any table of contents or marginal notes appended to copies hereof, shall be solely for convenience of reference and shall not constitute a part of this Agreement, nor shall they affect its meaning, construction or effect.
- (e) All approvals, consents and acceptances required to be given or made by any signatory hereto shall not be withheld unreasonably.
- (f) All notices to be given hereunder shall be given in writing and, unless a certain number of days is specified, within a reasonable time.
- (g) If any clause, provision or Section of this Agreement shall be ruled invalid by any court of competent jurisdiction, the invalidity of such clause, provision or Section shall not affect any of the remaining provisions hereof.

ARTICLE II DEVELOPMENT PROGRAM FUND AND FUNDING REQUIREMENTS

Section 2.1. Creation of Development Program Fund.

The City shall create and establish a segregated fund in the name of the City designated as “The 186 Main Street Municipal Development and Tax Increment Financing District Fund” (hereinafter the “Development Program Fund”) pursuant to, and in accordance with the terms and conditions of, the Development Program and 30-A M.R.S.A. § 5227(3). The Development Program Fund shall consist of the Project Cost Account that is pledged to and charged with the payment of project costs as outlined in the Financial Plan of the Development Program and as provided in 30-A M.R.S.A. § 5227(3)(A)(1). The Development Program Fund is pledged to and charged with the payment of costs in the manner and priority provided in 30-A M.R.S.A. § 5227(3)(B). The Project Cost Account shall also contain two subaccounts designated as the “Developer Project Cost Subaccount” and the “City Project Cost Subaccount.”

Section 2.2. Liens.

The City shall not create any liens, encumbrances or other interests of any nature whatsoever, nor shall it hypothecate the Developer Project Cost Subaccount described in Section 2.1 hereof or any funds therein, other than the interest in favor of the Developer and/or the Trustee hereunder in and to the amounts on deposit.

Section 2.3. Retention of Increment; Deposits into Development Program Fund.

(a) Commencing with the Tax Year beginning **April 1, 2024**, and for a period not to exceed twenty years, ending **March 31, 2044** (each a “CEA Year” and collectively the “CEA Years” herein), the City shall retain at least the Developer Percentage of the Increased Assessed Value within the District for the benefit of the Developer as set forth herein.

(b) For each of the CEA Years, the City shall deposit into the Developer Project Cost Subaccount an amount equal to the Developer Percentage of each Incremental Property Tax Payment paid on Increased Assessed Value, up to a cumulative amount of \$950,000. Such deposits shall be made by the City within 10 business days after the Property Tax due date at the time in effect; currently due semi-annually on each September 15 and March 15. In the event any such payment allocable to the Developer Percentage of Incremental Property Tax Payments is not timely paid to the City, the City shall deposit such payment (plus any allocable interest) within 10 business days of receipt of such payment.

(c) Notwithstanding anything to the contrary contained herein, all allocations to the Developer Project Cost Subaccount and payments to the Trustee for deposit therein shall cease at the conclusion of the term of this Agreement identified in Section 2.3(a) hereof subject to extension as identified in Section 6.1(a) hereof.

Section 2.4. Use of Monies in Development Program Fund.

All monies in the Development Program Fund that are allocable to and/or deposited in the Developer Project Cost Subaccount shall in all cases be used and applied to fund fully the City’s

payment obligations to Developer described in Articles II and III hereof. All monies required to be deposited in the Developer Project Cost Subaccount shall be used by the Developer for construction of the Project.

Section 2.5. Monies Held in Trust.

Except as otherwise provided in this Agreement, all monies required to be deposited with or paid into the Developer's Project Cost Sub-Account of the Development Program Fund are to fund payments to the Developer under the provisions hereof and the provisions of the Development Program for the benefit of the Developer in accordance with the provisions of this Agreement.

Section 2.6. Investments.

Monies in the Developer's Project Cost Sub-Account may be invested and reinvested in Qualified Investments as determined by the City. The City shall have discretion regarding the investment of such monies, provided such monies are invested in Qualified Investments. As and when any amounts so invested are needed for disbursements, the City shall cause a sufficient amount of such investments to be sold or otherwise converted into cash to the credit of such account. The City shall have the sole and exclusive right to designate the investments to be sold and to direct the sale or conversion to cash of investments made with monies in the Developer's Project Cost Sub-Account of the Development Program Fund.

Section 2.7. Reporting Obligations.

Developer covenants and agrees to provide the City promptly upon request with all documentation reasonably required by the City to confirm the costs and completion of the projects set forth in Section 2.4.

**ARTICLE III
PAYMENT OBLIGATIONS**

Section 3.1. Company Payments.

(a) The City agrees to pay Developer all amounts then on deposit in the Company Project Cost Subaccount, on or before thirty (30) days following the Tax Payment Date.

(b) Notwithstanding anything to the contrary contained herein, if, with respect to any Tax Payment Date, any portion of the property taxes assessed against real property located in the District remain unpaid, because of a valuation dispute or otherwise, the City shall be under no obligation to pay Developer's share of the disputed portion of the Tax Increment Revenues to Developer. In such a circumstance, the property taxes actually paid with respect to such Tax Payment Date shall be applied to taxes due on account of Original Assessed Value and, next to Sinking Fund Account as applicable, to the taxes due on account of the allocation of TIF Revenues for the City Project Cost Subaccount, and next to the taxes due in account of the allocation of TIF revenues for the Company Project Cost Subaccount.

Section 3.2. Failure to Make Payment.

(a) In the event the City should fail to, or be unable to, make any of the payments at the time and in the amount required under the foregoing provisions of this Article III including in the event that the amount deposited into Development Program Fund is insufficient to reimburse Developer for the full amount due to Developer under this Agreement the City shall be in breach of the terms hereof, and the amount or installment so unpaid shall continue as a limited obligation of the City, under the terms and conditions hereinafter set forth, until the amount unpaid shall have been fully paid. The Developer shall have the right to initiate and maintain an action to specifically enforce the City's obligations hereunder, subject to the limitations of Section 3.3 below.

Section 3.3. Limited Obligation.

The City's obligations of payment hereunder shall be limited obligations of the City payable solely from Tax Increment Revenues pledged therefor under this Agreement. The City's obligations hereunder shall not constitute a general debt or a general obligation or charge against or pledge of the faith and credit or taxing power of the City, the State of Maine, or of any municipality or political subdivision thereof, but shall be payable solely from that portion of Tax Increment Revenues payable to Developer hereunder, whether or not actually deposited into Company Project Cost Subaccount in the Development Program Fund. This Agreement shall not directly, indirectly or contingently obligate the City, the State of Maine, or any other City or political subdivision to levy or to pledge any form of taxation whatever therefor or to make any appropriation for their payment, excepting the pledge of the Tax Increment Revenues established under this Agreement.

**ARTICLE IV
FURTHER INSTRUMENTS AND BOOKS AND RECORDS**

Section 4.1. Further Instruments and City Costs.

The City shall, upon the reasonable request of Developer, from time to time execute and deliver such further instruments and take such further action as may be reasonable and as may be required to carry out the provisions of this Agreement; provided, however, that no such instruments or actions shall pledge the credit of the City; and provided further that the cost of executing and delivering such further instruments (including the reasonable and related costs of counsel to the City with respect thereto) shall be borne exclusively by Developer.

Section 4.2. Access to Books and Records.

(a) All non-confidential books, records and documents in the possession of the City relating to the District, the Development Program, this Agreement and the monies, revenues and receipts on deposit or required to be deposited into Development Program Fund shall at all reasonable times and upon reasonable notice be open to inspection by Developer, its agents and employees.

(b) All non-confidential books, records, lease agreements and documents in the possession of Developer relating to the District, the Development Program, this Agreement and the monies, revenues and receipts used from the Development Program Fund shall at all reasonable times and upon reasonable notice be open to inspection by City, its agents and employees.

ARTICLE V DEFAULTS AND REMEDIES

Section 5.1. Events of Default.

Each of the following events shall constitute and be referred to in this Agreement as an “Event of Default”:

- (a) Any failure by the City to pay any amounts due to Developer when the same shall become due and payable;
- (b) Any failure by the City to make deposits into Development Program Fund, including the Company Project Cost Subaccount, as and when due;
- (c) Any failure by the City or Developer to observe and perform in all material respects any covenant, condition, agreement or provision contained herein on the part of the City or Developer to be observed or performed, which failure is not cured within thirty (30) days following written notice thereof;
- (d) If a decree or order of a court or agency or supervisory authority having jurisdiction in the premises of the appointment of a conservator or receiver or liquidator of, any insolvency, readjustment of debt, marshaling of assets and liabilities or similar proceedings, or for the winding up or liquidation of the Developer’s affairs shall have been entered against the Developer or the Developer shall have consented to the appointment of a conservator or receiver or liquidator in any such proceedings of or relating to the Developer or of or relating to all or substantially all of its property, including without limitation the filing of a voluntary petition in bankruptcy by the Developer or the failure by the Developer to have an involuntary petition in bankruptcy dismissed within a period of ninety (90) consecutive days following its filing or in the event an order for release has been entered under the Bankruptcy Code with respect to the Developer;
- (e) If any secured lender of Developer accelerates the indebtedness owed to it;
- (f) If any written representation or warranty given to the City by Developer is knowingly incorrect or incomplete in any material respect, other than statements made about or in agreements with the City that were later changed by mutual consent; and
- (g) If Developer fails to maintain adequate surety bonding during construction at the levels and terms as may be required from time to time by the Developer’s secured lenders and/or

Developer allows mechanics' liens to encumber the Project for a period of more than sixty (60) days.

Section 5.2. Remedies on Default.

Subject to the provisions contained in Section 8.9, whenever any Event of Default described in Section 5.1 hereof shall have occurred and be continuing, the nondefaulting party, following the expiration of any applicable cure period, shall have all rights and remedies available to it at law or in equity, including the rights and remedies available to a secured party under the laws of the State of Maine, and may take whatever action as may be necessary or desirable to collect the amount then due and thereafter to become due, to specifically enforce the performance or observance of any obligations, agreements or covenants of the nondefaulting party under this Agreement and any documents, instruments and agreements contemplated hereby or to enforce any rights or remedies available hereunder.

Section 5.3. Remedies Cumulative.

Subject to the provisions of Section 8.9 below concerning dispute resolution, no remedy herein conferred upon or reserved to any party is intended to be exclusive of any other available remedy or remedies but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law, in equity or by statute. Delay or omission to exercise any right or power accruing upon any Events of Default to insist upon the strict performance of any of the covenants and agreements herein set forth or to exercise any rights or remedies upon the occurrence of an Event of Default shall not impair any such right or power or be considered or taken as a waiver or relinquishment for the future of the right to insist upon and to enforce, from time to time and as often as may be deemed expedient, by injunction or other appropriate legal or equitable remedy, strict compliance by the parties hereto with all of the covenants and conditions hereof, or of the rights to exercise any such rights or remedies, if such Events of Default be continued or repeated.

**ARTICLE VI
EFFECTIVE DATE, TERM AND TERMINATION**

Section 6.1. Effective Date and Term.

This Agreement shall become effective upon its execution and delivery by the parties hereto and shall remain in full force from the date hereof and shall expire upon the performance of all obligations on the part of the City and the Developer hereunder or upon any earlier termination as provided in this Agreement.

Upon receipt of such approval, this Agreement shall remain in full force from April 1, 2024 and shall expire March 31, 2036 or sooner upon the payment of all amounts due to Developer hereunder and the performance of all obligations on the part of the City hereunder, unless even sooner terminated pursuant to any other applicable provision of this Agreement.

Section 6.2. Cancellation and Expiration of Term.

At the acceleration, termination or other expiration of this Agreement in accordance with the provisions of this Agreement, the City and Developer shall each execute and deliver such documents and take or cause to be taken such actions as may be necessary to evidence the termination of this Agreement.

ARTICLE VII ASSIGNMENT AND PLEDGE OF DEVELOPER'S INTEREST

Section 7.1. Pledge and/or Assignment.

The City hereby acknowledges that Developer may pledge, assign and grant a security interest in its right, title and interest in, to and under this Agreement as collateral for financing by a bank or financial institution to Developer for the Project, although no obligation is hereby imposed on Developer to make such assignment or pledge. Recognizing this possibility, the City does hereby consent and agree to the pledge and assignment of and the grant of a security interest in all Developer's right, title and interest in, to and under this Agreement and in, and to the payments to be made to Developer hereunder, to third parties as collateral or security for indebtedness or otherwise, on one or more occasions during the term hereof. The City agrees upon request to execute and deliver any assignments, pledge agreements, consents or other confirmations required by the prospective pledgee or assignee or secured party, including without limitation recognition of the pledgee or assignee or secured party as the holder of all right, title and interest herein and as the payee of amounts due and payable hereunder and any and all such other documentation as shall confirm to such pledgee or assignee or secured party the position of such assignee or pledgee or secured party and the irrevocable and binding nature of this Agreement, and provide to the pledgee or assignee such rights and/or remedies as the parties may reasonably deem necessary for establishment, perfection and protection of its interest herein. Developer shall be responsible for the City's necessary and reasonable costs of counsel with respect to any such pledge or assignment.

Section 7.2. Transfer

Except as specified in Sections 7.1 and 8.1 hereof, Developer shall not transfer or assign any portion of its rights in, to and under this Agreement without the prior written consent of the City, which consent shall not be unreasonably withheld, conditioned or delayed.

ARTICLE VIII MISCELLANEOUS

Section 8.1. Successors.

In the event of the dissolution, merger or consolidation of the City or Developer, the covenants, stipulations, promises and agreements set forth herein, by or on behalf of or for the benefit of such party shall bind or inure to the benefit of the successors and assigns thereof from

time to time and any entity, officer, board, commission, agency or instrumentality to whom or to which any power or duty of such party shall be transferred.

Section 8.2. Parties-in-Interest.

Except as herein otherwise specifically provided, nothing in this Agreement expressed or implied is intended or shall be construed to confer upon any person, firm or corporation other than the City and Developer any right, remedy or claim under or by reason of this Agreement, it being intended that this Agreement shall be for the sole and exclusive benefit of the City and Developer.

Section 8.3. Severability.

In case any one or more of the provisions of this Agreement shall, for any reason, be held to be illegal or invalid, such illegality or invalidity shall not affect any other provision of this Agreement and this Agreement shall be construed and enforced as if such illegal or invalid provision had not been contained herein.

Section 8.4. No Personal Liability.

(a) No covenant, stipulation, obligation or agreement of the City contained herein shall be deemed to be a covenant, stipulation or obligation of any present or future elected or appointed official, officer, agent, servant or employee of the City in his or her individual capacity, and neither the City Council nor any official, officer, employee or agent of the City shall be liable personally with respect to this Agreement or be subject to any personal liability or accountability by reason hereof.

(b) No covenant, stipulation, obligation or agreement of the Developer contained herein shall be deemed to be a covenant, stipulation or obligation of any present or future officer, agent, servant or employee of the Developer in his or her individual capacity, and no officer, employee or agent of the Developer shall be liable personally with respect to this Agreement or be subject to any personal liability or accountability by reason hereof.

Section 8.5. Counterparts.

This Agreement may be executed in any number of counterparts, each of which, when so executed and delivered, shall be an original, but such counterparts shall together constitute but one and the same Agreement.

Section 8.6. Governing Law.

The laws of the State of Maine shall govern the construction and enforcement of this Agreement.

Section 8.7. Amendments.

This Agreement may be amended only with the concurring written consent of both of the parties hereto.

Section 8.8. Integration.

This Agreement completely and fully supersedes all other prior or contemporaneous understandings or agreements, both written and oral, between the City and Developer relating to the specific subject matter of this Agreement and the transactions contemplated hereby.

Section 8.9. Dispute Resolution.

In the event of a dispute regarding this Agreement or the transactions contemplated by it, the parties hereto will use all reasonable efforts to resolve the dispute on an amicable basis. If the dispute is not resolved on that basis within sixty (60) days after one party first brings the dispute to the attention of the other party, then either party may refer the dispute for resolution by one arbitrator mutually agreed to by the parties, and judgment on the award rendered by the arbitrator may be entered in any Maine state court having jurisdiction. Any such arbitration will take place in Auburn, Maine or such other location as mutually agreed by the parties. The parties acknowledge that arbitration shall be the sole mechanism for dispute resolution under this Agreement. Provided however, that in the event the parties are unable to agree, within a reasonable period, on the selection of an arbitrator, either party may file suit to resolve the dispute in any court having jurisdiction within the State of Maine. This arbitration clause shall not bar the City's assessment or collection of property taxes in accordance with law, including by judicial proceedings, including tax lien thereof.

Section 8.10. Records.

The City shall maintain a record demonstrating its calculation of the Increased Assessed Value and Tax Increment Revenues within the District as it relates to deposits to the Development Program Fund pursuant to Article II and payments to the Developer under Article III of this Agreement, and shall provide Developer with a copy of the same upon request.

Section 8.11. Notices.

All notices, certificates, requests, requisitions or other communications by the City or Developer pursuant to this Agreement shall be in writing and shall be sufficiently given and shall be deemed given when mailed by first class mail, postage prepaid, addressed as follows:

If to the City:

Phillip Crowell
City Manager
City of Auburn
60 Court Street
Auburn, ME 04210

With a copy to:

Alyssa C. Tibbetts, Esq.
Jensen Baird Gardner Henry
10 Free Street
P.O. Box 4510
Portland, Maine 04112

If to Developer:

Jonathan Smith
JCS18, LLC
20 Mechanic Street
Gorham, ME 04038

With a copy to:

Either of the parties may, by notice given to the other, designate any further or different addresses to which subsequent notices, certificates, requests or other communications shall be sent hereunder.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the City and Developer have caused this Agreement to be executed in their respective corporate names and their respective corporate seals to be hereunto affixed and attested by the duly authorized officers, all as of the date first above written.

WITNESS:

CITY OF AUBURN

By: _____

Name: Phillip L. Crowell, Jr.
Its City Manager Duly Authorized by the City
Council on _____

WITNESS:

JCS 18, LLC

By: _____

Name: Jonathan Smith
Its: President

DRAFT



Department of Economic and Community Development
Municipal Tax Increment Financing
Application



Exhibit N - Municipality TIF Policy

**CITY OF AUBURN
TAX INCREMENT FINANCING
&
CREDIT ENHANCEMENT
POLICY
AND
GUIDELINES**

The following are the City of Auburn Tax Increment Financing (TIF) Policy and Credit Enhancement Agreement Application Guidelines.

I. Purpose and Introduction

TIF allows municipalities to "shelter" new value resulting from private investment from the calculation of its State subsidies (education and revenue sharing) and County taxes. A municipality's total equalized assessed value is used to calculate General Purpose Aid to Education (subsidy), State Revenue Sharing (subsidy), and County taxes (expense). When a municipality's equalized assessed value increases, State Aid for Education decreases, municipal revenue sharing decreases, and the municipality pays a greater portion of County taxes. Specific municipal shelter benefits for the term of the TIF include: No reduction in State aid for education, no decrease in municipal revenue sharing, and no increase in County taxes (assuming 100% capture).

A Tax Increment Financing District is a tool available to the City of Auburn to promote economic development. TIF enables the City to revitalize and redevelop designated areas and build community and economic growth through public-private partnerships. The TIF District allows the City to capture some or all of the incremental real and/or personal property tax revenues derived from new development or expansion of an existing development and provides a means of financing the economic and community development goals of Auburn as set forth in the Development Program of the District adopted by the City Council and as authorized by state law. The captured tax revenues from a TIF District can be used to finance municipal investments and City infrastructure projects; and can also be used to provide incentive or financing to a private development in the form of an associated Credit Enhancement Agreement (CEA), as authorized by the Development Program of the District and state law.

These guidelines are to provide guidance and outline standards for the development of TIF's and CEA's in the City when utilizing TIF Districts and TIF revenue for the City's development and redevelopment efforts. Notwithstanding compliance with any or all of these guidelines, the creation of a TIF District or authorization of a Credit Enhancement Agreement is a policy decision of the City of Auburn to be evaluated by the City on a case-by-case basis. Adopting this policy or any TIF District does not create a right or entitlement to assistance by any applicant.

II. Eligibility for Assistance

Economic development projects may be eligible for Tax Increment Financing assistance from the City when they meet the following standards:

- Would not occur without City assistance.
- Create or retain employment opportunities.
- Significantly expand the City's tax base by a minimum of \$1,000,000.
- Diversify the economy and tax base of the City
- Conform to the quality and types of development the City seeks as outlined in the Comprehensive Plan, Strategic Plan, Downtown Revitalization Plan, Economic Development Action Plan, and Zoning Ordinances.
- Demonstrate a public benefit, such as expanding public infrastructure to service areas beyond the project or creating job opportunities or affordable housing.
- Public benefits from development must outweigh any possible adverse impacts on existing businesses or residents of the City.

The City provides TIF assistance through a Credit Enhancement Agreement that provides developers with reimbursement of a percentage of the property tax revenue paid on the increased assessed value (or incremental value) of their property. Tax revenue on the incremental value returned to the developers under a Credit Enhancement Agreement will not exceed an average of 75% of the incremental taxes over the life of the particular tax increment financing district or the Credit Enhancement Agreement. Further, the City Council may establish a cap on the total incremental taxes to be reimbursed to a developer under a CEA on an annual and/or cumulative basis. The applicant is required to submit all documentation required by the City in consideration of a Credit Enhancement Agreement. A Public Hearing shall be held to receive public comment on a completed CEA application at least ten days prior to a meeting at which the CEA is being considered for approval by the City Council.

III. Application Process

The City has established an Application for Tax Increment Financing & Credit Enhancement Agreement. Applications (whether initiated by the City or requested by a developer or business) will be reviewed by the Business and Community Development Department Staff and considered by the City Manager. Applications for a new TIF District or an amendment to an existing TIF District are subject to final approval by the City Council and the Maine Department of Economic and Community Development (DECD). The specific terms of TIF assistance through a CEA will be negotiated between the City and the applicant on a case-by-case basis. The City Manager or the City Manager's designee will negotiate for the City, and all recommendations for TIF assistance shall be based on the merits of the project and compliance with these guidelines. Based on City Council direction and approval, Business and Community Development staff will coordinate all activities regarding applications and will prepare materials as needed. The Director of Business and Community Development will assist the developer through the process. They will monitor ongoing investments in the development project if TIF assistance is granted.

All applicants for TIF assistance must pay a \$500 non-refundable application fee at the time of submission. All applicants are required to reimburse the City of Auburn for all legal and administrative costs incurred as a result of the TIF proposal, including the cost of preparing all materials necessary to establish a new TIF District, amend an existing TIF District and draft the Credit Enhancement Agreement. If a Credit Enhancement Agreement is approved, an annual fee equal to 2% of the incremental tax reallocated back to the project will be assessed.

IV. Waiver of Provisions

The City of Auburn reserves the right under certain conditions to waive the provisions of the policy. The decision to do so shall be made by applying the following guidelines to ensure that the project remains within the general parameters of the Auburn Comprehensive Plan and community development vision(s). Criteria to be considered with granting a waiver are:

- Consistency with the Auburn Comprehensive Plan
- Consistency with the Downtown Revitalization Plan
- Consistency with the City's Economic Development Plan
- Consistency with the Development Plan of the TIF District
- Consistency with other local, State, and Federal laws/rules
- Evidence of need, and
- Capacity to carry out the project

V. Mandatory Guidelines

In all instances, applicants for tax increment financing and Credit Enhancement Agreements must demonstrate that the City's participation is economically needed to undertake the project. Such justification is demonstrated by:

- Need to offset infrastructure costs unique to the site
- Need to offset economic advantages available if it should develop a project or expand operations outside of Auburn
- Lack of sufficient funding sources to meet the entire capital investments needed to undertake the project
- The project creates significant new tax value throughout the Downtown District and other areas the City Council deems necessary
- The developer is financially capable of undertaking the project
- The developer is compliant with all statutory and regulatory guidelines of the City of Auburn and the State of Maine

VI. Guidelines that Determine the Level of Municipal Participation

Although the applicants' project need not meet each of the following criteria, the following will be used to determine the City of Auburn's participation level.

- Assists an established business in Auburn, retaining existing employment opportunities
- Creates long-term permanent and quality employment opportunities
- Contributes to the revitalization of the Downtown District or other areas in need of development or redevelopment
- Improves a blighted building site in need of rehabilitation
- Creates public infrastructure facilities that have applications beyond the particular development, road improvements, parking, sidewalks, green space, etc.
- Supports or will support community projects, job training, internships, and programs that assist the under-employed and supports local contractors and suppliers.

VII. Transfer of Ownership

If the applicant transfers ownership of property in the TIF District subject to a CEA to which the applicant is a party, the applicant must notify the City Manager in writing prior to finalizing the transfer. The prospective new owner must agree, in writing, to accept the provisions of the agreement as presented to and approved by the City Council before the City will release any further TIF reimbursements under the CEA. Failure to provide notice of a transfer of ownership by the applicant or for the prospective new owner to accept the terms of the CEA before the transfer shall render the CEA invalid, and no further payments under it shall be authorized.

VIII. Annual Expenditure of TIF Revenues for Municipal Projects

Each year the Director of Business and Community Development will review all proposed TIF Revenue expenditures as part of the City Budget process to ensure compliance with the existing TIFs.

Annual allocations of TIF revenues to fund existing Credit Enhancement Agreement commitments will be factored into the annual review of the use of the available TIF revenues and estimates of proposed Credit Enhancement Agreements will be calculated by the City Assessor and City Treasurer and provided to the City Manager for review and consideration.



City Council Order

IN CITY COUNCIL

ORDER OF THE AUBURN CITY COUNCIL

November 20, 2023

WHEREAS, the City is authorized pursuant to Chapter 206 of Title 30-A of the Maine Revised Statutes, as amended, to adopt a Tax Increment Financing District and Development Program; and

WHEREAS, the City has received a proposal from JCS 18, LLC for the commercial development of certain property within its Downtown Traditional Center zoning district located on Main Street and abutting the Riverwalk Trail; and

WHEREAS, adopting and implementing the proposed District and Development Program will provide opportunities for significant new commercial development within the City and new employment opportunities for residents of the City and surrounding communities, and will improve and broaden the tax base of the City and improve the general economy of the City, the region and the State of Maine; and

WHEREAS, the City has held a public hearing on the proposed 186 Main Street Municipal Development and Tax Increment Financing District #29 (the "District") in accordance with the requirements of 30-A MRSA §5226(1) upon at least ten (10) days prior notice published in a newspaper of general circulation within the City; and,

WHEREAS, the City desires to designate the proposed District and adopt the proposed Development Program as presented to the City Council this day and as has been on file in the City Clerk's Office at City Hall; and

WHEREAS, it is anticipated that the Commissioner of the Maine Department of Economic and Community Development ("DECD") will approve the designation of the District and adoption of the Development Program;

NOW THEREFORE, the City Council hereby Orders as follows:

Section 1. The City Council hereby finds and determines that:

- (a) Adoption and implementation of the District and the Development Program will generate substantial economic benefits for the City and its residents, including employment opportunities, broadened and improved tax base and economic stimulus, and therefore constitute a good and valid public purpose and will contribute to the economic growth or

Richard Whiting, Ward One
Joseph Morin, Ward Four
Belinda A. Gerry, At Large

Ryan Hawes, Ward Two
Leroy G. Walker, Ward Five
Jason J. Levesque, Mayor

Stephen G. Milks, Ward Three
Dana Staples, At Large
Phillip L. Crowell, Jr., City Manager



City Council Order

well-being of the inhabitants of the City or to the betterment of the health, welfare or safety of the inhabitants of the City; and

(b) The City Council has considered all evidence presented to it with regard to any adverse economic effect on or detriment to any existing business and has found and determined that adoption and implementation of the District and the Development Program will not result in a substantial detriment to any existing business in the City, and any adverse economic effect of the District and the Development Program on any existing business in the City is outweighed by the contributions expected to be made by the projects and improvements described in the District and the Development Program to the economic growth or well-being of the City or to the betterment of the health, welfare or safety of the inhabitants of the City.

Section 2. Pursuant to Chapter 206 of Title 30-A of the Maine Revised Statutes, as amended, the City Council hereby designates the City of Auburn Municipal Development and Tax Increment Financing District #29 (the “186 Main Street Development District”) as presented to the City Council.

Section 3. Pursuant to Chapter 206 of Title 30-A of the Maine Revised Statutes, as amended, the City Council hereby adopts the Development Program for the 186 Main Street Development District in the form presented to the City Council.

Section 4. The foregoing designation of the District and adoption of the Development Program shall automatically become final and shall take full force and effect upon approval of the District and Development Program by the Commissioner of the State of Maine Department of Economic and Community Development (DECD), without requirement of any further action by the City, the City Council, or any other party.

Section 5. Pursuant to the provisions of 30-A M.R.S.A. §5227, the percentage of the Increased Assessed Value to be retained as Captured Assessed Value in the District and the term of said District is confirmed as set forth in the Development Program.

Section 6. The City Manager be and hereby is authorized and directed, on behalf of the City of Auburn, Maine, to submit to the Commissioner of DECD for review and approval, pursuant to the requirements of 30-A M.R.S.A. §5226(2), the application and such other documentation as may be necessary or appropriate for the final approval of this District and the Development Program. The City Manager is further authorized and empowered, at his or her discretion from time to time, to make such technical revisions to the District or the Development Program for the District,

Richard Whiting, Ward One
Joseph Morin, Ward Four
Belinda A. Gerry, At Large

Ryan Hawes, Ward Two
Leroy G. Walker, Ward Five
Jason J. Levesque, Mayor

Stephen G. Milks, Ward Three
Dana Staples, At Large
Phillip L. Crowell, Jr., City Manager



City Council Order

or to the scope, cost or description of the public improvements to be financed with the portion of tax increment revenues generated by the District and retained by the City as described in the Development Program, as the City Manager deems reasonably necessary or convenient in order to facilitate the process for review and approval of the District and Development Program by DECD, or for any other reason, so long as such revisions are not inconsistent with these resolutions or the basic structure and intent of the District and the Development Program.

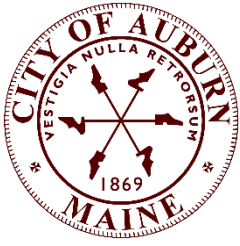
Section 7. The City Manager be and hereby is authorized, empowered and directed to enter into the agreements contemplated by the Development Program, in the name of and on behalf of the City, such agreements to be in such form and to contain such terms and provisions, not inconsistent with the Development Program, as the City Manager may approve, the City Manager's approval to be conclusively evidenced by his or her execution thereof.

This Order shall take effect immediately upon adoption.

Richard Whiting, Ward One
Joseph Morin, Ward Four
Belinda A. Gerry, At Large

Ryan Hawes, Ward Two
Leroy G. Walker, Ward Five
Jason J. Levesque, Mayor

Stephen G. Milks, Ward Three
Dana Staples, At Large
Phillip L. Crowell, Jr., City Manager



**City of Auburn
City Council Information Sheet**

Council Workshop or Meeting Date: November 20, 2023

Author: Glen E. Holmes, Director of Business & Community Development

Subject: TIF #30 – Diamond Point Storage

Information:

The Diamond Point Self-Storage Tax Increment Financing District & Development Program #30 (the "Diamond Point Storage District") will permit the construction of a 93,500 square foot, Grade-A self storage facility. In order to alleviate congestion and integrate access with current traffic patterns the developers needed to acquire an additional lot and create a Right-in/ Right-out only scenario. To do so they will have to remove and relocate existing curb cuts and rebuild the existing pedestrian accommodations. Additionally, there are existing contaminated soils and municipal easements on the property which will need to be remediated and acomodated during the development process.

There does exist a community benefit opportunity on this site, which abuts the Androscoggin River just north of the Fox Island train trestle. The developers are willing to extend the existing Auburn River Walk pathway across their property. This would extend the current 1.6 miles of paved walking paths along the river by another potentially 1,000 feet.

City Budgetary Impacts:

The City intends to establish new Tax Increment Financing Districts for the purpose of capturing tax revenues from new assessed value generated by investments made on these properties. The captured revenue will be spend in a manner which limits impacts on the city budget for planned infrastructure improvements and services as outlined within the Project Cost budget included.

Staff Recommended Action:

Approval of Order as presented.

Previous Meetings and History:

n/a

City Manager Comments:

I concur with the recommendation. Signature:

Attachments:

TIF#30 Application



**Department of Economic and Community Development
Municipal Tax Increment Financing
Application**



The legislature finds a need for new development in areas of municipalities and plantations to: (A) Provide new employment opportunities; (B) Improve and broaden the tax base; and (C) Improve the general economy of the State. The municipal tax increment financing (TIF) program, established under 30-A M.R.S.A. Chapter 206 §5221-5235, is designed to assist municipalities and plantations to develop a program for improving a district of the municipality or plantation: (A) To provide impetus for industrial, commercial, transit-oriented or arts district development, or any combination; (B) To increase employment opportunities; and (C) To provide the facilities outlined in the development program adopted by the legislative body of the municipality or plantation. The TIF Statute provides that before final designation of a tax increment financing district, the Department of Economic and Community Development (DECD) commissioner shall review the proposed district and development program to ensure compliance with statutory requirements.

Before designating a development district within the boundaries of a municipality or plantation, or adopting a development program for a designated development district, the municipal or plantation legislative body or the municipal or plantation legislative body's designee must:

- a) Hold at least one public hearing,
 - b) Publish notice of the hearing at least 10 days before the date of the hearing in a newspaper of general circulation within the municipality or plantation,
 - c) At the hearing, the legislative body of a municipality or plantation must consider:
 - i. Whether the proposed district or development program will contribute to the economic growth or well-being of the municipality or plantation or to the betterment of the health, welfare or safety of the municipal or plantation inhabitants,
 - ii. Any claim by an interested party that the proposed district or development program will result in a substantial detriment to that party's existing business in the municipality or plantation and produces substantial evidence to that effect.
-

Mail completed application, with tabs separating exhibits, to:

DECD/Office of Business Development (MTIF)

111 Sewall Street

Augusta, ME 04330

(e-mailed applications are not accepted)

Refer to "CHECKLIST FOR MTIF APPLICATION" to ensure application completeness.



Department of Economic and Community Development
Municipal Tax Increment Financing
Application



Municipalities wishing to create a municipal tax increment financing district to fund development programs must apply to DECD using the following application including all attachments noted below, in the order listed:

1. Table of Contents
2. Completed DECD MTIF Application, provided by DECD
Refer to “Checklist for Municipal Tax Increment Financing (MTIF) Application” to ensure application completeness
3. Exhibit A: Statutory Thresholds and Requirements form, provided by DECD
4. Exhibit B: Assessor’s Certificate of Original Assessed Value
5. Exhibit C: Map of District Location within Municipality
6. Exhibit D: Map of District Boundaries
7. Exhibit E: Annual Revenue Spreadsheet
8. Exhibit F: Annual Tax Shift Spreadsheet
9. Exhibit G: Copy of 10-Day notice of public hearing, including name and date of publication
10. Exhibit H: Minutes of Public Hearing, attested to with dated signature
11. Exhibit I: Record of District designation and Development Plan adoption by municipal legislative body

If applicable,

1. Exhibit J: Project Costs Spreadsheet
Refer to MTIF Application, “Checklist For MTIF Application” for required information
2. Exhibit K: For Downtown TIF application, include a comprehensive Downtown Redevelopment Plan with the completed Downtown Redevelopment Plan Criteria Checklist and verification of municipal legislative body approval
3. Exhibit L: For Transit-Oriented Development District, include a map clearly identifying transit facilities plus areas and corridors respective of §5222 (20), (22) & (23)
4. Exhibit M: If an amendment and not already provided, a copy of any executed credit enhancements agreements.
5. Exhibit N: Copy of any municipality/plantation TIF policy



**Department of Economic and Community Development
Municipal Tax Increment Financing
Application**



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**see “Checklist for Municipal Tax Increment Financing (MTIF) Application” for instructions [to automatically update the Table of Contents.](#)



**Department of Economic and Community Development
Municipal Tax Increment Financing
Application**



Section 1- Cover Letter and Application Cover Sheet

1. **Name of municipal tax increment financing (TIF) district and development program:** #30 Diamond Point Storage
2. **This is an original application. If an amendment, what amendment number?** Choose a number.
3. **Is this a Downtown designated TIF?** No.
If yes, provide the following information regarding the *Downtown Redevelopment Plan*:
 - a. **Name:** Click here to enter text
 - b. **Date approved by municipal legislative body:** Click to enter a date. (Include verification of this approval with Exhibit I)

The Downtown Redevelopment Plan must contain the components outlined in the DECD “Downtown Redevelopment Plan Criteria Checklist”
4. **Is this development district considered a/an [check the appropriate box(es)]?**
 Industrial Commercial Transit-oriented Arts
If this is a transit-oriented development designation, a map is required identifying transit facilities plus areas and corridors pursuant to MRS 30-A §5222(20), (22) & (23). (Exhibit L)
5. **Municipality name:** City of Auburn
6. **Municipality address:** 60 Court St Auburn, ME 04210
7. **Municipality county:** Androscoggin
8. **Municipal telephone number:** 207-333-6601 ext. 1159
9. **Municipal official’s name:** Phillip Crowell
10. **Municipal official’s title:** City Manager
11. **Municipal official’s e-mail address:** pcrowell@auburnmaine.gov
12. **If different from #9 above, contact person/consultant:** Zakk W. Maher
13. **Municipal contact/consultant phone number:** 207-333-6601 Ext. 1336
14. **Municipality contact/consultant e-mail address:** zmaher@auburnmaine.gov
15. **Municipality’s assessor’s name:** Karen Scammon
16. **Municipality’s assessor’s e-mail address:** KScammon@auburnmaine.gov

The municipal official named below, certifies he/she has the authority to submit this Application to DECD and further certifies all the information contained in this Application, and its attachments, are true and correct to the best of his/her knowledge.

Signature

Date

Print municipal official’s name & title



Department of Economic and Community Development
Municipal Tax Increment Financing
Application



Section 2 - Purpose/Basis Original/Amended Application

1. **Provide a brief, “headline” sentence explaining purpose/basis of this application.**

The Diamond Point Self-Storage Tax Increment Financing District & Development Program #30 (the "Diamond Point Storage District") will permit the construction of a 93,500 square foot, Grade-A self storage facility.

2. **If needed, provide additional information related to the purpose/basis of this application. If this is an amendment, provide a brief, concise overview of the purpose of the original application and each amendment submitted to date.**

The property on which the self storage project will be located will be owned by TAC Auburn, LP, and the project will be developed by Jason Sommer and Aaron Sommer. Jason and Aaron are experienced commercial developers with a portfolio of nine self-storage facilities across six states totaling over 1.2 million square feet. They have 3 contiguous properties in Auburn under contract and are seeking to develop a 3-story, climate controlled self storage facility. These properties pose logistical challenges as well as community benefit opportunities.

First, these properties are located on a problematic intersection. In order to alleviate congestion and integrate access with current traffic patterns the developers needed to acquire an additional lot and create a Right-in/ Right-out only scenario. To do so they will have to remove and relocate existing curb cuts and rebuild the existing pedestrian accommodations. Additionally, there are existing contaminated soils and municipal easements on the property which will need to be remediated and acomodated during the development process.

There does exist a community benefit opportunity on this site, which abuts the Androscoggin River just north of the Fox Island train trestle. The developers are willing to extend the existing Auburn River Walk pathway across their property. This would extend the current 1.6 miles of paved walking paths along the river by another potentially 1,000 feet.

Under this Development Program, the City will capture the increased assessed value of taxable real property over the original assessed value of the District and retain the tax revenues generated by the captured assessed value for designated economic development purposes. The calculation of TIF Revenues (as defined below) is more specifically described below in Section VI – Financial Plan. In the Assessor’s Certificate attached as Exhibit B hereto, the Assessor has certified the original assessed value of the District.

By adopting this Development Program, the City is creating a TIF district that will: (1) maintain existing tax revenues; (2) enjoy enhanced future tax revenues generated by new development within the District; and (3) shelter the captured assessed value from impacting the overall State valuation for the City of Auburn, thereby minimizing: (a) potential decreases in the City’s State school subsidy and State revenue sharing, and (b) potential increases in the City’s county tax assessments and local school district contributions.

Further, approval of this Development Program and the designation of the District will have a neutral impact on the existing tax base; only the increased assessed value over the original assessed value within the District will be captured. In addition, at the end of the District and Development Program, the City expects to emerge with a



**Department of Economic and Community Development
Municipal Tax Increment Financing
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substantial amount of new taxable property value to add to its municipal tax base.

This Development Program is structured and proposed pursuant to Chapter 206 of Title 30-A of the Maine Revised Statutes, as amended (the "TIF Statute"). Subsequent to a City Council vote designating the District and adopting this Development Program, evidenced by Exhibit I hereto, the designation of the District and adoption of this Development Program are effective upon approval by the DECD.



**Department of Economic and Community Development
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Section 3 - Company/Developer Information

A. Business General Information

[include whenever a company/developer is part of a TIF district proposal (regardless of whether a CEA is offered)]:

1. **Business name:** TAC Auburn, LP
2. **Business address:** 3565 Piedmont Road NE, Bldg 1, Suite 200, Atlanta, GA 30305-8202
3. **Business phone number:** 1-404-421-6646
4. **Business contact person:** Aaron Sommer
5. **Business contact person e-mail address:** asommer@diamondpointdevelopment.com
6. **Principal place of business:** 3565 Piedmont Road NE, Bldg 1, Suite 200, Atlanta, GA 30305-8202
7. **Company structure (e.g. corporation, sub-chapter S, etc.):** Limited Partnership
8. **Place of incorporation:** Georgia
9. **Name of Officer(s):** Click here to enter text.
10. **Name of principal owner(s) name:** Dror Bezalel, Matt Shulman, Todd Terwilliger
11. **Address:** 3565 Piedmont Road NE, Bldg 1, Suite 200, Atlanta, GA 30305-8202
12. **Brief project description:** The project is a 3 story climate controlled, Class A, self-storage facility.
13. **Total amount of project new investment by company/developer:** \$ \$14,260,745
14. **Will there be a credit enhancement agreement with this business?** Yes. If so, complete the rest of this section and Section 4.

B. Disclosure, only in cases where a CEA is offered to the above business:

1. Check the public purpose(s) that will be met by the business using this incentive:

- | | | |
|-------------------------------------------------------------------------|----------------------------------------------------------|--------------------------------------------------------|
| <input type="checkbox"/> job creation | <input type="checkbox"/> job retention | <input type="checkbox"/> capital investment |
| <input type="checkbox"/> training investment | <input checked="" type="checkbox"/> tax base improvement | <input type="checkbox"/> public facilities improvement |
| <input type="checkbox"/> other (list): <u>Click here to enter text.</u> | | |

2. Check the specific item(s) for which TIF revenues will be used by the business:

- | | | |
|-------------------------------------------------------------------------------------------------|---------------------------------------------------------|-----------------------------------------|
| <input type="checkbox"/> real estate purchase | <input type="checkbox"/> machinery & equipment purchase | <input type="checkbox"/> training costs |
| <input type="checkbox"/> debt reduction | | |
| <input checked="" type="checkbox"/> other (list): <u>Environmental Clean up; Access Control</u> | | |



**Department of Economic and Community Development
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Section 4 - Employment Goals/Data

Company Goals for Job Creation and Job Retention. (If a developer, check box , and skip to Section 5)

A. Job Creation Goals			
Occupational Cluster*	# of Full-time Positions	# of Part-time Positions	Annual Wage Level
1. Executive, Professional & Technical			
2. Administrative/Clerical Support	1	1	\$65,000
3. Sales & Service			
4. Agriculture, Forestry & Fishing			
5. Maintenance, Construction, Production & Transportation			
Total			Leave blank
B. Job Retention Goals			
Occupational Cluster*	# of Full-time Positions	# of Part-time Positions	Annual Wage Level
1. Executive, Professional & Technical	1		\$95,000
2. Administrative/Clerical Support			
3. Sales & Service			
4. Agriculture, Forestry & Fishing			
5. Maintenance, Construction, Production & Transportation			
Total			Leave blank
*See Occupational Cluster Descriptions for more information.			

INSTRUCTIONS

A. Job Creation Goals. Please list the number, type and wage level of jobs created as a result of the economic development incentive. NOTE: For this form, “full-time” employment means 30 hours or more; “part-time” employment means less than 30 hours. “Wage level” means the average annual wage paid for jobs created within an occupational cluster, e.g. either their annual salary, or their hourly wage times their annual hours. Also, “type” means “occupational cluster” which refers to the 12 categories listed in the “Occupational Cluster Descriptions.” Please include the number of your employees (both full-time and part-time) working within the category that most closely reflects their job duties.

B. Job Retention Goals. Please list the number, type and wage level of jobs retained as a result of the economic development incentive. Part B should be completed using same definitions in Part A.



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Municipal Tax Increment Financing
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Section 5 - Development Program

Public Project(s)

1. **Will there be any public facilities, improvements, or programs financed in whole or in part by the development program?**
Yes. See Exhibit J.

Private Project(s)

2. **Will there be any commercial facilities, arts districts, improvements or projects to be financed in whole or in part by the development program:** Yes. If yes, provide a brief, clear description: Developers intend to construct a new self-storage facility.

Program Duration

3. **Duration of development district (may not exceed 30 years):**
 - a. **District term: Original application:** 30.
If an amendment, adding how many years? Choose a number **totaling how many years?** Choose a number.
 - b. **Start date of** April 1, 2024 **with fiscal year** beginning July 1, 2024 *(captured assessed value as of April 1, 2024).*
[Must begin with tax year in which development district designation is effective pursuant to MRS 30-A §5226, or the subsequent tax year (MRS Title 30-A §5224 (2)(H))]
 - c. **End date of** March 31, 2054 **with fiscal year** June 30, 2054.



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Original Assessed Value

4. Provide the taxable assessed value of the development district as of the March 31st of the tax year preceding the property tax year in which the district was designated by the legislative body.

		OAV of Real Property	OAV of Personal Property	As of (complete year)	Total acres	
Original district		\$518,900.00	\$0.00	3/31/2023		5.460
Amendment: (If applicable, with any property added/removed)	#1	-			-	
		+		3/31/____	+	
	#2	-			-	
		+		3/31/____	+	
	#3	-			-	
		+		3/31/____	+	
	#4	-			-	
		+		3/31/____	+	
	#5	-			-	
		+		3/31/____	+	
	#6	-			-	
		+		3/31/____	+	
	#7	-			-	
		+		3/31/____	+	
	#8	-			-	
		+		3/31/____	+	
	#9	-			-	
		+		3/31/____	+	
	#10	-			-	
		+		3/31/____	+	
Total				N/A		

***Municipal Assessor must certify above original assessed value(s) (Exhibit B).



**Department of Economic and Community Development
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Section 6 - Financial Plan

Increased Assessed Value Information

1. **Total estimated cost for the development program: \$ 4,424,689.53** (Should match “total” from Exhibit J)
2. **Municipality will capture 100 of real property only increased assessed value for each year of the district term, to apply to the development program.** [Click here to enter text, if needed.](#)
3. **If #2 above’s captured assessed value is less than 100%, besides the district’s original assessed value, what percentage of increased assessed value will be deposited into the General Fund, or if an unorganized territory, to Education and Services fund?** [Click here to enter % to be deposited in General Fund/Education & Services fund.](#)

Public Indebtedness

4. **Will there be public indebtedness?** [Yes, to be determined.](#)
 - a. **If yes, what is the projected amount of public indebtedness to be incurred?** [The City will not incur any indebtedness at this time; however, the City may elect to do so at a future date at the discretion of its City Council.](#)
 - b. **If an amendment, have any bonds been issued to date pertaining to the approved projects of this district?** [Choose an item. If yes, provide the status, such as years left on bond and amount of outstanding debt. Click here to enter text.](#)

Anticipated Revenues

5. **Describe sources of anticipated revenues for public projects (clearly and briefly stated):** [The source of the revenue to be used to pay the costs of the public projects set forth in this Development Program is the Tax Increment on the increased Assessed Value of the District. Tax increment means all property taxes assessed by the City, in excess of any state, county or special district tax, upon the increased assessed value of all real property in the District. Increased assessed value means the valuation amount by which the current assessed value of the District exceeds the taxable original assessed value of the real property in the District. Current assessed value means the taxable assessed value of the real property in the District certified by the municipal assessor as of April 1st of each year that the District remains in effect. Property taxes means any and all ad valorem property taxes levied, charged or assessed against real property by the City. Original assessed value means the taxable assessed value of real property in the District as of March 31, 2023 \(April 1, 2022\). All property tax on the original assessed value shall continue to be deposited into the City's general fund.](#)
6. **Describe sources of anticipated revenues for private projects (clearly and briefly stated):** [A portion of the Tax Increment from the District as described above will be used to finance a portion of the construction of the Company's new storage facility to be located within the District. The percentage of the Tax Increment will be paid to the Company under the terms of a Credit Enhancement Agreement as set forth below.](#)

Credit Enhancement Agreement (CEA)

7. **Describe terms and conditions of any agreements, contracts or other obligations related to the development program (e.g. CEAs). Ensure to clearly state the reimbursement percentage, along with, if applicable, any local triggers/caps.**
 - a. **Will CEAs be offered as part of this development program?** [Yes.](#)
 - b. **List name(s) of company/developer to be offered a CEA:** [TAC Auburn, LP](#)
 - i. **Provide the CEA reimbursement percentage, term, conditions for each listed company/developer:** [50% for 15 years not to exceed \\$750,000](#)



Department of Economic and Community Development
Municipal Tax Increment Financing
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- c. **Is this an omnibus application?** No.
If an omnibus, provide clear reimbursement percentage(s) and term(s)/condition(s): [Click here to enter text.](#)
- d. **Does the municipality have a TIF policy?** Yes. Include a copy in Exhibit N.

If this is an amendment, and if applicable, include a copy of all executed CEAs as Exhibit M.



**Department of Economic and Community Development
Municipal Tax Increment Financing
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Development Program Fund and Tax Increment Revenues

Read below. Authorized municipal official must initial in provided spaces, acknowledging understanding of the below information:

If a municipality/plantation has designated captured assessed value, the municipality/plantation shall:

A. Establish a development program fund that consists of the following:

1. A project cost account that is pledged to and charged with the payment of project costs that are outlined in the financial plan and are paid in a manner other than as described in subparagraph (2); and
2. In instances of municipal/plantation indebtedness, a development sinking fund account that is pledged to and charged with the payment of the interest and principal as the interest and principal fall due and the necessary charges of paying interest and principal on any notes, bonds or other evidences of indebtedness that were issued to fund or refund the cost of the development program fund;

B. Annually set aside all tax increment revenues on captured assessed values and deposit all such revenues to the appropriate development program fund account established under paragraph A in the following order of priority:

1. To the development sinking fund account, an amount sufficient, together with estimated future revenues to be deposited to the account and earnings on the amount, to satisfy all annual debt service on bonds and notes issued under section 5231 and the financial plan; and
2. To the project cost account, an amount sufficient, together with estimated future revenues to be deposited to the account and earnings on the amount, to satisfy all annual project costs to be paid from the account;

C. Make transfers between development program fund accounts established under paragraph A as required, provided that the transfers do not result in a balance in the development sinking fund account that is insufficient to cover the annual obligations of that account; and

D. Annually return to the municipal or plantation general fund any tax increment revenues remaining in the development sinking fund account established under paragraph A in excess of those estimated to be required to satisfy the obligations of the development sinking fund account after taking into account any transfers made under paragraph C. The municipality/plantation, at any time during the term of the district, by vote of the municipal or plantation officers, may return to the municipal/plantation general fund any tax increment revenues remaining in the project cost account established under paragraph A in excess of those estimated to be required to satisfy the obligations of the development project cost account after taking into account any transfer made under paragraph C. In either case, the corresponding amount of local valuation may not be included as part of the captured assessed value as specified by the municipality or plantation.

X _____
Initial & date

At the end of the district TIF term, all taxable real and/or personal property value captured in the district will be added to the general tax rolls.

X _____
Initial & date



Department of Economic and Community Development
Municipal Tax Increment Financing
Application



Relocation of Person(s)/Business(es)

8. No businesses or persons will be displaced as a result of the development activities proposed within the District.

Transportation Improvements

9. This project will include the closure of a hazardous curb cut and the construction of a Right-In & Right-Out traffic pattern at the request of the city. Except for these improvements, the existing transportation facilities of the City will be adequate to accommodate the development activities within the District.

Environmental Controls

10. The improvements made under this Development Program will meet or exceed all federal and state environmental regulations and will comply with all applicable land use requirements of the city.

District Operation

11. **After the planned capital improvements are completed, provide a brief statement of the proposed operation of the development district pertaining to:**
- a. **Public capital improvements:** This project will include a public easement and construction of a riverfront walking path which will connect to existing city owned facilities. The day-to-day operations of the District will not require substantial efforts by the City, other than staffing and programming primarily conducted by the City Manager's office and the Business and Community Development Office.
 - b. **Private capital improvements:** The private improvements contemplated to occur within the District are expected to be funded by the developer, in part through the reimbursement of tax increment revenue pursuant to a credit enhancement agreement. Other than the credit enhancement agreement, the City will not be responsible for the funding or operation of private capital improvements within the District.



Department of Economic and Community Development
Municipal Tax Increment Financing
Application



Section 7 - Notice and Hearing

- Date of public notice (must be minimally 10 days before the public hearing):** [Click to enter a date.](#)
For Exhibit G, provide a legible copy of the newspaper page showing the public hearing , newspaper name and date of publication.
- Date of public hearing:** November 20, 2023
For Exhibit H, provide a copy of the public hearing minutes, attested to with dated signature.
- Date municipal or plantation legislative body approved original district designation:** [Click to enter a date.](#)
Date municipal or plantation legislative body adopted original development program: [Click to enter a date.](#)
If an amendment, is it to the:
 - district. Provide date municipal or plantation legislative body approved:** [Click to enter a date.](#)
 - development program. Provide date municipal or plantation legislative body approved:** [Click to enter a date.](#)
 - district and development program. Provide date municipal or plantation legislative body approved:** [Click to enter a date.](#)[date.](#)
For Exhibit I, provide verification of district designation and adoption of development program by municipal legislative body including vote tally.
- Is a municipal official authorized to make technical revisions to this District application/development program to facilitate the process for review and approval by DECD, as long as such revisions are not inconsistent with the basic structure and intent of the development program?** Yes. See Exhibit I



**Department of Economic and Community Development
Municipal Tax Increment Financing
Application**



Exhibit A - Statutory Requirements & Thresholds

**round to second decimal place

SECTION A. Acreage Caps		
1. Total municipal acreage	41,430.00	
2. Acreage of proposed Municipal TIF District (if amendment, proposed updated total acreage)	5.460	
3. Downtown-designation ¹ acres in proposed Municipal TIF district	0	
4. Transit-Oriented Development ² acres in proposed Municipal TIF district	0	
5. Total acreage [=A2-A3-A4] of proposed Municipal TIF district counted toward 2% limit	5.460	
6. Percentage [=A5÷A1] of total acreage in proposed Municipal TIF district (CANNOT EXCEED 2%)	0.013%	
7. Total acreage of all <u>existing/proposed</u> Municipal TIF districts in municipality including Municipal Affordable Housing Development districts: ³ See attached list.	Existing	662.03
	Proposed	5.460
	Total	667.49
30-A § 5223(3) EXEMPTIONS ⁴		
8. Acreage of an <u>existing/proposed</u> Downtown Municipal TIF district	247.86	
9. Acreage of all <u>existing/proposed</u> Transit-Oriented Development Municipal TIF districts:	0	
10. Acreage of all <u>existing/proposed</u> Community Wind Power Municipal TIF districts:	0	
11. Acreage in all <u>existing/proposed</u> Municipal TIF districts common to ⁵ Pine Tree Development Zones per 30-A § 5250-I (14)(A) excluding any such acreage also factored in Exemptions 8-10 above:	0	
12. Total acreage [=A7-A8-A9-A10-A11] of all <u>existing/proposed</u> Municipal TIF districts counted toward 5% limit	419.63	
13. Percentage of total acreage [=A12÷A1] of all <u>existing/proposed</u> Municipal TIF districts (CANNOT EXCEED 5%)	1.013%	
14. Real property in proposed Municipal TIF District that is:	ACRES	% [=Acres÷A2]
a. A blighted area		
b. In need of rehabilitation, redevelopment or conservation		
c. Suitable for commercial or arts district uses	5.46	100%
TOTAL (except for § 5223 (3) exemptions a., b. OR c. must be at least 25%)		

¹ Before final designation, the Commissioner will seek advice from MDOACF and MDOT per 30-A § 5226(2).

² For Transit-Oriented Development (TOD) definitions see 30-A § 5222 sub-§§ 19-24.

³ For AH-TIF acreage requirement see 30-A § 5247(3)(B). Alternatively, Section B must exclude AH-TIF valuation.

⁴ Downtown/TOD overlap nets single acreage/valuation caps exemption.

⁵ PTZ districts approved through December 31, 2008.



**Department of Economic and Community Development
Municipal Tax Increment Financing
Application**



SECTION B. Valuation Cap		
1. Total TAXABLE municipal valuation—April 1, 2023	\$2,253,171,176	
2. Taxable Original Assessed Value (OAV) of proposed Municipal TIF District as of March 31, 2023 (April 1, 2022)	\$518,900	
3. Taxable OAV of all <u>existing/proposed</u> Municipal TIF districts in municipality excluding Municipal Affordable Housing Development districts: See attached list.	Existing	\$105,185,300
	Proposed	\$518,900
	Total	\$105,704,200
30-A § 5223(3) EXEMPTIONS		
4. Taxable OAV of an <u>existing/proposed</u> Downtown Municipal TIF district	\$80,002,900	
5. Taxable OAV of all <u>existing/proposed</u> Transit-Oriented Development Municipal TIF districts	0	
6. Taxable OAV of all <u>existing/proposed</u> Community Wind Power Municipal TIF districts	0	
7. Taxable OAV of all <u>existing/proposed</u> Single Taxpayer/High Valuation ⁶ Municipal TIF districts	0	
8. Taxable OAV in all <u>existing/proposed</u> Municipal TIF districts common to Pine Tree Development Zones per 30-A § 5250-I (14)(A) excluding any such OAV also factored in Exemptions 4-7 above	0	
9. Total taxable OAV [=B3-B4-B5-B6-B7-B8] of all <u>existing/proposed</u> Municipal TIF districts counted toward 5% limit	\$25,701,300	
10. Percentage of total taxable OAV [=B9÷B1] of all <u>existing/proposed</u> Municipal TIF districts (CANNOT EXCEED 5%)	1.141%	

COMPLETED BY			
PRINT NAME	Alyssa Tibbetts		
SIGNATURE		DATE	
If this form has not been completed by the municipal or plantation assessor , the assessor must sign and date below, acknowledging he/she agrees with the information reported on this form, and understands the OAV stated in Section B, line 2, will be used to determine the IAV for this District.			
PRINT NAME	Karen Scammon		
SIGNATURE		DATE	

⁶ For this exemption see 30-A §5223(3)(C) sub-§§ 1-4.

Existing Active TIF Districts

District Number	District Name	OAV	Acreage
6	Proctor & Gamble (Tambrands II)	\$ 520,900.00	84
10	Downtown Omnibus	\$ 80,002,900.00	247.86
12	Auburn Industrial Park	\$ 334,200.00	144
13	Retail Development	\$ 5,425,400.00	29.67
14	Mall Revitalization	\$ 11,328,400.00	38.91
15	Mall Area Hotel	\$ 4,900.00	1.5
16	Webster School (affordable housing)	\$ -	1.4
19	Hartt Transportation Center	\$ 1,278,600.00	43
20	62 Spring Street	\$ 474,300.00	0.81
21	477 Minot Avenue (affordable housing)	\$ -	3.83
22	Hampshire Street (affordable housing)	\$ -	1.01
23	Memory Care	\$ 327,100.00	8.61
24	Gracelawn	\$ 262,600.00	2.92
25	FutureGuard	\$ 3,838,700.00	26.2
26	North River Road Apartments	\$ 60,300.00	3.32
27	Stable Ridge	\$ 235,500.00	13.19
28	Agren Appliicance	\$ 1,051,500.00	11.64
29	186 Main Street (pending approval)	\$ 40,000.00	0.16
30	Diamond Point Storage (pending approval)	\$ 518,900.00	5.46
	TOTAL	\$ 105,704,200.00	667.49



Department of Economic and Community Development
Municipal Tax Increment Financing
Application



Exhibit B - Assessor's Certificate

EXHIBIT B: Assessor's Certificate

**CITY OF AUBURN
CERTIFICATE OF ASSESSOR**

The undersigned assessor of the City of Auburn, Maine, does hereby certify pursuant to the provisions of Title 30-A M.R.S.A. Section 5227 that the assessed value of the taxable real property within the boundaries of the Auburn Municipal Tax Increment Financing District #30, the Diamond Point Storage Development District, as described in the Development Program for the District and as identified in more detail below, was \$518,900 as of March 31, 2023 (April 1, 2022).

Map/Lot	Address	Acres	Original Assessed Value
251-019	Turner Street	4.07	\$64,900
251-021	1 Center Street	0.93	\$255,000
251-022	197 Turner Street	0.46	\$199,000
	TOTAL	5.46	\$518,900

This Certificate has been executed as of this ____ day of October, 2023.

Karen Scammon, Municipal Assessor



Department of Economic and Community Development
Municipal Tax Increment Financing
Application



Exhibit C - Map of District Location within Municipality



City of Auburn, Maine

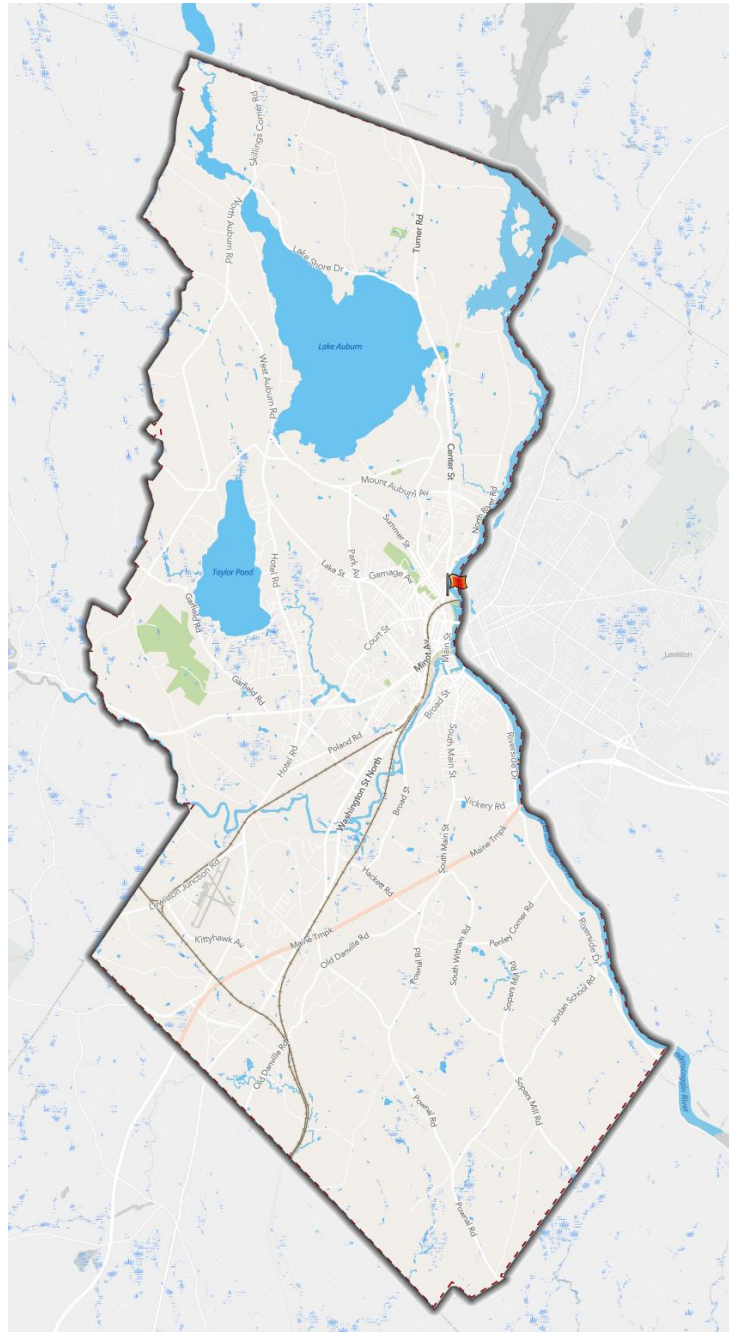
Business & Community Development

Glen Holmes, Director

60 Court Street | Auburn, Maine 04210

www.auburnmaine.gov | 207.333.6601

TIF #30 – Exhibit C Map of District Location within Municipality



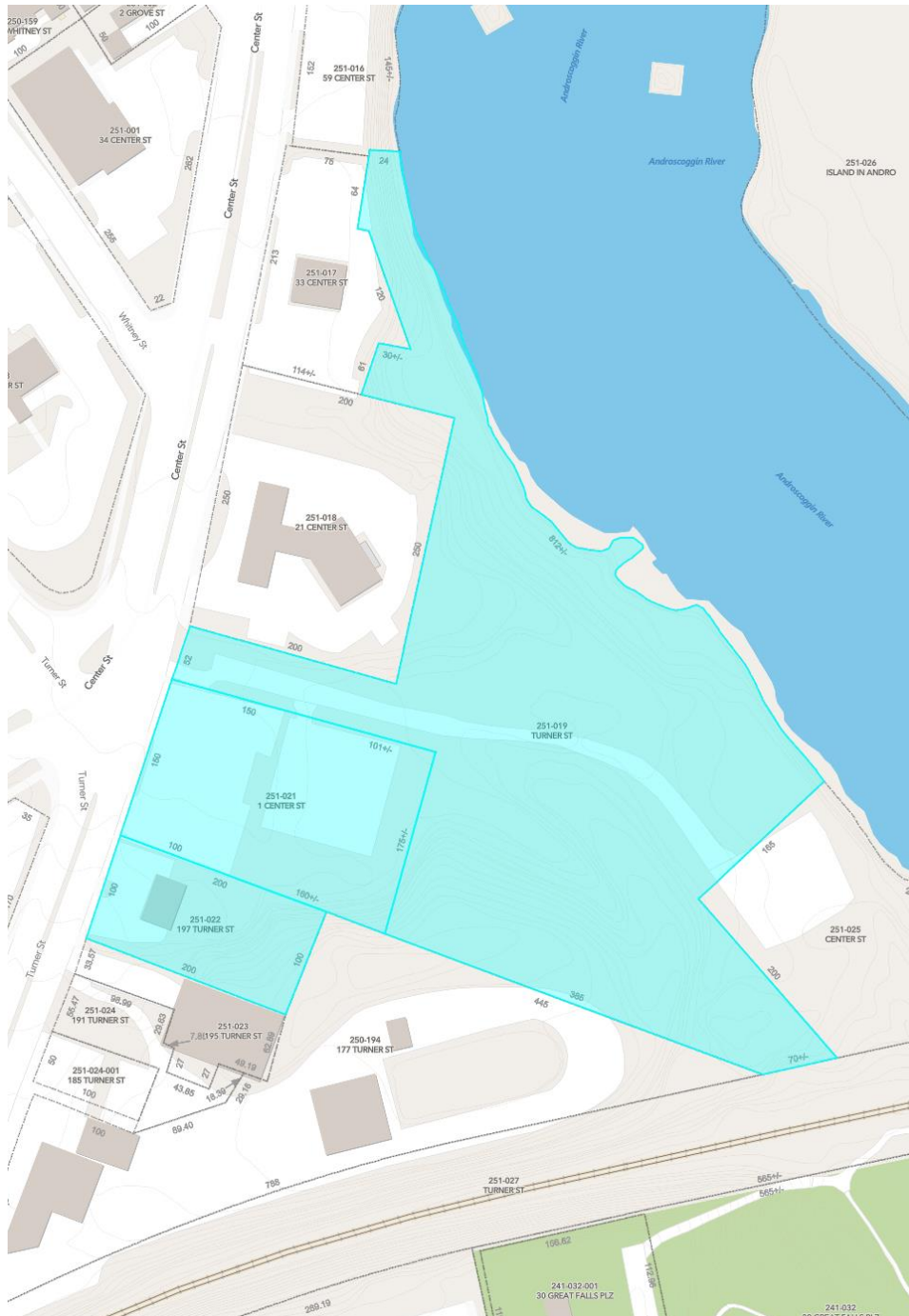


Department of Economic and Community Development
Municipal Tax Increment Financing
Application



Exhibit D - Map of District Boundaries

TIF #30 – Exhibit D Map of District Boundaries





Department of Economic and Community Development
Municipal Tax Increment Financing
Application



Exhibit E - Annual Revenue Spreadsheet

EXHIBIT E : Annual Revenue Spreadsheet			TIF Name: TIF #30 Diamond Point Storage									
TIF Year	Tax Year April 1,	Fiscal Year End June 30,	Original Assessed Value (OAV)	Increased Assessed Value (IAV)	Captured Assessed Value (CAV) %	MIL Rate	Tax Revenue on OAV	Tax Revenue on IAV	Tax Revenue on CAV	CEA Payments to Developer %	Net Revenue on CAV to Development	
1	2024	2025	\$476,200.00		100.0%	\$22.75	\$10,833.55			50.0%		
2	2025	2026	\$476,200.00	\$7,843,410	\$7,843,410	\$22.75	\$10,833.55	\$178,437.57	\$178,437.57	\$89,218.79	\$89,218.79	
3	2026	2027	\$476,200.00	\$7,843,410	\$7,843,410	\$22.75	\$10,833.55	\$178,437.57	\$178,437.57	\$89,218.79	\$89,218.79	
4	2027	2028	\$476,200.00	\$7,843,410	\$7,843,410	\$22.75	\$10,833.55	\$178,437.57	\$178,437.57	\$89,218.79	\$89,218.79	
5	2028	2029	\$476,200.00	\$7,843,410	\$7,843,410	\$22.75	\$10,833.55	\$178,437.57	\$178,437.57	\$89,218.79	\$89,218.79	
6	2029	2030	\$476,200.00	\$7,843,410	\$7,843,410	\$22.75	\$10,833.55	\$178,437.57	\$178,437.57	\$89,218.79	\$89,218.79	
7	2030	2031	\$476,200.00	\$7,843,410	\$7,843,410	\$22.75	\$10,833.55	\$178,437.57	\$178,437.57	\$89,218.79	\$89,218.79	
8	2031	2032	\$476,200.00	\$7,843,410	\$7,843,410	\$22.75	\$10,833.55	\$178,437.57	\$178,437.57	\$89,218.79	\$89,218.79	
9	2032	2033	\$476,200.00	\$7,843,410	\$7,843,410	\$22.75	\$10,833.55	\$178,437.57	\$178,437.57	\$89,218.79	\$89,218.79	
10	2033	2034	\$476,200.00	\$7,843,410	\$7,843,410	\$22.75	\$10,833.55	\$178,437.57	\$178,437.57	\$36,249.77	\$142,187.80	
11	2034	2035	\$476,200.00	\$7,843,410	\$7,843,410	\$22.75	\$10,833.55	\$178,437.57	\$178,437.57		\$178,437.57	
12	2035	2036	\$476,200.00	\$7,843,410	\$7,843,410	\$22.75	\$10,833.55	\$178,437.57	\$178,437.57		\$178,437.57	
13	2036	2037	\$476,200.00	\$7,843,410	\$7,843,410	\$22.75	\$10,833.55	\$178,437.57	\$178,437.57		\$178,437.57	
14	2037	2038	\$476,200.00	\$7,843,410	\$7,843,410	\$22.75	\$10,833.55	\$178,437.57	\$178,437.57		\$178,437.57	
15	2038	2039	\$476,200.00	\$7,843,410	\$7,843,410	\$22.75	\$10,833.55	\$178,437.57	\$178,437.57		\$178,437.57	
16	2039	2040	\$476,200.00	\$7,843,410	\$7,843,410	\$22.75	\$10,833.55	\$178,437.57	\$178,437.57		\$178,437.57	
17	2040	2041	\$476,200.00	\$7,843,410	\$7,843,410	\$22.75	\$10,833.55	\$178,437.57	\$178,437.57		\$178,437.57	
18	2041	2042	\$476,200.00	\$7,843,410	\$7,843,410	\$22.75	\$10,833.55	\$178,437.57	\$178,437.57		\$178,437.57	
19	2042	2043	\$476,200.00	\$7,843,410	\$7,843,410	\$22.75	\$10,833.55	\$178,437.57	\$178,437.57		\$178,437.57	
20	2043	2044	\$476,200.00	\$7,843,410	\$7,843,410	\$22.75	\$10,833.55	\$178,437.57	\$178,437.57		\$178,437.57	
21	2044	2045	\$476,200.00	\$7,843,410	\$7,843,410	\$22.75	\$10,833.55	\$178,437.57	\$178,437.57		\$178,437.57	
22	2045	2046	\$476,200.00	\$7,843,410	\$7,843,410	\$22.75	\$10,833.55	\$178,437.57	\$178,437.57		\$178,437.57	
23	2046	2047	\$476,200.00	\$7,843,410	\$7,843,410	\$22.75	\$10,833.55	\$178,437.57	\$178,437.57		\$178,437.57	
24	2047	2048	\$476,200.00	\$7,843,410	\$7,843,410	\$22.75	\$10,833.55	\$178,437.57	\$178,437.57		\$178,437.57	
25	2048	2049	\$476,200.00	\$7,843,410	\$7,843,410	\$22.75	\$10,833.55	\$178,437.57	\$178,437.57		\$178,437.57	
26	2049	2050	\$476,200.00	\$7,843,410	\$7,843,410	\$22.75	\$10,833.55	\$178,437.57	\$178,437.57		\$178,437.57	
27	2050	2051	\$476,200.00	\$7,843,410	\$7,843,410	\$22.75	\$10,833.55	\$178,437.57	\$178,437.57		\$178,437.57	
28	2051	2052	\$476,200.00	\$7,843,410	\$7,843,410	\$22.75	\$10,833.55	\$178,437.57	\$178,437.57		\$178,437.57	
29	2052	2053	\$476,200.00	\$7,843,410	\$7,843,410	\$22.75	\$10,833.55	\$178,437.57	\$178,437.57		\$178,437.57	
30	2053	2054	\$476,200.00	\$7,843,410	\$7,843,410	\$22.75	\$10,833.55	\$178,437.57	\$178,437.57		\$178,437.57	
30 Year TIF Totals=							\$325,006.50	\$5,174,689.58	\$5,174,689.58	\$750,000.06	\$4,424,689.53	
Annual Average=									\$172,489.65	\$89,218.79	\$147,489.65	
Assumptions:												
The OAV of the District consists of the parcel(s) identified within the Certificate of Assessor (Exhibit B) and a map of the District can be found in Exhibit C-D.												
The IAV are estimates only based on the preliminary development plan. Actual IAV figures in each year may vary and as a result the projections are subject to change.												
The City intends to capture:			100.0%	of both real & personal property within the district.								
The Mil Rate is		\$22.75	and is based on the current rate at time of application. This rate may change each year and as a result projections are subject to change.									
The Development Program authorizes the city to enter into a credit enhancement agreement for reimbursement up to								50.0%				
The Development Program established a cap of total cumulative reimbursement of no more than							\$750,000.06					
This table contains projections that are subject to a number of risks and uncertainties that could cause the actual values to differ materially from any projections relied upon herein and the actual values are likely to vary especially in later years.												



Department of Economic and Community Development
Municipal Tax Increment Financing
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Exhibit F - Annual Tax Shift Spreadsheet

EXHIBIT F : Annual Tax Shift Spreadsheet				TIF Name: TIF #30 Diamond Point Storage			
TIF Year	Tax Year April 1,	Fiscal Year End June 30,	Education Shift (Avoided Loss) State MIL Rate	Revenue Sharing Shift (Avoided Loss)	County Tax Shift (Avoided Increase)	Total Tax Shift	Net Revenue from CAV to Gen Fund (w/out TIF)
1	2024	2025	\$6.97				
2	2025	2026	\$54,668.57	\$23,597.20	\$8,072.89	\$86,338.65	\$92,098.92
3	2026	2027	\$54,668.57	\$23,597.20	\$8,072.89	\$86,338.65	\$92,098.92
4	2027	2028	\$54,668.57	\$23,597.20	\$8,072.89	\$86,338.65	\$92,098.92
5	2028	2029	\$54,668.57	\$23,597.20	\$8,072.89	\$86,338.65	\$92,098.92
6	2029	2030	\$54,668.57	\$23,597.20	\$8,072.89	\$86,338.65	\$92,098.92
7	2030	2031	\$54,668.57	\$23,597.20	\$8,072.89	\$86,338.65	\$92,098.92
8	2031	2032	\$54,668.57	\$23,597.20	\$8,072.89	\$86,338.65	\$92,098.92
9	2032	2033	\$54,668.57	\$23,597.20	\$8,072.89	\$86,338.65	\$92,098.92
10	2033	2034	\$54,668.57	\$23,597.20	\$8,072.89	\$86,338.65	\$92,098.92
11	2034	2035	\$54,668.57	\$23,597.20	\$8,072.89	\$86,338.65	\$92,098.92
12	2035	2036	\$54,668.57	\$23,597.20	\$8,072.89	\$86,338.65	\$92,098.92
13	2036	2037	\$54,668.57	\$23,597.20	\$8,072.89	\$86,338.65	\$92,098.92
14	2037	2038	\$54,668.57	\$23,597.20	\$8,072.89	\$86,338.65	\$92,098.92
15	2038	2039	\$54,668.57	\$23,597.20	\$8,072.89	\$86,338.65	\$92,098.92
16	2039	2040	\$54,668.57	\$23,597.20	\$8,072.89	\$86,338.65	\$92,098.92
17	2040	2041	\$54,668.57	\$23,597.20	\$8,072.89	\$86,338.65	\$92,098.92
18	2041	2042	\$54,668.57	\$23,597.20	\$8,072.89	\$86,338.65	\$92,098.92
19	2042	2043	\$54,668.57	\$23,597.20	\$8,072.89	\$86,338.65	\$92,098.92
20	2043	2044	\$54,668.57	\$23,597.20	\$8,072.89	\$86,338.65	\$92,098.92
21	2044	2045	\$54,668.57	\$23,597.20	\$8,072.89	\$86,338.65	\$92,098.92
22	2045	2046	\$54,668.57	\$23,597.20	\$8,072.89	\$86,338.65	\$92,098.92
23	2046	2047	\$54,668.57	\$23,597.20	\$8,072.89	\$86,338.65	\$92,098.92
24	2047	2048	\$54,668.57	\$23,597.20	\$8,072.89	\$86,338.65	\$92,098.92
25	2048	2049	\$54,668.57	\$23,597.20	\$8,072.89	\$86,338.65	\$92,098.92
26	2049	2050	\$54,668.57	\$23,597.20	\$8,072.89	\$86,338.65	\$92,098.92
27	2050	2051	\$54,668.57	\$23,597.20	\$8,072.89	\$86,338.65	\$92,098.92
28	2051	2052	\$54,668.57	\$23,597.20	\$8,072.89	\$86,338.65	\$92,098.92
29	2052	2053	\$54,668.57	\$23,597.20	\$8,072.89	\$86,338.65	\$92,098.92
30	2053	2054	\$54,668.57	\$23,597.20	\$8,072.89	\$86,338.65	\$92,098.92
30 Year TIF Totals=			\$1,585,395.38	\$684,318.76	\$234,113.79	\$2,503,820.96	\$2,670,868.62
Annual Average=			\$52,846.51	\$22,810.63	\$7,803.79	\$83,460.70	\$89,028.95
Assumptions:							
The tax shifts resulting from sheltering of valuation from the state school funding formula are based on the state EPS funding model at the most recent MIL rate published. The estimated MIL rate indicated above is applied to a district's state valuation to determine the amount of local property taxes to be raised for education. By sheltering valuation through a TIF, the City avoids having to raise an amount equal to the valuation sheltered. The education rate used to calculate the education tax shift is based on the most recent adjusted mill rate of the Auburn Public School District.							
The tax shifts resulting from the sheltering of valuation from the state revenue sharing formula are based on the most recent data available from Maine Revenue Services for the most recent fiscal year as published by the Office of the State Treasurer.							
The tax shifts resulting from the sheltering of valuation from the County tax assessment are based on the actual Androscoggin County tax assessments for the most recent five years.							
The OAV of the District consists of three parcels as identified on the Certificate of Assessor (Exhibit B) and Map of the District (Exhibit C and D)							
The increased assessed values are estimates only and based on preliminary development plans for the property in the District as of the date of designation of the District. The actual Increased Assessed Value figures in each year may vary and, as a result, the projections are subject to change.							
These tax shift estimates are based on a captured assessed value of					100.0%	of the estimated IAV.	
The projected tax revenue is based on the estimate of increased assessed value multiplied by a MIL rate of					\$22.75		
This table contains projections that are subject to a number of risks and uncertainties that could cause the actual values to differ materially from any projections relied upon herein and the actual values are likely to vary especially in later years.							



Department of Economic and Community Development
Municipal Tax Increment Financing
Application



Exhibit G - 10-Day Notice of Public Hearing

**CITY OF AUBURN
NOTICE OF PUBLIC HEARING**

The Auburn City Council hereby provides notice that it will hold a public hearing at 7:00 p.m. on November 20, 2023 in the Council Chambers of Auburn City Hall, 60 Court Street, Auburn, Maine, for purposes of receiving public comments on the designation of the proposed new Municipal Tax Increment Financing District #30 the “Diamond Point Storage” Development District, and the adoption of a Development Program for said new District pursuant to the provisions of Chapter 206 of Title 30-A of the Maine Revised Statutes, as amended.

The proposed new District will consist of 5.46 acres, which includes three parcels located at the intersection of Turner Street and Center Street, identified on the City’s tax maps as Map 251, Lots 19, 21 and 22. The proposed new District and Development Program will enable the City to capture tax revenues from new assessed value generated by investments made on these properties within the District related to the construction of a new self-storage facility by Diamond Point Development LLC.

The City proposes to offer the developer of this project a reimbursement of 50% of the property taxes paid by the developer on the new assessed property value in the District resulting from the project over a period of up to 15 years, not to exceed \$750,000 total. This reimbursement will enable the developer to construct traffic improvements made necessary by the development of a new self-storage facility in the District. In addition, the City proposes to allocate the remainder of the tax increment revenues generated from the commercial development activities within the District to municipal projects such as road improvements, municipal infrastructure, transportation, public safety, and economic development, as well as other costs of public improvements and projects as identified in the Development Program for the District as may be approved and permitted pursuant to Section 5225 of Title 30-A of the Maine Revised Statutes, as amended. The City’s use of tax increment revenues may also be used to pay debt service on bonds issued to finance said public projects.

A copy of the proposed Development Program for the new District is on file with the City Clerk at City Hall, 60 Court Street, Auburn, Maine, and may be reviewed during normal business hours. All interested residents are invited to attend the hearing and to be heard at that time.



Department of Economic and Community Development
Municipal Tax Increment Financing
Application



Exhibit H - Minutes of Public Hearing



Department of Economic and Community Development
Municipal Tax Increment Financing
Application



Exhibit I - Record of District Designation and Development Plan Adoption

ORDER OF THE AUBURN CITY COUNCIL
November 20, 2023

WHEREAS, the City is authorized pursuant to Chapter 206 of Title 30-A of the Maine Revised Statutes, as amended, to adopt a Tax Increment Financing District and Development Program; and

WHEREAS, the City has received a proposal from Diamond Point Developers LLC for the commercial development of certain property within its General Business zoning district located at the intersection of Turner Street and Center Street; and

WHEREAS, adopting and implementing the proposed District and Development Program will provide opportunities for significant new commercial development within the City and new employment opportunities for residents of the City and surrounding communities, and will improve and broaden the tax base of the City and improve the general economy of the City, the region and the State of Maine; and

WHEREAS, the City has held a public hearing on the proposed Diamond Point Storage Municipal Development and Tax Increment Financing District #30 (the “District”) in accordance with the requirements of 30-A MRSA §5226(1) upon at least ten (10) days prior notice published in a newspaper of general circulation within the City; and,

WHEREAS, the City desires to designate the proposed District and adopt the proposed Development Program as presented to the City Council this day and as has been on file in the City Clerk’s Office at City Hall; and

WHEREAS, it is anticipated that the Commissioner of the Maine Department of Economic and Community Development (“DECD”) will approve the designation of the District and adoption of the Development Program;

NOW THEREFORE, the City Council hereby Orders as follows:

Section 1. The City Council hereby finds and determines that:

(a) Adoption and implementation of the District and the Development Program will generate substantial economic benefits for the City and its residents, including employment opportunities, broadened and improved tax base and economic stimulus, and therefore constitute a good and valid public purpose and will contribute to the economic growth or well-being of the inhabitants of the City or to the betterment of the health, welfare or safety of the inhabitants of the City; and

(b) The City Council has considered all evidence presented to it with regard to any adverse economic effect on or detriment to any existing business and has found and determined that adoption and implementation of the District and the Development Program will not result in a substantial detriment to any existing business in the City, and any adverse economic effect of the District and the Development Program on any existing

EXHIBIT I: RECORD OF DISTRICT DESIGNATION AND DEVELOPMENT PLAN ADOPTION

business in the City is outweighed by the contributions expected to be made by the projects and improvements described in the District and the Development Program to the economic growth or well-being of the City or to the betterment of the health, welfare or safety of the inhabitants of the City.

Section 2. Pursuant to Chapter 206 of Title 30-A of the Maine Revised Statutes, as amended, the City Council hereby designates the City of Auburn Municipal Development and Tax Increment Financing District #30 (the “Diamond Point Storage Development District”) as presented to the City Council.

Section 3. Pursuant to Chapter 206 of Title 30-A of the Maine Revised Statutes, as amended, the City Council hereby adopts the Development Program for the Diamond Point Storage Development District in the form presented to the City Council.

Section 4. The foregoing designation of the District and adoption of the Development Program shall automatically become final and shall take full force and effect upon approval of the District and Development Program by the Commissioner of the State of Maine Department of Economic and Community Development (DECD), without requirement of any further action by the City, the City Council, or any other party.

Section 5. Pursuant to the provisions of 30-A M.R.S.A. §5227, the percentage of the Increased Assessed Value to be retained as Captured Assessed Value in the District and the term of said District is confirmed as set forth in the Development Program.

Section 6. The City Manager be and hereby is authorized and directed, on behalf of the City of Auburn, Maine, to submit to the Commissioner of DECD for review and approval, pursuant to the requirements of 30-A M.R.S.A. §5226(2), the application and such other documentation as may be necessary or appropriate for the final approval of this District and the Development Program. The City Manager is further authorized and empowered, at his or her discretion from time to time, to make such technical revisions to the District or the Development Program for the District, or to the scope, cost or description of the public improvements to be financed with the portion of tax increment revenues generated by the District and retained by the City as described in the Development Program, as the City Manager deems reasonably necessary or convenient in order to facilitate the process for review and approval of the District and Development Program by DECD, or for any other reason, so long as such revisions are not inconsistent with these resolutions or the basic structure and intent of the District and the Development Program.

Section 7. The City Manager be and hereby is authorized, empowered and directed to enter into the agreements contemplated by the Development Program, in the name of and on behalf of the City, such agreements to be in such form and to contain such terms and provisions, not inconsistent with the Development Program, as the City Manager may approve, the City Manager’s approval to be conclusively evidenced by his or her execution thereof.

This Order shall take effect immediately upon adoption.



Department of Economic and Community Development
Municipal Tax Increment Financing
Application



Exhibit J - Public Project Costs

EXHIBIT J: Public Project Costs

	Project	Maximum Percentage of CAV	Cost Estimate*	Statutory Citation
1	<u>Administrative & Professional Services Costs:</u> Costs of prorated portion of salaries of City staff for time associated with creation and administration of District, and fund costs of professional services associated with creation and administration of District. Costs related to the administration and facilitation of management and monitoring of this TIF, not to exceed the indicated percentage of the revenue generated from captured assessed value of the development district. ³	5.0%	\$258,734	30-A M.R.S. §5225(1)(A)(4); (1)(A)(5); (1)(A)(7)
2	<u>Economic Development Programs:</u> Costs of the City's economic development programs, including, but not limited to, marketing costs, prorated portions of staff salaries devoted to supporting and administering TIF programming, and other related operating expenses for the City's Economic Development Department. Costs related to the economic development programs, not to exceed the indicated percentage of the revenue generated from the captured assessed value of the development district. ^{2,3}	15.0%	\$776,203	30-A M.R.S. § 5225(1)(C)(1); (1)(C)(3);
3	<u>Road Improvements within our outside the district:</u> Design, construction, engineering, other associated costs of road construction, sidewalk and pedestrian crossing safety improvements on roads located within the District or outside the District but directly related to or made necessary by the District, not to exceed the indicated percentage of the revenue generated from the captured assessed value of the development district. ³	10.0%	\$517,469	30-A M.R.S. § 5225(1)(A)(1); (1)(B)(1)
4	<u>Public Safety Facility within the city:</u> Costs related to the construction or operation of a public safety facility in the City, the need for which is related to general economic development within the City, not to exceed 15% of the revenue generated from the captured assessed value of the development district. ^{1,3}	15.0%	\$776,203	30-A M.R.S. § 5225 (1)(C)(9)

EXHIBIT J: Public Project Costs

5	<p><u>Public Infrastructure within or outside the district:</u> Eligible recreational trail-related development district capital costs include but are not limited to new or existing trails, including bridges that are part of the trail corridor, used all or in part for all-terrain vehicles, snowmobiles, hiking, bicycling, cross-country skiing or other related multiple uses, signs, crosswalks, signals and warning systems and other related improvements, not to exceed the indicated percentage of the revenue generated from the captured assessed value of the development district.</p>	10.0%	\$517,469	30-A M.R.S. §5225(1)(A)(2)
6	<p><u>Housing Development within the city:</u> Costs associated with the development and operation of housing, including, but not limited to, authorized project costs for improvements as described in section 5249 even if such improvements are not made within an affordable housing development district as defined in section 5246, subsection 2, not to exceed the indicated percentage of the revenue generated from the captured assessed value of the development district.</p>	10.0%	\$517,469	30-A M.R.S. § 5225 (1)(A)(9); 30-A M.R.S. § 5249 (1)(A)(5); (1)(A)(7)
7	<p><u>Economic Development related to Housing within the city:</u> Costs of improvements that are made outside the tax increment financing district but are directly related to or are made necessary by the establishment or operation of the district, including, but not limited to project costs for improvements as described in section 5249 in support of municipal economic development activities regardless of whether such costs are within an affordable housing development district as defined in section 5246, subsection 2, not to exceed the indicated percentage of the revenue generated from the captured assessed value of the development district.</p>	10.0%	\$517,469	30-A M.R.S. § 5225 (1)(B)(4); 30-A M.R.S. § 5249 (1)(A)(8)
8	<p><u>Administrative Facilities:</u> Capital costs related to the construction or renovation of the City's central administrative office, the need for which is related to economic development within the City, up to 50% of such costs, not to exceed 15% of the captured assessed value within the District.</p>	10.0%	\$517,469	30-A M.R.S. § 5225(1)(C)(12)

EXHIBIT J: Public Project Costs

9	<p><u>Capital Costs within the district:</u> Costs of improvements made within the district related to the acquisition or construction of land, structures, fixtures or equipment, or the demolition, alteration, remodeling, repair or reconstruction of buildings, structures and fixtures for public, recreational trail, commercial or transit use including, but not limited to site preparation, finishing work, real property assembly costs and other capital costs or debt service related to such improvements such as licensing, permitting, planning, engineering and architectural and legal expenses, and credit enhancement agreement payments, not to exceed the indicated percentage of the revenue generated from the captured assessed value of the development district.³</p>	15.0%	\$776,203	30-A M.R.S. § 5225 (1)(C)(9); (1)(B)(1)
		100.0%	\$5,174,690	

*These are estimates only. The City may allocate revenues generated by the district across approved project cost categories as needed.

Similar program costs contained within other current and future TIFs may be combined.

¹ The use of TIF revenue for this project cost has also been authorized in the following TIF Districts within the City: #27, #26, #25, and #6.

² The use of TIF revenue for this project cost has also been authorized in the following TIF Districts within the City: #27, #26, #25, #10, #6.

³ The use of TIF revenue for this project cost has also been authorized in the City's TIF District #28.

All of the foregoing project cost categories have also been authorized in the City's TIF District #29 (pending approval).



Department of Economic and Community Development
Municipal Tax Increment Financing
Application



Exhibit K - Comprehensive Downtown Redevelopment Plan

N/A



Department of Economic and Community Development
Municipal Tax Increment Financing
Application



Exhibit L - Transit-Oriented Development District Map

N/A



Department of Economic and Community Development
Municipal Tax Increment Financing
Application



Exhibit M - Credit Enhancement Agreement(s)

CREDIT ENHANCEMENT AGREEMENT

between

THE CITY OF AUBURN, MAINE

and

TAC Auburn, LP

DATE: _____, 2023

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THIS CREDIT ENHANCEMENT AGREEMENT dated as of _____, 2023, between the City of Auburn, Maine (the “City”), a municipal corporation and political subdivision of the State of Maine, and TAC Auburn, LP (the “Developer”), a foreign Limited Partnership with a principal place of business located at 3565 Piedmont Road NE, Building 1, Suite 200, Atlanta, GA 30305.

WITNESSETH THAT

WHEREAS, the Developer owns property located on Turner and Center Streets in Auburn, Maine (the “Property”), and intends to construct a new 93,500 square foot, Grade-A self-storage facility on the Property (the “Project”); and

WHEREAS, the City designated the Diamond Point Storage Tax Increment Financing Development District #29 (the “District”) pursuant to Chapter 206, subchapter 3 of Title 30-A of the Maine Revised Statutes, by vote at a City Council Meeting held on _____ (the “Vote”), and

WHEREAS, the City received the approval of the District and the Development Program by the Maine Department of Economic and Community Development dated _____; and

WHEREAS, the City authorized the execution and delivery of a credit enhancement agreement as described in the Development Program pursuant to an Order of the City Council, adopted on _____; and

WHEREAS, the City and the Developer desire and intend that this Credit Enhancement Agreement be and constitute the credit enhancement agreement contemplated and described in the Development Program; and

WHEREAS, the estimated cost of off-site improvements required in connection with the development of the Property is estimated to be approximately \$14,260,745; and

WHEREAS, the cost to construct the Project and maintain the commercial activity and employment opportunities in the City of Auburn requires financial assistance from the City to ensure completion of the Project; and

WHEREAS, completion of the Project will contribute to the economic growth and well-being of the City, and enable public facilities and improvements to the betterment of the health, welfare and safety of its inhabitants; and

WHEREAS, the City has decided to induce the Developer to undertake the Project through the use of this Agreement.

NOW, THEREFORE, in consideration of the foregoing and in consideration of the mutual promises and covenants set forth herein, the parties hereby agree as follows:

ARTICLE I

DEFINITIONS

Section 1.1. Definitions.

The terms defined in this Article I shall, for all purposes of this Agreement, have the meanings herein specified, unless the context clearly requires otherwise:

“Act” means chapter 206 of Title 30-A of the Maine Revised Statutes and regulations adopted thereunder, as amended from time to time.

“Agreement” shall mean this Credit Enhancement Agreement between the City and the Developer dated as of the date set forth above, as such may be amended from time to time.

“CEA Year(s)” shall have the meaning given such term in Section 2.3(a) hereof.

“City” shall have the meaning given such term in the first paragraph hereto.

“City Project Cost Subaccount” means that portion of the Project Cost Account of the Development Program Fund set aside for the City uses as described in the Financial Plan Section of the Development Program and established and maintained pursuant to Article II hereof.

“City Payments” means for each CEA Year the Developer Percentage of the Increased Assessed Value payable in accordance with the terms of this Agreement.

“Commissioner” means the Commissioner of the Maine Department of Economic and Community Development.

“Current Assessed Value” means the then current assessed value of real property within the District as determined by the City Tax Assessor as of April 1 of each Tax Year during the term of this Agreement.

“Department” means the Maine Department of Economic and Community Development.

“Developer” shall have the meaning given such term in the first paragraph hereto.

“Developer Percentage” means fifty percent (50%) of the Increased Assessed Value in each Tax Year on which Property Tax payments are made by the City to the Developer as City Payments under the terms of this Agreement, subject to the limitations set forth herein.

“Developer Project Cost Subaccount” means that portion of the Project Cost Account of the Development Program Fund set aside for the Developer as described in the Financial Plan Section of the Development Program and established and maintained pursuant to Article II hereof

“Developer Property” or “Property” means the total of 5.46 acres that comprises the District, consisting of three parcels identified on the City’s tax maps as Map 251, Lot 19, 21 and 22.

“Development Program” means the development program and financial plan for the District adopted by the City, as amended.

“Development Program Fund” means the Diamond Point Storage Municipal Development and Tax Increment Financing Development Program Fund described in the Financial Plan section of the Development Program and established and maintained pursuant to Article II hereof and 30-A M.R.S.A § 5227(3)(A).

“District” shall have the meaning given such term in the first recital hereto, which is more specifically comprised of approximately 5.46 acres of real property and identified in Exhibits B, C and D to the Development Program and any future improvements to such real property.

“Financial Plan” means the financial plan described in the “Financial Plan” Section of the Development Program.

“Fiscal Year” means July 1 to June 30 each year or such other fiscal year as the City may from time to time establish.

“Increased Assessed Value” means, for each CEA Year, the amount by which the Current Assessed Value for such year exceeds the Original Assessed Value. If the Current Assessed Value is less than or equal to the Original Assessed Value in any given Tax Year, there is no Increased Assessed Value in the corresponding CEA Year.

“Incremental Property Tax Payments” means all real property tax payments related to the Increased Assessed Value, inclusive of interest thereon and the net proceeds of the redemption or sale of property sold as a result of foreclosure of the lien to the extent of the amount of such lien and interest thereon, in each case to the extent attributable to such levy.

“Original Assessed Value” means \$518,900, the taxable assessed value of the real property within the District as of March 31, 2023 (April 1, 2022).

“Project Cost Account” means that portion of the Development Program Fund for the District as defined in the Financial Plan Section of the Development Program and established and maintained according to Title 30-A M.R.S.A. § 5227(3)(A)(1) and Article II hereof.

“Property Tax” means any and all *ad valorem* property taxes levied, charged or assessed against real property located in the District by the City, or on its behalf.

“State” means the State of Maine.

“Tax Increment Revenues” means that portion of all real property taxes assessed and paid within the District to the City in any Tax Year, excluding any state, or special district tax, including any scheduled payments thereof, interest thereon and the net proceeds of the redemption or sale of property sold as a result of foreclosure of the lien to the extent of the amount of such lien and interest thereon, in each case to the extent attributable to such levy.

“Tax Payment Date” means the date(s) on which property taxes levied by the City are due and payable from the owners of property located within the City.

“Tax Year” shall have the meaning given such term in 30-A M.R.S.A. §5222(18), as amended, to wit: April 1 to March 31. Each Tax Year corresponds to a particular Fiscal Year. Each CEA Year occurs during a Fiscal Year.

Section 1.2. Interpretation and Construction.

In this Agreement, unless the context otherwise requires:

- (a) The terms “hereby,” “hereof,” “hereto,” “herein,” “hereunder” and any similar terms, as used in this Agreement, refer to this Agreement, and the term “hereafter” means after, and the term “heretofore” means before, the date of delivery of this Agreement.
- (b) Words importing a particular gender mean and include correlative words of every other gender and words importing the singular number mean and include the plural number and vice versa.
- (c) Words importing persons mean and include firms, associations, partnerships (including limited partnerships), trusts, corporations and other legal entities, including public or governmental bodies, as well as any natural persons.
- (d) Any headings preceding the texts of the several Articles and Sections of this Agreement, and any table of contents or marginal notes appended to copies hereof, shall be solely for convenience of reference and shall not constitute a part of this Agreement, nor shall they affect its meaning, construction or effect.
- (e) All approvals, consents and acceptances required to be given or made by any signatory hereto shall not be withheld unreasonably.
- (f) All notices to be given hereunder shall be given in writing and, unless a certain number of days is specified, within a reasonable time.
- (g) If any clause, provision or Section of this Agreement shall be ruled invalid by any court of competent jurisdiction, the invalidity of such clause, provision or Section shall not affect any of the remaining provisions hereof.

ARTICLE II DEVELOPMENT PROGRAM FUND AND FUNDING REQUIREMENTS

Section 2.1. Creation of Development Program Fund.

The City shall create and establish a segregated fund in the name of the City designated as “The Diamond Point Storage Municipal Development and Tax Increment Financing District Fund” (hereinafter the “Development Program Fund”) pursuant to, and in accordance with the terms and conditions of, the Development Program and 30-A M.R.S.A. § 5227(3). The Development Program Fund shall consist of the Project Cost Account that is pledged to and charged with the payment of project costs as outlined in the Financial Plan of the Development Program and as provided in 30-A M.R.S.A. § 5227(3)(A)(1). The Development Program Fund is pledged to and charged with the payment of costs in the manner and priority provided in 30-A M.R.S.A. § 5227(3)(B). The Project Cost Account shall also contain two subaccounts designated as the “Developer Project Cost Subaccount” and the “City Project Cost Subaccount.”

Section 2.2. Liens.

The City shall not create any liens, encumbrances or other interests of any nature whatsoever, nor shall it hypothecate the Developer Project Cost Subaccount described in Section 2.1 hereof or any funds therein, other than the interest in favor of the Developer and/or the Trustee hereunder in and to the amounts on deposit.

Section 2.3. Retention of Increment; Deposits into Development Program Fund.

(a) Commencing with the Tax Year beginning **April 1, 2024**, and for a period not to exceed twenty years, ending **March 31, 2044** (each a “CEA Year” and collectively the “CEA Years” herein), the City shall retain at least the Developer Percentage of the Increased Assessed Value within the District for the benefit of the Developer as set forth herein.

(b) For each of the CEA Years, the City shall deposit into the Developer Project Cost Subaccount an amount equal to the Developer Percentage of each Incremental Property Tax Payment paid on Increased Assessed Value, up to a cumulative amount of \$750,000. Such deposits shall be made by the City within 10 business days after the Property Tax due date at the time in effect; currently due semi-annually on each September 15 and March 15. In the event any such payment allocable to the Developer Percentage of Incremental Property Tax Payments is not timely paid to the City, the City shall deposit such payment (plus any allocable interest) within 10 business days of receipt of such payment.

(c) Notwithstanding anything to the contrary contained herein, all allocations to the Developer Project Cost Subaccount and payments to the Trustee for deposit therein shall cease at the conclusion of the term of this Agreement identified in Section 2.3(a) hereof subject to extension as identified in Section 6.1(a) hereof.

Section 2.4. Use of Monies in Development Program Fund.

All monies in the Development Program Fund that are allocable to and/or deposited in the Developer Project Cost Subaccount shall in all cases be used and applied to fund fully the City’s

payment obligations to Developer described in Articles II and III hereof. All monies required to be deposited in the Developer Project Cost Subaccount shall be used by the Developer for construction of the Project.

Section 2.5. Monies Held in Trust.

Except as otherwise provided in this Agreement, all monies required to be deposited with or paid into the Developer's Project Cost Sub-Account of the Development Program Fund are to fund payments to the Developer under the provisions hereof and the provisions of the Development Program for the benefit of the Developer in accordance with the provisions of this Agreement.

Section 2.6. Investments.

Monies in the Developer's Project Cost Sub-Account may be invested and reinvested in Qualified Investments as determined by the City. The City shall have discretion regarding the investment of such monies, provided such monies are invested in Qualified Investments. As and when any amounts so invested are needed for disbursements, the City shall cause a sufficient amount of such investments to be sold or otherwise converted into cash to the credit of such account. The City shall have the sole and exclusive right to designate the investments to be sold and to direct the sale or conversion to cash of investments made with monies in the Developer's Project Cost Sub-Account of the Development Program Fund.

Section 2.7. Reporting Obligations.

Developer covenants and agrees to provide the City promptly upon request with all documentation reasonably required by the City to confirm the costs and completion of the projects set forth in Section 2.4.

**ARTICLE III
PAYMENT OBLIGATIONS**

Section 3.1. Company Payments.

(a) The City agrees to pay Developer all amounts then on deposit in the Company Project Cost Subaccount, on or before thirty (30) days following the Tax Payment Date.

(b) Notwithstanding anything to the contrary contained herein, if, with respect to any Tax Payment Date, any portion of the property taxes assessed against real property located in the District remain unpaid, because of a valuation dispute or otherwise, the City shall be under no obligation to pay Developer's share of the disputed portion of the Tax Increment Revenues to Developer. In such a circumstance, the property taxes actually paid with respect to such Tax Payment Date shall be applied to taxes due on account of Original Assessed Value and, next to Sinking Fund Account as applicable, to the taxes due on account of the allocation of TIF Revenues for the City Project Cost Subaccount, and next to the taxes due in account of the allocation of TIF revenues for the Company Project Cost Subaccount.

Section 3.2. Failure to Make Payment.

(a) In the event the City should fail to, or be unable to, make any of the payments at the time and in the amount required under the foregoing provisions of this Article III including in the event that the amount deposited into Development Program Fund is insufficient to reimburse Developer for the full amount due to Developer under this Agreement the City shall be in breach of the terms hereof, and the amount or installment so unpaid shall continue as a limited obligation of the City, under the terms and conditions hereinafter set forth, until the amount unpaid shall have been fully paid. The Developer shall have the right to initiate and maintain an action to specifically enforce the City's obligations hereunder, subject to the limitations of Section 3.3 below.

Section 3.3. Limited Obligation.

The City's obligations of payment hereunder shall be limited obligations of the City payable solely from Tax Increment Revenues pledged therefor under this Agreement. The City's obligations hereunder shall not constitute a general debt or a general obligation or charge against or pledge of the faith and credit or taxing power of the City, the State of Maine, or of any municipality or political subdivision thereof, but shall be payable solely from that portion of Tax Increment Revenues payable to Developer hereunder, whether or not actually deposited into Company Project Cost Subaccount in the Development Program Fund. This Agreement shall not directly, indirectly or contingently obligate the City, the State of Maine, or any other City or political subdivision to levy or to pledge any form of taxation whatever therefor or to make any appropriation for their payment, excepting the pledge of the Tax Increment Revenues established under this Agreement.

**ARTICLE IV
FURTHER INSTRUMENTS AND BOOKS AND RECORDS**

Section 4.1. Further Instruments and City Costs.

The City shall, upon the reasonable request of Developer, from time to time execute and deliver such further instruments and take such further action as may be reasonable and as may be required to carry out the provisions of this Agreement; provided, however, that no such instruments or actions shall pledge the credit of the City; and provided further that the cost of executing and delivering such further instruments (including the reasonable and related costs of counsel to the City with respect thereto) shall be borne exclusively by Developer.

Section 4.2. Access to Books and Records.

(a) All non-confidential books, records and documents in the possession of the City relating to the District, the Development Program, this Agreement and the monies, revenues and receipts on deposit or required to be deposited into Development Program Fund shall at all reasonable times and upon reasonable notice be open to inspection by Developer, its agents and employees.

(b) All non-confidential books, records, lease agreements and documents in the possession of Developer relating to the District, the Development Program, this Agreement and the monies, revenues and receipts used from the Development Program Fund shall at all reasonable times and upon reasonable notice be open to inspection by City, its agents and employees.

ARTICLE V DEFAULTS AND REMEDIES

Section 5.1. Events of Default.

Each of the following events shall constitute and be referred to in this Agreement as an “Event of Default”:

- (a) Any failure by the City to pay any amounts due to Developer when the same shall become due and payable;
- (b) Any failure by the City to make deposits into Development Program Fund, including the Company Project Cost Subaccount, as and when due;
- (c) Any failure by the City or Developer to observe and perform in all material respects any covenant, condition, agreement or provision contained herein on the part of the City or Developer to be observed or performed, which failure is not cured within thirty (30) days following written notice thereof;
- (d) If a decree or order of a court or agency or supervisory authority having jurisdiction in the premises of the appointment of a conservator or receiver or liquidator of, any insolvency, readjustment of debt, marshaling of assets and liabilities or similar proceedings, or for the winding up or liquidation of the Developer’s affairs shall have been entered against the Developer or the Developer shall have consented to the appointment of a conservator or receiver or liquidator in any such proceedings of or relating to the Developer or of or relating to all or substantially all of its property, including without limitation the filing of a voluntary petition in bankruptcy by the Developer or the failure by the Developer to have an involuntary petition in bankruptcy dismissed within a period of ninety (90) consecutive days following its filing or in the event an order for release has been entered under the Bankruptcy Code with respect to the Developer;
- (e) If any secured lender of Developer accelerates the indebtedness owed to it;
- (f) If any written representation or warranty given to the City by Developer is knowingly incorrect or incomplete in any material respect, other than statements made about or in agreements with the City that were later changed by mutual consent; and
- (g) If Developer fails to maintain adequate surety bonding during construction at the levels and terms as may be required from time to time by the Developer’s secured lenders and/or

Developer allows mechanics' liens to encumber the Project for a period of more than sixty (60) days.

Section 5.2. Remedies on Default.

Subject to the provisions contained in Section 8.9, whenever any Event of Default described in Section 5.1 hereof shall have occurred and be continuing, the nondefaulting party, following the expiration of any applicable cure period, shall have all rights and remedies available to it at law or in equity, including the rights and remedies available to a secured party under the laws of the State of Maine, and may take whatever action as may be necessary or desirable to collect the amount then due and thereafter to become due, to specifically enforce the performance or observance of any obligations, agreements or covenants of the nondefaulting party under this Agreement and any documents, instruments and agreements contemplated hereby or to enforce any rights or remedies available hereunder.

Section 5.3. Remedies Cumulative.

Subject to the provisions of Section 8.9 below concerning dispute resolution, no remedy herein conferred upon or reserved to any party is intended to be exclusive of any other available remedy or remedies but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law, in equity or by statute. Delay or omission to exercise any right or power accruing upon any Events of Default to insist upon the strict performance of any of the covenants and agreements herein set forth or to exercise any rights or remedies upon the occurrence of an Event of Default shall not impair any such right or power or be considered or taken as a waiver or relinquishment for the future of the right to insist upon and to enforce, from time to time and as often as may be deemed expedient, by injunction or other appropriate legal or equitable remedy, strict compliance by the parties hereto with all of the covenants and conditions hereof, or of the rights to exercise any such rights or remedies, if such Events of Default be continued or repeated.

**ARTICLE VI
EFFECTIVE DATE, TERM AND TERMINATION**

Section 6.1. Effective Date and Term.

This Agreement shall become effective upon its execution and delivery by the parties hereto and shall remain in full force from the date hereof and shall expire upon the performance of all obligations on the part of the City and the Developer hereunder or upon any earlier termination as provided in this Agreement.

Upon receipt of such approval, this Agreement shall remain in full force from April 1, 2024 and shall expire March 31, 2036 or sooner upon the payment of all amounts due to Developer hereunder and the performance of all obligations on the part of the City hereunder, unless even sooner terminated pursuant to any other applicable provision of this Agreement.

Section 6.2. Cancellation and Expiration of Term.

At the acceleration, termination or other expiration of this Agreement in accordance with the provisions of this Agreement, the City and Developer shall each execute and deliver such documents and take or cause to be taken such actions as may be necessary to evidence the termination of this Agreement.

ARTICLE VII ASSIGNMENT AND PLEDGE OF DEVELOPER'S INTEREST

Section 7.1. Pledge and/or Assignment.

The City hereby acknowledges that Developer may pledge, assign and grant a security interest in its right, title and interest in, to and under this Agreement as collateral for financing by a bank or financial institution to Developer for the Project, although no obligation is hereby imposed on Developer to make such assignment or pledge. Recognizing this possibility, the City does hereby consent and agree to the pledge and assignment of and the grant of a security interest in all Developer's right, title and interest in, to and under this Agreement and in, and to the payments to be made to Developer hereunder, to third parties as collateral or security for indebtedness or otherwise, on one or more occasions during the term hereof. The City agrees upon request to execute and deliver any assignments, pledge agreements, consents or other confirmations required by the prospective pledgee or assignee or secured party, including without limitation recognition of the pledgee or assignee or secured party as the holder of all right, title and interest herein and as the payee of amounts due and payable hereunder and any and all such other documentation as shall confirm to such pledgee or assignee or secured party the position of such assignee or pledgee or secured party and the irrevocable and binding nature of this Agreement, and provide to the pledgee or assignee such rights and/or remedies as the parties may reasonably deem necessary for establishment, perfection and protection of its interest herein. Developer shall be responsible for the City's necessary and reasonable costs of counsel with respect to any such pledge or assignment.

Section 7.2. Transfer

Except as specified in Sections 7.1 and 8.1 hereof, Developer shall not transfer or assign any portion of its rights in, to and under this Agreement without the prior written consent of the City, which consent shall not be unreasonably withheld, conditioned or delayed.

ARTICLE VIII MISCELLANEOUS

Section 8.1. Successors.

In the event of the dissolution, merger or consolidation of the City or Developer, the covenants, stipulations, promises and agreements set forth herein, by or on behalf of or for the benefit of such party shall bind or inure to the benefit of the successors and assigns thereof from

time to time and any entity, officer, board, commission, agency or instrumentality to whom or to which any power or duty of such party shall be transferred.

Section 8.2. Parties-in-Interest.

Except as herein otherwise specifically provided, nothing in this Agreement expressed or implied is intended or shall be construed to confer upon any person, firm or corporation other than the City and Developer any right, remedy or claim under or by reason of this Agreement, it being intended that this Agreement shall be for the sole and exclusive benefit of the City and Developer.

Section 8.3. Severability.

In case any one or more of the provisions of this Agreement shall, for any reason, be held to be illegal or invalid, such illegality or invalidity shall not affect any other provision of this Agreement and this Agreement shall be construed and enforced as if such illegal or invalid provision had not been contained herein.

Section 8.4. No Personal Liability.

(a) No covenant, stipulation, obligation or agreement of the City contained herein shall be deemed to be a covenant, stipulation or obligation of any present or future elected or appointed official, officer, agent, servant or employee of the City in his or her individual capacity, and neither the City Council nor any official, officer, employee or agent of the City shall be liable personally with respect to this Agreement or be subject to any personal liability or accountability by reason hereof.

(b) No covenant, stipulation, obligation or agreement of the Developer contained herein shall be deemed to be a covenant, stipulation or obligation of any present or future officer, agent, servant or employee of the Developer in his or her individual capacity, and no officer, employee or agent of the Developer shall be liable personally with respect to this Agreement or be subject to any personal liability or accountability by reason hereof.

Section 8.5. Counterparts.

This Agreement may be executed in any number of counterparts, each of which, when so executed and delivered, shall be an original, but such counterparts shall together constitute but one and the same Agreement.

Section 8.6. Governing Law.

The laws of the State of Maine shall govern the construction and enforcement of this Agreement.

Section 8.7. Amendments.

This Agreement may be amended only with the concurring written consent of both of the parties hereto.

Section 8.8. Integration.

This Agreement completely and fully supersedes all other prior or contemporaneous understandings or agreements, both written and oral, between the City and Developer relating to the specific subject matter of this Agreement and the transactions contemplated hereby.

Section 8.9. Dispute Resolution.

In the event of a dispute regarding this Agreement or the transactions contemplated by it, the parties hereto will use all reasonable efforts to resolve the dispute on an amicable basis. If the dispute is not resolved on that basis within sixty (60) days after one party first brings the dispute to the attention of the other party, then either party may refer the dispute for resolution by one arbitrator mutually agreed to by the parties, and judgment on the award rendered by the arbitrator may be entered in any Maine state court having jurisdiction. Any such arbitration will take place in Auburn, Maine or such other location as mutually agreed by the parties. The parties acknowledge that arbitration shall be the sole mechanism for dispute resolution under this Agreement. Provided however, that in the event the parties are unable to agree, within a reasonable period, on the selection of an arbitrator, either party may file suit to resolve the dispute in any court having jurisdiction within the State of Maine. This arbitration clause shall not bar the City's assessment or collection of property taxes in accordance with law, including by judicial proceedings, including tax lien thereof.

Section 8.10. Records.

The City shall maintain a record demonstrating its calculation of the Increased Assessed Value and Tax Increment Revenues within the District as it relates to deposits to the Development Program Fund pursuant to Article II and payments to the Developer under Article III of this Agreement, and shall provide Developer with a copy of the same upon request.

Section 8.11. Notices.

All notices, certificates, requests, requisitions or other communications by the City or Developer pursuant to this Agreement shall be in writing and shall be sufficiently given and shall be deemed given when mailed by first class mail, postage prepaid, addressed as follows:

If to the City:

Phillip Crowell
City Manager
City of Auburn
60 Court Street
Auburn, ME 04210

With a copy to:

Alyssa C. Tibbetts, Esq.
Jensen Baird Gardner Henry
10 Free Street
P.O. Box 4510
Portland, Maine 04112

If to Developer:

Jason Sommer
PAC Auburn, LP
3565 Piedmont Road NE
Building 1, Suite 200
Atlanta, GA 30305

With a copy to:

Either of the parties may, by notice given to the other, designate any further or different addresses to which subsequent notices, certificates, requests or other communications shall be sent hereunder.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the City and Developer have caused this Agreement to be executed in their respective corporate names and their respective corporate seals to be hereunto affixed and attested by the duly authorized officers, all as of the date first above written.

WITNESS:

CITY OF AUBURN

By: _____

Name: Phillip L. Crowell, Jr.

Its City Manager Duly Authorized by the City Council on _____

WITNESS:

PAC AUBURN, LP

By: _____

Name:

Its:

DRAFT



Department of Economic and Community Development
Municipal Tax Increment Financing
Application



Exhibit N - Municipality TIF Policy

**CITY OF AUBURN
TAX INCREMENT FINANCING
&
CREDIT ENHANCEMENT
POLICY
AND
GUIDELINES**

The following are the City of Auburn Tax Increment Financing (TIF) Policy and Credit Enhancement Agreement Application Guidelines.

I. Purpose and Introduction

TIF allows municipalities to "shelter" new value resulting from private investment from the calculation of its State subsidies (education and revenue sharing) and County taxes. A municipality's total equalized assessed value is used to calculate General Purpose Aid to Education (subsidy), State Revenue Sharing (subsidy), and County taxes (expense). When a municipality's equalized assessed value increases, State Aid for Education decreases, municipal revenue sharing decreases, and the municipality pays a greater portion of County taxes. Specific municipal shelter benefits for the term of the TIF include: No reduction in State aid for education, no decrease in municipal revenue sharing, and no increase in County taxes (assuming 100% capture).

A Tax Increment Financing District is a tool available to the City of Auburn to promote economic development. TIF enables the City to revitalize and redevelop designated areas and build community and economic growth through public-private partnerships. The TIF District allows the City to capture some or all of the incremental real and/or personal property tax revenues derived from new development or expansion of an existing development and provides a means of financing the economic and community development goals of Auburn as set forth in the Development Program of the District adopted by the City Council and as authorized by state law. The captured tax revenues from a TIF District can be used to finance municipal investments and City infrastructure projects; and can also be used to provide incentive or financing to a private development in the form of an associated Credit Enhancement Agreement (CEA), as authorized by the Development Program of the District and state law.

These guidelines are to provide guidance and outline standards for the development of TIF's and CEA's in the City when utilizing TIF Districts and TIF revenue for the City's development and redevelopment efforts. Notwithstanding compliance with any or all of these guidelines, the creation of a TIF District or authorization of a Credit Enhancement Agreement is a policy decision of the City of Auburn to be evaluated by the City on a case-by-case basis. Adopting this policy or any TIF District does not create a right or entitlement to assistance by any applicant.

II. Eligibility for Assistance

Economic development projects may be eligible for Tax Increment Financing assistance from the City when they meet the following standards:

- Would not occur without City assistance.
- Create or retain employment opportunities.
- Significantly expand the City's tax base by a minimum of \$1,000,000.
- Diversify the economy and tax base of the City
- Conform to the quality and types of development the City seeks as outlined in the Comprehensive Plan, Strategic Plan, Downtown Revitalization Plan, Economic Development Action Plan, and Zoning Ordinances.
- Demonstrate a public benefit, such as expanding public infrastructure to service areas beyond the project or creating job opportunities or affordable housing.
- Public benefits from development must outweigh any possible adverse impacts on existing businesses or residents of the City.

The City provides TIF assistance through a Credit Enhancement Agreement that provides developers with reimbursement of a percentage of the property tax revenue paid on the increased assessed value (or incremental value) of their property. Tax revenue on the incremental value returned to the developers under a Credit Enhancement Agreement will not exceed an average of 75% of the incremental taxes over the life of the particular tax increment financing district or the Credit Enhancement Agreement. Further, the City Council may establish a cap on the total incremental taxes to be reimbursed to a developer under a CEA on an annual and/or cumulative basis. The applicant is required to submit all documentation required by the City in consideration of a Credit Enhancement Agreement. A Public Hearing shall be held to receive public comment on a completed CEA application at least ten days prior to a meeting at which the CEA is being considered for approval by the City Council.

III. Application Process

The City has established an Application for Tax Increment Financing & Credit Enhancement Agreement. Applications (whether initiated by the City or requested by a developer or business) will be reviewed by the Business and Community Development Department Staff and considered by the City Manager. Applications for a new TIF District or an amendment to an existing TIF District are subject to final approval by the City Council and the Maine Department of Economic and Community Development (DECD). The specific terms of TIF assistance through a CEA will be negotiated between the City and the applicant on a case-by-case basis. The City Manager or the City Manager's designee will negotiate for the City, and all recommendations for TIF assistance shall be based on the merits of the project and compliance with these guidelines. Based on City Council direction and approval, Business and Community Development staff will coordinate all activities regarding applications and will prepare materials as needed. The Director of Business and Community Development will assist the developer through the process. They will monitor ongoing investments in the development project if TIF assistance is granted.

All applicants for TIF assistance must pay a \$500 non-refundable application fee at the time of submission. All applicants are required to reimburse the City of Auburn for all legal and administrative costs incurred as a result of the TIF proposal, including the cost of preparing all materials necessary to establish a new TIF District, amend an existing TIF District and draft the Credit Enhancement Agreement. If a Credit Enhancement Agreement is approved, an annual fee equal to 2% of the incremental tax reallocated back to the project will be assessed.

IV. Waiver of Provisions

The City of Auburn reserves the right under certain conditions to waive the provisions of the policy. The decision to do so shall be made by applying the following guidelines to ensure that the project remains within the general parameters of the Auburn Comprehensive Plan and community development vision(s). Criteria to be considered with granting a waiver are:

- Consistency with the Auburn Comprehensive Plan
- Consistency with the Downtown Revitalization Plan
- Consistency with the City's Economic Development Plan
- Consistency with the Development Plan of the TIF District
- Consistency with other local, State, and Federal laws/rules
- Evidence of need, and
- Capacity to carry out the project

V. Mandatory Guidelines

In all instances, applicants for tax increment financing and Credit Enhancement Agreements must demonstrate that the City's participation is economically needed to undertake the project. Such justification is demonstrated by:

- Need to offset infrastructure costs unique to the site
- Need to offset economic advantages available if it should develop a project or expand operations outside of Auburn
- Lack of sufficient funding sources to meet the entire capital investments needed to undertake the project
- The project creates significant new tax value throughout the Downtown District and other areas the City Council deems necessary
- The developer is financially capable of undertaking the project
- The developer is compliant with all statutory and regulatory guidelines of the City of Auburn and the State of Maine

VI. Guidelines that Determine the Level of Municipal Participation

Although the applicants' project need not meet each of the following criteria, the following will be used to determine the City of Auburn's participation level.

- Assists an established business in Auburn, retaining existing employment opportunities
- Creates long-term permanent and quality employment opportunities
- Contributes to the revitalization of the Downtown District or other areas in need of development or redevelopment
- Improves a blighted building site in need of rehabilitation
- Creates public infrastructure facilities that have applications beyond the particular development, road improvements, parking, sidewalks, green space, etc.
- Supports or will support community projects, job training, internships, and programs that assist the under-employed and supports local contractors and suppliers.

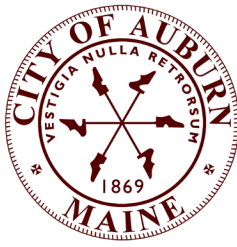
VII. Transfer of Ownership

If the applicant transfers ownership of property in the TIF District subject to a CEA to which the applicant is a party, the applicant must notify the City Manager in writing prior to finalizing the transfer. The prospective new owner must agree, in writing, to accept the provisions of the agreement as presented to and approved by the City Council before the City will release any further TIF reimbursements under the CEA. Failure to provide notice of a transfer of ownership by the applicant or for the prospective new owner to accept the terms of the CEA before the transfer shall render the CEA invalid, and no further payments under it shall be authorized.

VIII. Annual Expenditure of TIF Revenues for Municipal Projects

Each year the Director of Business and Community Development will review all proposed TIF Revenue expenditures as part of the City Budget process to ensure compliance with the existing TIFs.

Annual allocations of TIF revenues to fund existing Credit Enhancement Agreement commitments will be factored into the annual review of the use of the available TIF revenues and estimates of proposed Credit Enhancement Agreements will be calculated by the City Assessor and City Treasurer and provided to the City Manager for review and consideration.



City Council Order

IN CITY COUNCIL

ORDER OF THE AUBURN CITY COUNCIL November 20, 2023

WHEREAS, the City is authorized pursuant to Chapter 206 of Title 30-A of the Maine Revised Statutes, as amended, to adopt a Tax Increment Financing District and Development Program; and

WHEREAS, the City has received a proposal from Diamond Point Developers LLC for the commercial development of certain property within its General Business zoning district located at the intersection of Turner Street and Center Street; and

WHEREAS, adopting and implementing the proposed District and Development Program will provide opportunities for significant new commercial development within the City and new employment opportunities for residents of the City and surrounding communities, and will improve and broaden the tax base of the City and improve the general economy of the City, the region and the State of Maine; and

WHEREAS, the City has held a public hearing on the proposed Diamond Point Storage Municipal Development and Tax Increment Financing District #30 (the "District") in accordance with the requirements of 30-A MRSA §5226(1) upon at least ten (10) days prior notice published in a newspaper of general circulation within the City; and,

WHEREAS, the City desires to designate the proposed District and adopt the proposed Development Program as presented to the City Council this day and as has been on file in the City Clerk's Office at City Hall; and

WHEREAS, it is anticipated that the Commissioner of the Maine Department of Economic and Community Development ("DECD") will approve the designation of the District and adoption of the Development Program;

NOW THEREFORE, the City Council hereby Orders as follows:

Section 1. The City Council hereby finds and determines that:

Richard Whiting, Ward One
Joseph Morin, Ward Four
Belinda A. Gerry, At Large

Ryan Hawes, Ward Two
Leroy G. Walker, Ward Five
Jason J. Levesque, Mayor

Stephen G. Milks, Ward Three
Dana Staples, At Large
Phillip L. Crowell, Jr., City Manager



City Council Order

(a) Adoption and implementation of the District and the Development Program will generate substantial economic benefits for the City and its residents, including employment opportunities, broadened and improved tax base and economic stimulus, and therefore constitute a good and valid public purpose and will contribute to the economic growth or well-being of the inhabitants of the City or to the betterment of the health, welfare or safety of the inhabitants of the City; and

(b) The City Council has considered all evidence presented to it with regard to any adverse economic effect on or detriment to any existing business and has found and determined that adoption and implementation of the District and the Development Program will not result in a substantial detriment to any existing business in the City, and any adverse economic effect of the District and the Development Program on any existing business in the City is outweighed by the contributions expected to be made by the projects and improvements described in the District and the Development Program to the economic growth or well-being of the City or to the betterment of the health, welfare or safety of the inhabitants of the City.

Section 2. Pursuant to Chapter 206 of Title 30-A of the Maine Revised Statutes, as amended, the City Council hereby designates the City of Auburn Municipal Development and Tax Increment Financing District #30 (the “Diamond Point Storage Development District”) as presented to the City Council.

Section 3. Pursuant to Chapter 206 of Title 30-A of the Maine Revised Statutes, as amended, the City Council hereby adopts the Development Program for the Diamond Point Storage Development District in the form presented to the City Council.

Section 4. The foregoing designation of the District and adoption of the Development Program shall automatically become final and shall take full force and effect upon approval of the District and Development Program by the Commissioner of the State of Maine Department of Economic and Community Development (DECD), without requirement of any further action by the City, the City Council, or any other party.

Section 5. Pursuant to the provisions of 30-A M.R.S.A. §5227, the percentage of the Increased Assessed Value to be retained as Captured Assessed Value in the District and the term of said District is confirmed as set forth in the Development Program.

Section 6. The City Manager be and hereby is authorized and directed, on behalf of the City of Auburn, Maine, to submit to the Commissioner of DECD for review and approval, pursuant to the

Richard Whiting, Ward One
Joseph Morin, Ward Four
Belinda A. Gerry, At Large

Ryan Hawes, Ward Two
Leroy G. Walker, Ward Five
Jason J. Levesque, Mayor

Stephen G. Milks, Ward Three
Dana Staples, At Large
Phillip L. Crowell, Jr., City Manager



City Council Order

requirements of 30-A M.R.S.A. §5226(2), the application and such other documentation as may be necessary or appropriate for the final approval of this District and the Development Program. The City Manager is further authorized and empowered, at his or her discretion from time to time, to make such technical revisions to the District or the Development Program for the District, or to the scope, cost or description of the public improvements to be financed with the portion of tax increment revenues generated by the District and retained by the City as described in the Development Program, as the City Manager deems reasonably necessary or convenient in order to facilitate the process for review and approval of the District and Development Program by DECD, or for any other reason, so long as such revisions are not inconsistent with these resolutions or the basic structure and intent of the District and the Development Program.

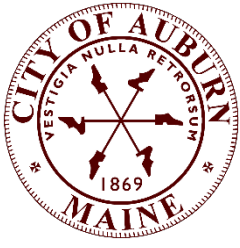
Section 7. The City Manager be and hereby is authorized, empowered and directed to enter into the agreements contemplated by the Development Program, in the name of and on behalf of the City, such agreements to be in such form and to contain such terms and provisions, not inconsistent with the Development Program, as the City Manager may approve, the City Manager's approval to be conclusively evidenced by his or her execution thereof.

This Order shall take effect immediately upon adoption.

Richard Whiting, Ward One
Joseph Morin, Ward Four
Belinda A. Gerry, At Large

Ryan Hawes, Ward Two
Leroy G. Walker, Ward Five
Jason J. Levesque, Mayor

Stephen G. Milks, Ward Three
Dana Staples, At Large
Phillip L. Crowell, Jr., City Manager



**City of Auburn
City Council Information Sheet**

Council Workshop or Meeting Date: November 20, 2023

Author: John Blais

Subject: Proposed Map Change Converting Rural Residential Zoning District to Low Density Country Residence Zone within the Lake Auburn Watershed Overlay District.

Information: First reading, to amend the official zoning map of the City of Auburn entitled “City of Auburn, Zoning Map, dated May 16, 2016,” revised through its current date and revisions, as provided under Sec. 60-5 of the Zoning Ordinance changing all areas in the Low-Density Rural Residence or Rural Residence (RR) zoning district within the Lake Auburn watershed to the Low-Density Country Residence (LDCR) zoning district. This map change was initiated by the Planning Board and is pursuant to Chapter 60, Article XVII, Division 2 - Amendment to the Zoning Ordinance or Zoning Map.

As a positive recommended by Planning Board. This change is conjunction with updates proposing several text amendments to Chapter 60, Article XII, Division 4 Lake Auburn Watershed Overlay District including amending subsurface wastewater disposal (SSWD), or septic system standards requiring a limiting soil horizon of at least 36 inches and that the bottom the disposal field be at least 24 inches above the limiting soil horizon “limiting factor”.

Several lots in the Lake Auburn Watershed Overlay District are not currently buildable because they do not have suitable soil to host a septic system under the current standard. While offering better effluent treatment to the SSWD systems in the Lake Auburn Watershed Overlay District, changing this design standard by allowing mounded systems would likely also have the effect of rendering more lots in the Lake Auburn Watershed Overlay District buildable with the allowance of mounded systems. More buildable lots may mean creating more potential SSWD systems, more land-based runoff, and less forested or vegetated areas to collect nutrients before they enter lake Auburn.

The purpose of this map amendment is to offset the building potential created by modernizing the SSWD standards. The planning board recommended to city council that changing the septic standards should coincide with changing the zoning in the Lake Auburn Watershed to allow fewer houses to offset the possible unwanted development in the watershed of Auburn’s drinking water supply. This map amendment proposes changing all land in the Low-Density Rural Residence or Rural Residence (RR) zoning district, shown in brown, to the Low-Density Country Residence (LDCR) zoning district, shown in green, within the Lake Auburn Watershed Overlay District. This change reduces the density from one dwelling unit per acre and minimum 250 feet road frontage to one dwelling unit per three acres and minimum 325 feet road frontage. For reference, the relevant meetings to this point have been listed below. This change considered with the Overlay District amendments will reduce total potential for development and ensure that any development that does occur will meet a

higher standard for the protection of Lake Auburn. text amendments will reduce total potential for development and ensure that any development that does occur will meet a higher standard for the protection of Lake Auburn.

City Budgetary Impacts: None

Staff Recommended Action: Staff recommends that the Council completes the first reading tonight and plan to hold the public hearing on December 4, 2023 for the map amendment of 1,030 acres to Low-Density Rural Residence or Rural Residence (RR) zoning district within the Lake Auburn Watershed to the Low-Density Country Residence (LDCR) zoning district.

Previous Meetings and History:

Apr. 12, 2022— Planning Board forwarded a favorable recommendation contingent upon the change coinciding with a zone change reducing housing density in Lake Auburn watershed from one dwelling unit per acre to one dwelling units per three acres in the currently existing Rural Residence district in the Lake Auburn Watershed Overlay District.

May 2, 2022—City Council orders the Planning Board to consider a zone change reducing housing density in the Lake Auburn Watershed from one dwelling per acre to one dwelling per three acres in the Rural Residence zoning district in the Lake Auburn Watershed.

May 3, 2022—Special Planning Board workshop to consider reducing the housing density in all parts of the Lake Auburn Watershed from one unit per acre to one-unit per three acres by changing RR zone to the LDCR zone.

Aug. 15, 2022—City Council workshop on reducing housing density in Lake Auburn Watershed from one dwelling unit per acre to one dwelling unit per three acres in the Rural Residential District in the Lake Auburn Watershed.

October 11, 2022—Planning Board Public Hearing to change RR to LDCR in all portions of the Lake Auburn watershed. Motion to recommend change to Council.

October 10, 2023—Planning Board workshop on map amendment changing land in the Lake Auburn Watershed Overlay District zoned RR to LDCR

October 16, 2023—City Council workshop on map amendment changing land in the Lake Auburn Watershed Overlay District zoned RR to LDCR

November 14, 2023-Planning Board, Public Hearing.

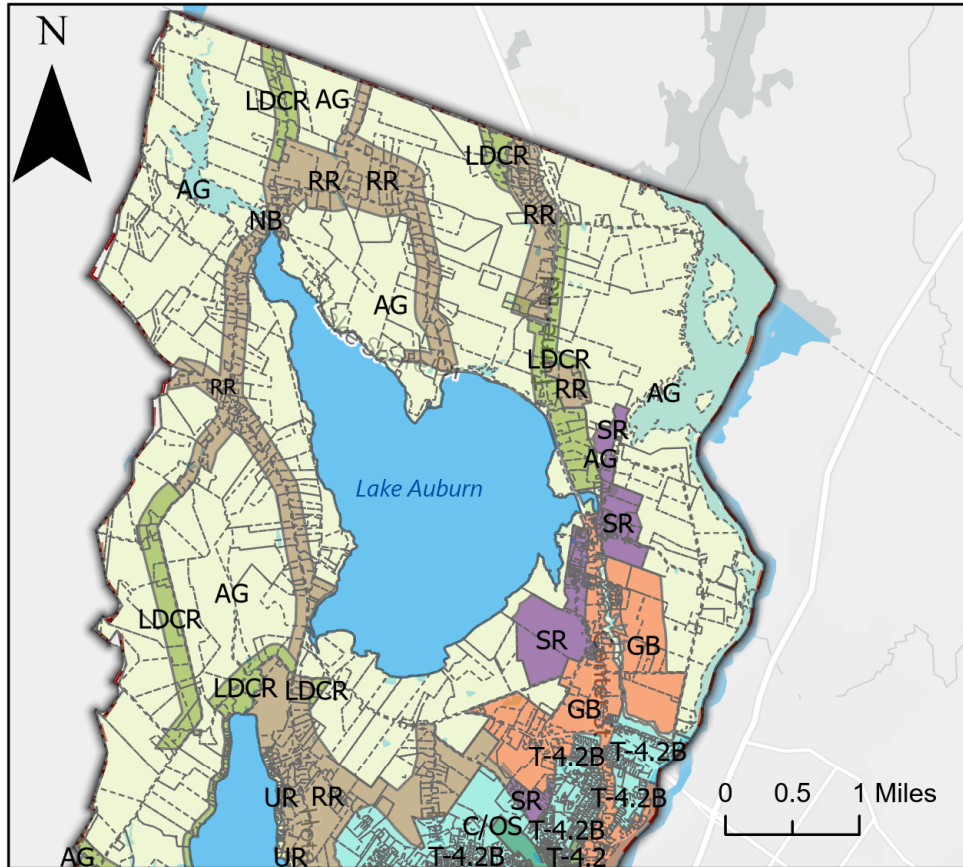
City Manager Comments:

I concur with the recommendation. Signature:

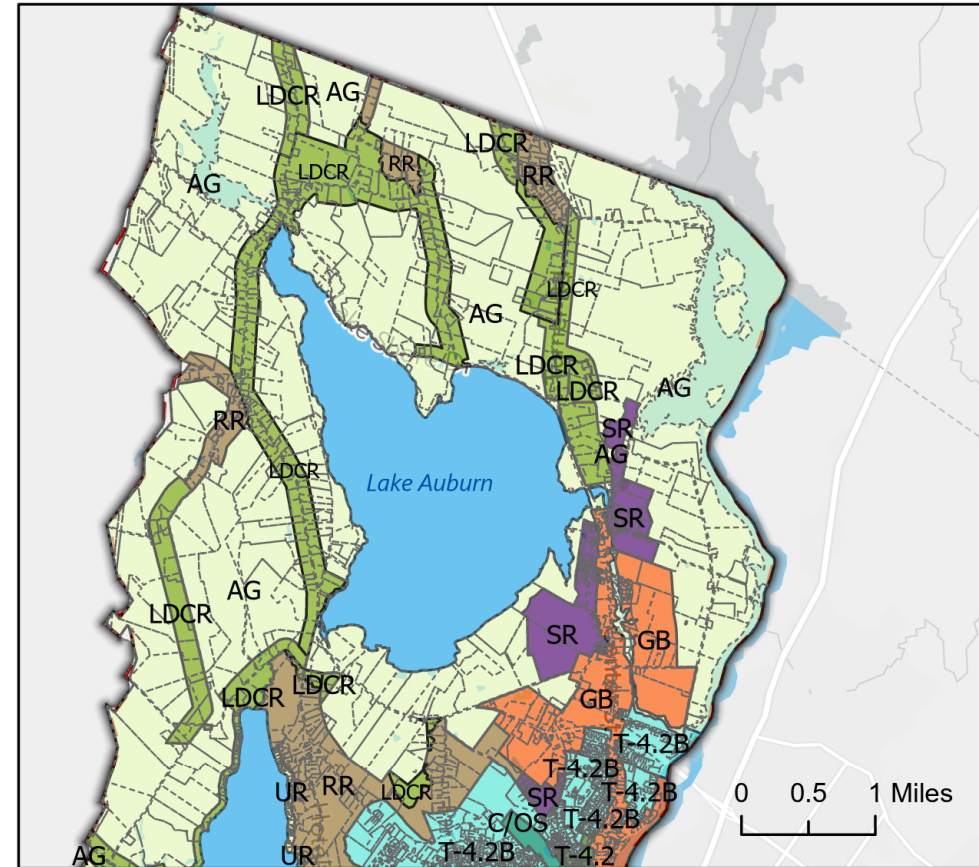


Attachments: Proposed Ordinance, planning board motion, planning board staff report (text amendments) staff report (RR to LDCR), watershed zone map (existing RR), watershed zone map (proposed LDCR)

Zoning Map Amendment for Public Hearing November 14, 2023: Rezoning Approximately 1,030 Acres of RR to LDCR



Existing Zoning



Proposed Zoning

- | | | |
|------------------------------------------|---------------------------------------------|--------------------------------------------------------|
| AG - Agriculture and Resource Protection | MFS - Multi-Family Suburban | T-4.2B - Traditional Neighborhood Development District |
| C/OS - Conservation / Open Space | NB - Neighborhood Business | T-5.1 - Downtown Traditional Center |
| GB - General Business | RR - Rural Residential | T-5.2 - Downtown City Center |
| GB II - General Business II | SR - Suburban Residential | T-6 - Great Falls Metropolitan |
| ID - Industrial | T-4.1 - Traditional Mainstreet Neighborhood | UR - Urban Residential |
| LDCR - Low Density Country Residential | T-4.2 - Traditional Downtown Neighborhood | Parcels |





City of Auburn, Maine

Planning & Permitting Department

Eric Cousens, Director

60 Court Street | Auburn, Maine 04210

www.auburnmaine.gov | 207.333.6601

Date: 11/20/2023

To: Auburn City Council

From: Auburn Planning Board

Subject: Planning Board Recommendation to City Council on proposed map amendment to change the minimum lot size to three acres in the residential areas of the Lake Auburn watershed

This is the report from the Planning Board regarding the attached map amendment pursuant to Section 60-1496 of the City of Auburn Ordinances. After notice and public hearings held on November 14, 2023, the Planning Board forwards this report to the City Council.

Proposal: Public Hearing/ Map Amendment: Consider amending the official zoning map of the City of Auburn entitled “City of Auburn, Zoning Map, dated May 16, 2016,” revised through its current date and revisions, as provided under Sec. 60-5 of the Zoning Ordinance changing all areas in the Low-Density Rural Residence or Rural Residence (RR) zoning district within the Lake Auburn watershed to the Low-Density Country Residence (LDCR) zoning district. This map change was initiated by the Planning Board and is pursuant to Chapter 60, Article XVII, Division 2 - Amendment to the Zoning Ordinance or Zoning Map.

MOTION: David Trask makes a motion; **SECOND:** Evan Cyr seconds.

“I make a motion to forward a favorable recommendation to City Council to amend the official zoning map of the City of Auburn entitled “City of Auburn, Zoning Map, dated May 16, 2016,” revised through its current date and revisions, as provided under Sec. 60-5 of the Zoning Ordinance changing all areas in the Low-Density Rural Residence or Rural Residence zoning district within the Lake Auburn Watershed to the Low-Density Country Residence zoning district.” **VOTE:** 7-0-0 motion passes.

Date: November 14, 2023

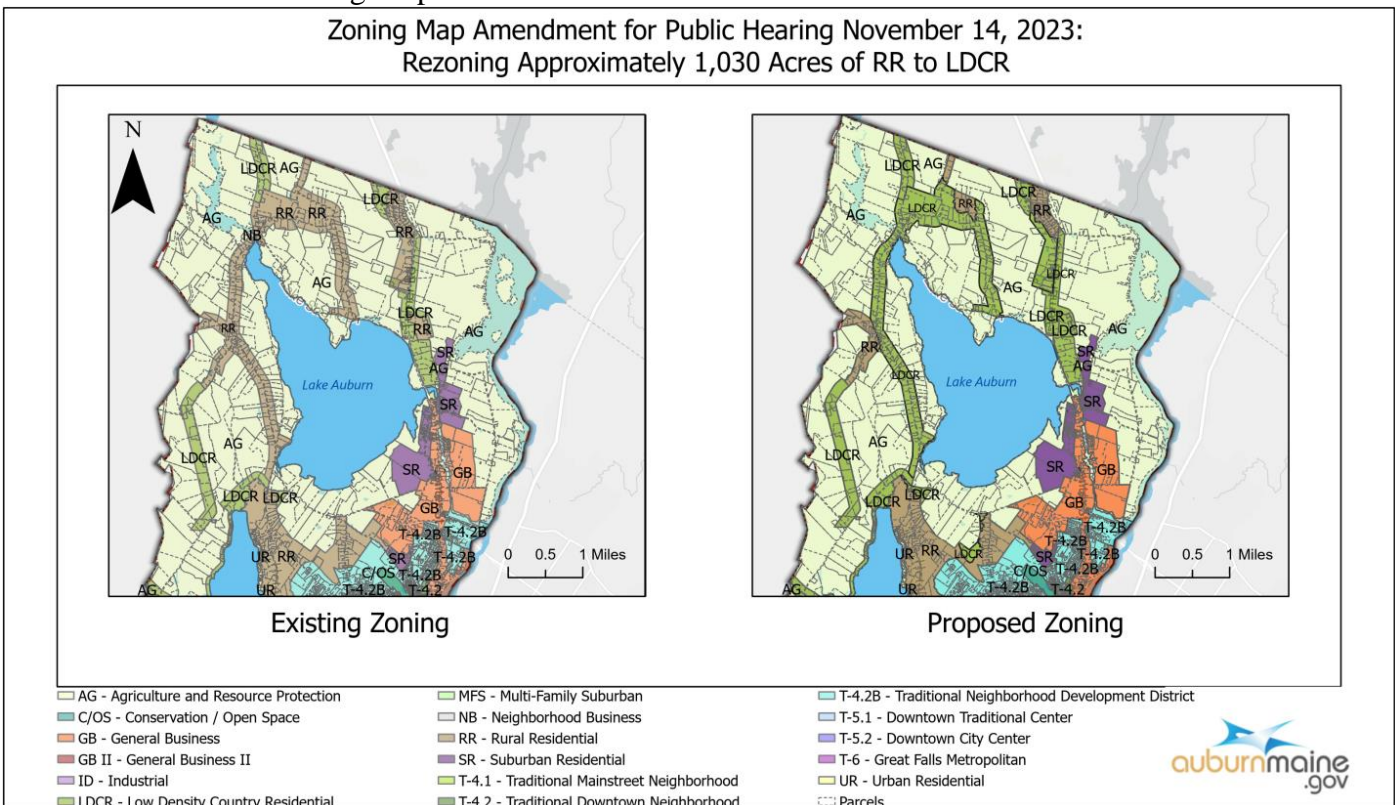
To: Auburn Planning Board

From: Katherine Cook, Planning Coordinator

Subject: Staff Report on Proposed Map Change Converting Rural Residential Zoning District to Low Density Country Residence Zone within the Lake Auburn Watershed Overlay District.

I. Proposal: Public Hearing/ Map Amendment: Consider amending the official zoning map of the City of Auburn entitled “City of Auburn, Zoning Map, dated May 16, 2016,” revised through its current date and revisions, as provided under Sec. 60-5 of the Zoning Ordinance changing all areas in the Low-Density Rural Residence or Rural Residence (RR) zoning district within the Lake Auburn watershed to the Low-Density Country Residence (LDCR) zoning district. This map change was initiated by the Planning Board and is pursuant to Chapter 60, Article XVII, Division 2 - Amendment to the Zoning Ordinance or Zoning Map.

Zoning Map Amendment for Public Hearing November 14, 2023:
Rezoning Approximately 1,030 Acres of RR to LDCR



Source: City of Auburn, Zoning Map, dated May 16, 2016

II. Background: The City of Auburn is proposing several amendments to Chapter 60, Article XII, Division 4 Lake Auburn Watershed Overlay District including amending subsurface wastewater (SSWW) disposal, or septic system standards requiring a limiting soil horizon of at least 36 inches and that the bottom the disposal field be at least 24 inches above the limiting soil horizon limiting factor. This current standard does not allow for the most effective treatment of effluent because it forces effluent to travel below the organic duff layer, where the best treatment would occur. Under this existing standard, the treatment occurs in sandy, well-drained soils, which are not able to capture and treat onsite waste

nutrients. The proposed system decreases the limiting soil horizon to 12” but requires the disposal field to be treated through the existing natural duff layer and the required suitable natural soil or specified soil media must provide a minimum separation of 36-inch separation between the bottom of the disposal field and limiting factor. The proposed update is intended to improve the treatment efficiency of approximately 251 existing systems within the Lake Auburn watershed thereby reducing the potential accumulation of non-point source pollution to Lake Auburn.

Several lots in the Lake Auburn Watershed Overlay District are not currently buildable because they do not have suitable soil to host a septic system under the current standard. While offering better effluent treatment to the SSWW disposal systems in the Lake Auburn Watershed Overlay District, changing this design standard by allowing mounded systems would likely also have the effect of rendering more lots in the Lake Auburn Watershed Overlay District buildable with the allowance of mounded systems. More buildable lots may mean creating more potential SSWD systems, more land-based runoff, and less forested or vegetated areas to collect nutrients before they enter lake Auburn.

The purpose of this map amendment is to offset the building potential created by modernizing the SSWW disposal standards. The planning board recommended to the city council that changing the septic standards should coincide with changing the zoning in the Lake Auburn Watershed to allow fewer houses to offset the possible unwanted development in the watershed of Auburn’s drinking water supply.

This map amendment proposes changing all land in the Low-Density Rural Residence or Rural Residence (RR) zoning district, shown in brown, to the Low-Density Country Residence (LDCR) zoning district, shown in green, within the Lake Auburn Watershed Overlay District. This change reduces the density from one dwelling unit per acre and minimum 250 feet road frontage to one dwelling unit per three acres and minimum 325 feet road frontage. For reference, the relevant meetings to this point have been listed below. This change considered with the Overlay District amendments will reduce total potential for development and ensure that any development that does occur will meet a higher standard for the protection of Lake Auburn.

Previous Meetings and Actions:

- **Apr. 12, 2022**— Planning Board forwarded a favorable recommendation contingent upon the change coinciding with a zone change reducing housing density in Lake Auburn watershed from one dwelling unit per acre to one dwelling units per three acres in the currently existing Rural Residence district in the Lake Auburn Watershed Overlay District.
- **May 2, 2022**—City Council orders the Planning Board to consider a zone change reducing housing density in the Lake Auburn Watershed from one dwelling per acre to one dwelling per three acres in the Rural Residence zoning district in the Lake Auburn Watershed.
- **May 3, 2022**—Special Planning Board workshop to consider reducing the housing density in all parts of the Lake Auburn Watershed from one unit per acre to one-unit per three acres by changing RR zone to the LDCR zone.
- **Aug. 15, 2022**—City Council workshop on reducing housing density in Lake Auburn Watershed from one dwelling unit per acre to one dwelling unit per three acres in the Rural Residential District in the Lake Auburn Watershed.
- **October 11, 2022**—Planning Board Public Hearing to change RR to LDCR in all portions of the Lake Auburn watershed. Motion to recommend change to Council.
- **October 10, 2023**—Planning Board workshop on map amendment changing land in the Lake Auburn Watershed Overlay District zoned RR to LDCR
- **October 16, 2023**—City Council workshop on map amendment changing land in the Lake Auburn Watershed Overlay District zoned RR to LDCR

III. Planning Board Action: Hold a Public Hearing and recommend approval of the zoning map change to the City Council.

IV. Suggested Motion: I make a motion to forward a favorable recommendation to City Council to amend the official zoning map of the City of Auburn entitled “City of Auburn, Zoning Map, dated May 16, 2016,” revised through its current date and revisions, as provided under Sec. 60-5 of the Zoning Ordinance changing all areas (1030+/-acres) in the Low-Density Rural Residence or Rural Residence (RR) zoning district within the Lake Auburn Watershed to the Low-Density Country Residence (LDCR) zoning district.

DIVISION 3. LOW DENSITY COUNTRY RESIDENTIAL DISTRICT

Sec. 60-200. Purpose.

The purpose of this zone is to maintain and promote the rural/agricultural character of the land within this zone. This zone is composed of those areas in the city whose predominant land use is rural, wooded and agricultural. The regulations for this zone are designed to protect and stabilize these predominant land uses which are the essential characteristics of these areas and to minimize conflicting land uses detrimental to agricultural enterprises. Since residences are only incidental to this zone's development, the densities which require improved roads and expanded municipal services, in excess of those required by the present agricultural-oriented uses, shall not be permitted.

(Ord. of 9-21-2009, § 3.32A)

Sec. 60-201. Use regulations.

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

- (1) All uses permitted in the Agriculture and Resource Protection District, except uses allowed by section 60-145(a)(8), (14) and (15).
- (2) One-family detached dwellings.
- (3) Two-family dwellings.
- (4) Lawn maintenance services.

(b) *Special exception uses.* The following uses are permitted by special exception after approval by the planning board in accordance with the provisions of division 3 of article XVI of this chapter:

- (1) All uses permitted by special exception in the Agriculture and Resource Protection (AR) District, (division 2 of article IV of this chapter), except uses allowed by section 60-172(b)(7), (14), and (15).
- (2) Bed and breakfast.
- (3) Adaptive reuse of structures of community significance.

(Ord. of 9-21-2009, § 3.32B; Ord. 33-02072011-08, 2-7-2011; Ord. No. 08-08012011-07b, 8-1-2011; Ord. No. 05-04032017, § 2, 4-24-2017; Ord. No. 11-08192019, 9-9-2019; Ord. No. 11-03012021, § 9, 3-15-2021; Ord. No. 27-06212021, 7-19-2021)

Sec. 60-202. Dimensional requirements.

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

- (1) *Minimum lot area, width and depth.* No lot shall be created and/or no building shall be erected on a lot containing less than three acres and measuring less than 325 feet in width. No lot shall be less than 200 feet in depth. The keeping of horses, mules, cows, goats, sheep, hogs and similar size animals for

domestic use of the residents of the lot is permitted provided that the land area required per animal unit forms to the definition of farm, livestock contained in section 60-2.

- (2) *Density.* The density of dwelling units shall not exceed an average of one dwelling per three acres.
- (3) *Yard requirements.*
 - a. *Rear.* There shall be behind every building a rear yard having a minimum depth of 50 feet or 25 percent of the average depth of the lot, whichever is less.
 - b. *Side.* There shall be a minimum distance of 15 feet between any building and the side property line plus the side yard setback shall be increased one foot for every five feet or part thereof increase in street frontage over 50 feet to a maximum of 25 feet for side yard setback.
 - c. *Front.* There shall be in front of every building a front yard having a minimum depth of 50 feet or 25 percent of the average depth of the lot whichever is less.
- (4) *Height.* The height of all dwelling structures shall be limited to 2½ stories or 35 feet in height. Accessory buildings and structures may have a maximum height of 65 feet from grade, provided that the front yard, rear yard, and each of the side yards shall be increased by one foot for each foot in height in excess of 35 feet.
- (5) *Off-street parking.* Off-street parking spaces shall be provided in accordance with the requirements for specific uses as set forth in article V of this chapter.

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

Secs. 60-203—60-227. Reserved.



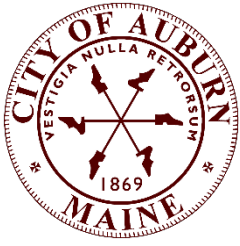
City Council Ordinance

IN CITY COUNCIL

TITLE: Zoning Map Amendment Rezoning Certain Land from LDRR or RR to LDCR

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

Amend the official zoning map of the City of Auburn entitled “City of Auburn, Zoning Map, dated May 16, 2016,” revised through its current date and revisions, as provided under Sec. 60-5 of the Zoning Ordinance, to rezone all areas in the Low-Density Rural Residence or Rural Residence (RR) zoning district within the Lake Auburn watershed to the Low-Density Country Residence (LDCR) zoning district, all as more particularly shown on the attached sketch map. (The attached sketch map is for general reference purposes only. The official zoning map amendment is available for review and inspection at the City Clerk’s Office and the Planning & Permitting Department.)



**City of Auburn
City Council Information Sheet**

Council Workshop or Meeting Date: November 20, 2023

Author: John Blais

Subject: Proposed Map Change from Agriculture and Resource Protection (AGRP) to General Business (GB)

Information: The proposal was initiated by the planning board in a workshop on October 10, 2023, and is pursuant to Chapter 60, Article XVII, Division 2 Amendment to the Zoning Ordinance or Zoning Map. Early today, the planning board will consider updating the Lake Auburn Watershed Overlay zoning map to match the “DWP Potential Boundary” that was agreed upon by the City of Auburn, Auburn Water and Sewer District, and Lewiston Water Division.

The land area that is removed from the watershed, approximately 80 acres, is currently zoned AGRP 20 acres will remain as AGRP. Staff believes that General Business (GB) would be the most appropriate option to apply in this area based on direction from the 2021 Comprehensive Plan. The Future Land Use Plan for the area near Gracelawn to be changed to the Commercial Development District, which is synonymous with the General Business District in its allowed uses and densities. An important goal for the city is listed in Strategy I.2.3.c in the Comprehensive Plan: to “Investigate opportunities for high quality, creative use of vacant land and/or buildings in and around commercial/ industrial centers.” This includes rezoning Gracelawn Pits as a planned development site to be used for a mix of office, retail, and residential space, while assuring that the water quality of Lake Auburn is protected (page 73, Comprehensive Plan) because of its proximity to the abutting GB zone across Mount Auburn Ave.

At the November 14th planning board meeting, the board voted to recommend changing the zone in this area to GB. The motion itself is attached to this packet. The planning board had the following findings in their review.

1. The 2010 and now the 2020 Comprehensive Plan recommend expanding the Commercial zoning in this area. This can be accomplished without creating a new district by using the existing General Business Zone.
2. The new lake auburn watershed overlay district boundary is supported by the watershed boundary has been reviewed and agreed upon through studies by FB Environmental Associates, Comprehensive Environmental Inc. (CEI), CDM Smith, The Maine Drinking Water Program and the Lake Auburn Water Quality Ad-Hoc Committee. This zone change carefully follows this new adjusted boundary but excludes the 20 acres that make up the abutting property known as the City of Auburn landfill.

3. The proposal can be implemented without detriment to Lake Auburn and is recommended by the Comprehensive Plan.

City Budgetary Impacts: None.

Staff Recommended Action: Staff recommends that the Council discuss the proposals and provide the first reading and vote and prepare for the final reading and public hearing on December 4, 2023.

Previous Meetings and History:

- **Oct. 1, 2021**—A Regulator, Environmental, and Economic Analysis of Water Supply Protection in, Auburn ME. Report resulted in a watershed boundary change.
 - **Dec. 21, 2021**—City Council directive to forward recommendation on changing Gracelawn area (148 acres) from AG to CDD and moving CDD boundary to match new watershed boundary.
 - **Jan. 3, 2022**—City Council Workshop on changing 148 acres from AG to CDD boundary to match new watershed boundary on the southern part of Lake Auburn.
 - **Jan. 11, 2023**—Planning Board Workshop on amending 148 acres near the Gracelawn area from AG to CDD to match the watershed boundary.
 - **Feb. 8, 2022**—Planning Board Public Hearing on changing Gracelawn Area zoning from AG to GB and moving CDD boundary update from 2021 Comprehensive Plan. Favorable Recommendation.
 - **Mar. 7, 2022**—City Council first reading on amending 148 acres in the Gracelawn area to GB and moving CDD to match the new watershed boundary.
 - **Mar. 21, 2022**—City Council second reading on amending what has changed to 120 acres in the Gracelawn area to GB and moving CDD to match the new watershed boundary. Passes.
 - **Aug. 9, 2022**—City Clerk verifies a citizens’ petition to repeal Ordinance 08-03072022
 - **Sept. 6, 2022**—City Council Repeals Ordinance 08-03072022 which reverts the watershed boundary to what it was before March 21, 2022, and reverts the zoning in this area from GB back to AGRP.
 - **Sept. 5, 2023**—Maine Drinking Water Program (DWP) concurs with the “DWP Potential Boundary” depicted in in Figure 1 – Site Map Depicting Area of Uncertainty.
 - **Sept. 18, 2023**— “DWP Potential Boundary” was approved by Maine Drinking water following a peer review.
 - **Sept. 26, 2023**—Lake Auburn Water Quality Ad-Hoc Committee issues memorandum recommending that AWS and LWD forward the new watershed boundary to Maine Drinking Water for Approval.
 - **Oct. 10, 2023**—Planning Board workshop on amending the Lake Auburn Watershed Overlay District.
 - **Oct. 16, 2023**—City Council workshop on amending the Lake Auburn Watershed Overlay District.
- Nov. 2, 2023**—City staff send DWP Lake Auburn Watershed Overlay District updates.
- **Nov. 14, 2023**—Planning Board Public Hearing on amending the Lake Auburn Watershed Overlay District.
 - **Nov. 20, 2023**—Anticipated City Council first reading on amending the Lake Auburn Watershed Overlay District.
 - **Dec. 4, 2023**—Anticipated City Council second reading and public hearing on amending the Lake Auburn Watershed Overlay District.

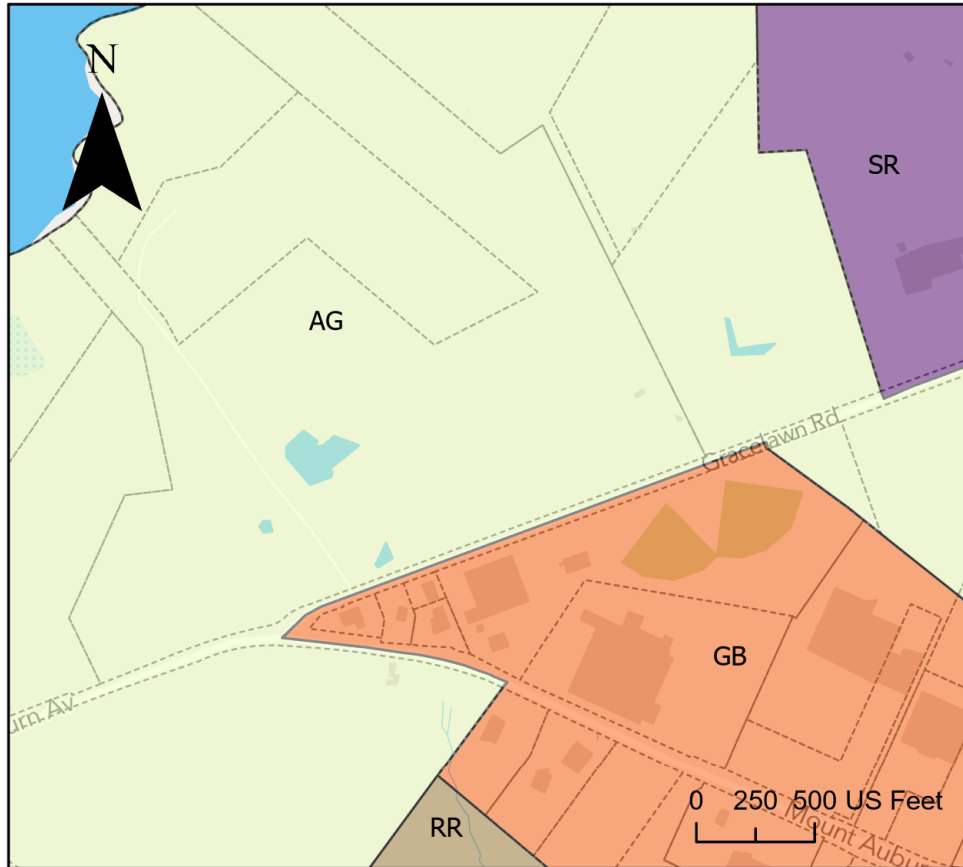
City Manager Comments:

Phillip Crowell Jr.

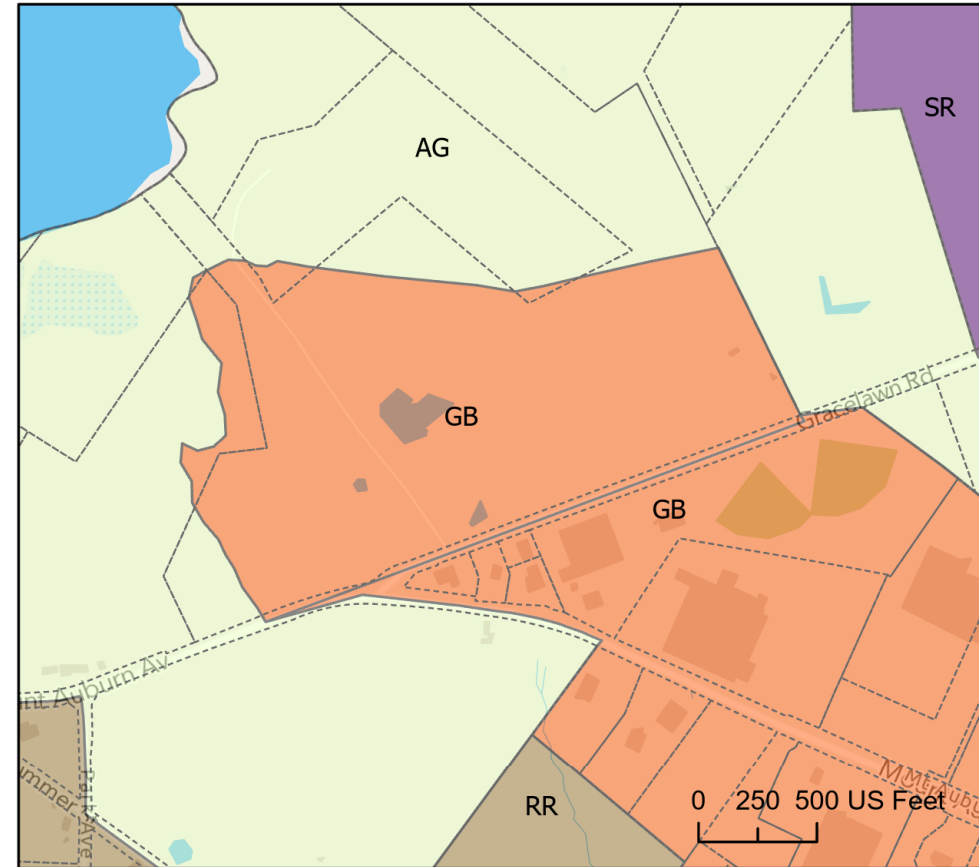
I concur with the recommendation. Signature:

Attachments: Proposed Ordinance, planning board motion, staff report (new watershed zone GB), GB zone ordinance and updated Map.

Zoning Map Amendment for Public Hearing November 14th 2023: Rezoning Approximately 60 Acres of AGRP to GB



Existing Zoning



Proposed Zoning

- | | | |
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| <ul style="list-style-type: none"> AG - Agriculture and Resource Protection C/OS - Conservation / Open Space GB - General Business GB II - General Business II ID - Industrial LDCR - Low Density Country Residential | <ul style="list-style-type: none"> MFS - Multi-Family Suburban NB - Neighborhood Business RR - Rural Residential SR - Suburban Residential T-4.1 - Traditional Mainstreet Neighborhood T-4.2 - Traditional Downtown Neighborhood | <ul style="list-style-type: none"> T-4.2B - Traditional Neighborhood Development District T-5.1 - Downtown Traditional Center T-5.2 - Downtown City Center T-6 - Great Falls Metropolitan UR - Urban Residential Parcels |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

* City of Auburn, Zoning Map, dated May 16, 2016



City of Auburn, Maine

Planning & Permitting Department

Eric Cousens, Director

60 Court Street | Auburn, Maine 04210

www.auburnmaine.gov | 207.333.6601

Date: 11/20/2023

To: Auburn City Council

From: Auburn Planning Board

Subject: Planning Board Recommendation to City Council on proposed map amendment changing the Gracelawn area from AGRP to GB zoning district

This is the report from the Planning Board regarding the attached map amendment pursuant to Section 60-1496 of the City of Auburn Ordinances. After notice and public hearings held on November 14, 2023, the Planning Board forwards this report to the City Council.

Proposal: Public Hearing/ Map Amendment: Consider amending the official zoning map of the City of Auburn entitled “City of Auburn, Zoning Map, dated May 16, 2016,” revised through its current date and revisions, as provided under Sec. 60-5 of the Zoning Ordinance by rezoning approximately 60 acres in parts of City Assessor’s Parcel ID 289-001, 289-002, and 277-026 from the Agriculture and Resource Protection (AGRP) zoning district to the General Business (GB) zoning district. The proposal was initiated by the Planning Board and is pursuant to Chapter 60, Article XVII, Division 2 - Amendment to the Zoning Ordinance or Zoning Map.

MOTION: David Trask makes a motion; **SECOND:** Amanda Guerrette second.

“I’m going to make a motion that we recommend to the council that we support the proposed changes to include that the General Business Boundary be adjusted to include the 60 acres shown on the map based on the following findings: The 2010 and now the 2020 Comprehensive Plan recommend expanding the Commercial zoning in this area. This can be accomplished without creating a new district by using the existing General Business Zone. The proposed new lake auburn watershed overlay district boundary is supported by the watershed boundary has been reviewed and agreed upon through studies by FB Environmental Associates, Comprehensive Environmental Inc., CDM Smith, The Maine Drinking Water Program and the Lake Auburn Water Quality Ad-Hoc Committee. This zone change carefully follows this new proposed adjusted boundary but excludes the 20 acres that make up the abutting property known as the City of Auburn landfill and that the proposal can be implemented without detriment to Lake Auburn and is recommended by the Comprehensive Plan.”

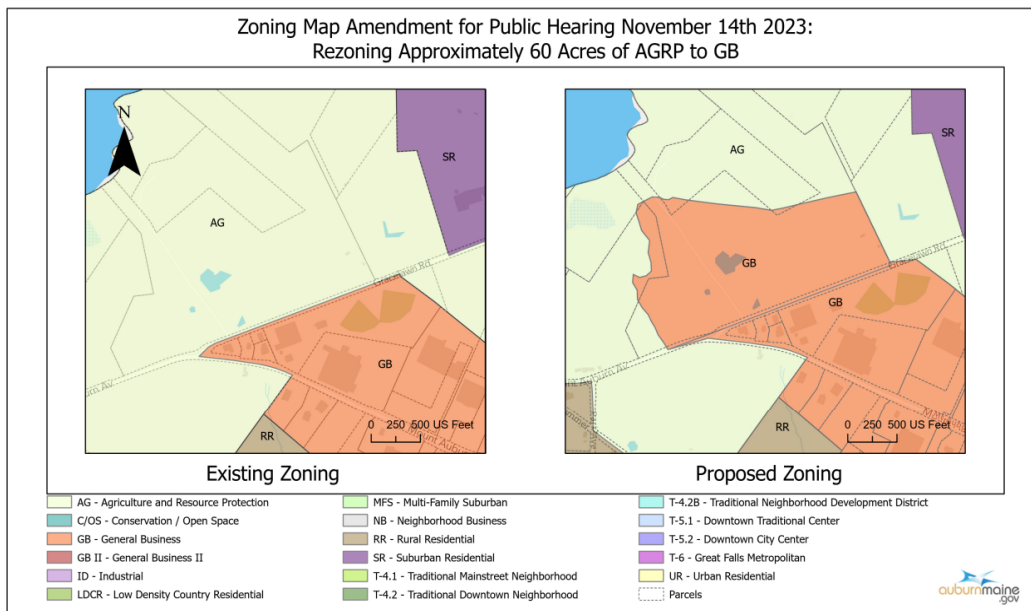
VOTE: 6-1-0 motion passes.

Date: November 11, 2023

To: Auburn Planning Board

From: John Blais, Deputy Director of Planning and Permitting

Re: **Staff Report on Proposed Map Change from Agriculture and Resource Protection (AGRP) to General Business (GB)**



* City of Auburn, Zoning Map, dated May 16, 2016

- I. **Public Hearing/ Map Amendment:** New zone considerations for area along Gracelawn Road amending approximately 60 acres in parts of Parcel ID 289-001, 289-002, and 277-026 from the Agriculture and Resource Protection (AGRP) zoning district to the General Business (GB) zoning district.
- II. **Background:** The proposal was initiated by the planning board in a workshop on October 10, 2023, and is pursuant to Chapter 60, Article XVII, Division 2 Amendment to the Zoning Ordinance or Zoning Map. Early today, the planning board will consider updating the Lake Auburn Watershed Overlay zoning map to match the “DWP Potential Boundary” that was agreed upon by the City of Auburn, Auburn Water and Sewer District, and Lewiston Water Division.

The land area that is removed from the watershed, approximately 80 acres, is currently zoned AGRP 20 acres will remain as AGRP. Staff believes that General Business (GB) would be the most appropriate option to apply in this area based on direction from the 2021 Comprehensive Plan. The Future Land Use Plan for the area near Gracelawn to be changed to the Commercial Development District, which is synonymous with the General Business District in its allowed uses and densities. An important goal for the city is listed in Strategy I.2.3.c in the Comprehensive Plan: to “Investigate opportunities for high quality, creative use of vacant land and/or buildings in and around commercial/ industrial centers.” This includes rezoning Gracelawn Pits as a planned development site to be used

for a mix of office, retail, and residential space, while assuring that the water quality of Lake Auburn is protected (page 73, Comprehensive Plan) because of its proximity to the abutting GB zone across Mount Auburn Ave.

COMMERCIAL DEVELOPMENT DISTRICT (CDD)(Excerpt from Comprehensive Plan)

Objective – Allow for the development of a wide range of uses including those that involve the sales of motor vehicles and/or that generate significant truck traffic. The district will allow for both existing and new residential use at a density of up to 16 units per acre.

Allowed Uses – The Commercial Development District generally follows the boundaries of the General Business and General Business II (Minot Avenue) Zoning Districts, in effect at the time of the 2021 Comprehensive Plan update. The following general types of uses should be allowed in the General Business Development District:

- *Low and High Residential Density Uses*
- *Retail uses including large-scale uses (>100,000 square feet)*
- *Personal and business services*
- *Business and professional offices*
- *Medical facilities and clinics*
- *Restaurants*
- *Hotel, motels, inns, and bed & breakfast establishments*
- *Low and High-Density Residential Uses*
- *Community services and government uses.*
- *Research, light manufacturing, assembly, and wholesale uses*
- *Truck terminals and distribution uses*
- *Contractors and similar activities*
- *Motor vehicle and equipment sales*
- *Motor vehicle service and repair*
- *Recreational and entertainment uses and facilities.*

Development Standards – The City’s development standards for the Commercial Development District should provide property owners and developers flexibility in the use and development of the property. The standards should include provisions to manage the amount and location of vehicular access to the site, minimize stormwater runoff and other potential environmental impacts, require a landscaped buffer along the boundary between the lot and the street, and provide for the buffering of adjacent residential districts.

III. Environmental considerations for this zone change include having the ability to converting an existing active gravel pit to what could be a mixed-use development that could range from multi-family homes and multifaceted businesses found in the General Business District. If development occurs the site would revegetate in areas where structures and supporting infrastructure is not planned. The area would have the ability to plan for a sustainable development that would address stormwater and site law that has not been addressed in the last 60 years as grandfathered gravel pit.

IV. Utilizing the federal government’s Environmental Protection Agency (EPA) Region 5 modeling for reporting Clean Water Act, 319 Grant projects staff ran a hypothetical model to redevelop the proposed 60 acres compared to what is existing today. Assumptions include the following: 40 acres of commercial development, 12 acres of vacant undeveloped land, 8 acres of open space revegetated. Compared to the 46 acres of open gravel pit, 4 acres of gravel roads, 10 acres of vacant land. Below is the overall annual pollutant load and runoff volumes for before after implementing permanent Best Management Practices such as Low Impact Development techniques to stabilize the site and treat stormwater runoff for a significant net reduction in nitrogen, phosphorus, bio-oxygen demand, sediment, and volumes of water.

Overall annual pollutant load and runoff volume before and after BMPs				
Pollutant	Pre-BMP	Reduction	After BMP	Percent Reduction
TN (lb/yr)	727.33	363.66	363.66	50%
TP (lb/yr)	72.73	36.37	36.37	50%
BOD (lb/yr)	3,230.77	2,220.85	1,009.92	69%
Sediment (lb/yr)	27,974.09	23,752.65	4,221.44	85%
Flow Volume (ac-ft/yr)	138.50	119.79	18.72	86%

Planning Board Action/Staff Suggestion: Staff suggest a planning board discuss the proposals and hold a Public Hearing on November 11, 2023. Staff then recommends that the Board forward a positive recommendation to the Council supporting the proposed change, to include that the General Business Boundary be adjusted to include the 60 acres shown on the map based on the following findings.

SUGGESTED FINDINGS AND REASONS:

1. The 2010 and now the 2020 Comprehensive Plan recommend expanding the Commercial zoning in this area. This can be accomplished without creating a new district by using the existing General Business Zone.
2. The new lake auburn watershed overlay district boundary is supported by the watershed boundary has been reviewed and agreed upon through studies by FB Environmental Associates, Comprehensive Environmental Inc. (CEI), CDM Smith, The Maine Drinking Water Program and the Lake Auburn Water Quality Ad-Hoc Committee. This zone change carefully follows this new adjusted boundary but excludes the 20 acres that make up the abutting property known as the City of Auburn landfill.
3. The proposal can be implemented without detriment to Lake Auburn and is recommended by the Comprehensive Plan.

DIVISION 12. GENERAL BUSINESS DISTRICT

Sec. 60-498. Purpose.

This district is intended to include commercial uses serving both the city and the region, together with normal accessory uses compatible with a cohesive and attractive shopping and office area.

(Ord. of 9-21-2009, § 3.62A)

Sec. 60-499. Use regulation.

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

- (1) Residential dwelling uses permitted in the Multifamily Suburban District (MFS) (division 7 of article IV of this chapter).
- (2) Grocery stores and supermarkets.
- (3) Clothing stores.
- (4) Furniture stores.
- (5) Department stores.
- (6) Specialty shops.
- (7) Hotels and motels.
- (8) Funeral homes and mortuaries.
- (9) Child day care centers.
- (10) Medical and dental clinics.
- (11) Wholesale bakeries.
- (12) Retail laundries and dry cleaners, but not plants.
- (13) Banks, business and professional offices.
- (14) Public transportation passenger offices.
- (15) Governmental offices.
- (16) Municipal, civic or public service buildings and other utility facilities.
- (17) Warehouses, wholesale offices, salesrooms and showrooms.
- (18) Restaurants, bars, dining rooms or lunchrooms, but not to include drive-in and carry-out restaurants.
- (19) Halls, private clubs and lodges, bowling alleys, ice and roller skating rinks, indoor theaters and similar places of indoor amusement or recreation.
- (20) Animal hospitals and pet shops, but no kennels.
- (21) Business equipment repair and business services.

-
- (22) Radio and television studios.
 - (23) Printing shops, but not publishing plants.
 - (24) Retail, service, office and commercial uses similar to the foregoing.
 - (25) Carwashes.
 - (26) Accessory uses, building and structures.
 - (27) Shelters for abused persons.
 - (28) Greenhouses and lawn maintenance services.
 - (29) Temporary outdoor places of amusement.
 - (30) Churches and temples.
 - (31) Adult use and medical marijuana stores subject to the requirements of chapter 14, article XVIII of the City of Auburn Ordinances.
 - (32) Marijuana cultivation accessory to a licensed retail store on the same property.
- (b) *Special exception uses.* The following uses are permitted as special exceptions after approval by the planning board in accordance with division 3 of article XVI of this chapter:
- (1) Automobile filling stations.
 - (2) Automobile repair and service stations.
 - (3) Automobile and marine sales lots and sales and service agencies.
 - (4) Automobile and marine paint and body repair shops.
 - (5) Hospitals, care homes, boardinghouses and lodginghouses.
 - (6) Research or philanthropic institutions.
 - (7) Outdoor theaters.
 - (8) Drive-in or carry-out restaurants.
 - (9) Commercial parks.
 - (10) Sales, rental and service agencies for mobile homes, farm equipment, trucks and trailers, and machine equipment.
 - (11) Light industrial plants which will not create a nuisance by noise, vibration, smoke, odor or appearance.
 - (12) Off-street parking as a commercial or municipal use provided that such parking is limited to occupants of buildings located within 500 feet of such parking area whether or not within the same district. The planning board may impose conditions regarding fencing and screening, drainage, ingress and egress, signs and lighting, and total capacity of the parking area as it deems necessary to protect the character of the neighborhood.
 - (13) Trucking terminals and similar nonprocessing storage and distribution uses, except bulk storage of chemicals, petroleum products and other flammable, explosive or noxious materials.
 - (14) Convenience stores.
 - (15) Research, experimental and testing laboratories.
 - (16) Landscape services.

-
- (17) Any new building of 5,000 square feet or more or any existing building which proposes a use permitted under subsection (a) of this section which will occupy an area of 5,000 square feet or more.
 - (18) Automotive towing and storage.
 - (19) Major retail development provided that it meets the conditions noted in section 60-45(g).
 - (20) Outpatient addiction treatment clinics.
 - (21) Adaptive reuse of structures of community significance.
 - (22) Public safety services.
 - a. All projects shall provide a community impact and needs analysis with review and approval from city council or its designee.
 - (23) Government services.
 - a. All projects shall provide a community impact and needs analysis with review and approval from city council or its designee.

(Ord. of 9-21-2009, § 3.62B; Ord. No. 11-11072016, 11-21-2016; Ord. No. 05-04032017, § 2, 4-24-2017; Ord. No. 05-05202019, 6-3-2019; Ord. No. 11-03012021, §§ 30, 31, 3-15-2021; Ord. No. 02-02132023, 2-17-2023)

Sec. 60-500. Dimensional regulations.

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

- (1) *Minimum lot width and depth.* No building used for commercial or office uses shall be constructed on a lot having less than 10,000 square feet minimum lot area and measuring 100 feet in width. No lot shall be less than 100 feet in depth. Buildings used for residential uses shall have the same minimum lot area, width and depth as provided for buildings in the Multifamily Suburban District (MFS), section 60-307(1).
- (2) *Density.* Not more than 30 percent of the total lot area shall be covered by buildings used for commercial or office uses. The density of residential uses shall be the same as that required for buildings in the Multifamily Suburban District (MFS), section 60-30(2).
- (3) *Yard requirements.*
 - a. *Rear.* There shall be behind every building a rear yard having a minimum depth of 35 feet or 35 percent of the average depth of the lot, whichever is less.
 - b. *Side.* There shall be a distance of five feet between any side property line, plus the side yard setback shall be increased one foot for every two feet or part thereof increase in street frontage over 60 feet to a maximum of 25 feet for side yard setback.
 - c. *Front.* There shall be in front of every building a front yard having a minimum depth of 25 feet or 25 percent of the average depth of the lot, whichever is less. No front yard need to be any deeper than the average depth off front yards on the lots next thereto on either side. A vacant lot or a lot occupied by a building with a front yard more than 25 feet shall be considered as having a front yard of 25 feet.
 - d. *Principal buildings.* More than one principal building may be erected on a lot, provided that the building meet all yard setback requirements and are separated by a distance equivalent to the height of the higher building or 30 feet, whichever is greater.
 - e. *Railroad tracks.* Where the principal use requires access to a railroad, the yard requirements are disregarded for the side of the building adjacent to the railroad trackage. The engineering

requisites for a safe and properly designed siding and building setback acceptable to the railroad shall take precedence.

- f. *Open and unbuilt spaces.* Any yard, space or area required to be kept open and unbuilt on may be used, if otherwise lawful for outdoor storage and display of articles, supplies and materials. Such outdoor storage and display shall occupy no more than 20 percent of the lot with display areas not to exceed one-quarter of the total allowable area. Storage and display areas shall be clearly identified on the land in a fixed location. Storage areas shall be screened from the view of an abutting residential district or use and from the street by an evergreen tree line planted in staggered rows having the base of the trees not more than ten feet apart or by a solid fence not less than six feet in height.
- (4) *Height.* No permitted structure shall exceed four stories or 45 feet in height. Religious buildings, municipal buildings or buildings listed by the state historic preservations commission may have a steeple, cupola or tower to a maximum height of 90 feet, if said structure is limited to 15 percent of the footprint of the principal building. In the airport approach zone, Federal Aviation Administration regulations shall apply. Accessory structures, including windmills, that are necessary for the operation of an allowed principal use may exceed the above maximum height requirements, provided that the front yard, rear yard and each of the side yards shall be increased by one foot for each foot in height in excess of the yard required pursuant to this section. In the airport approach zone, Federal Aviation Administration regulations shall apply.
- (5) *Off-street parking.* Off-street parking and loading spaces shall be provided in accordance with the requirements for specific uses as set forth in article V of this chapter.

(Ord. of 9-21-2009, § 3.62C; Ord. of 3-22-2010; Ord. No. 11-03012021, §§ 32, 64, 3-15-2021)

Secs. 60-501—60-523. Reserved.



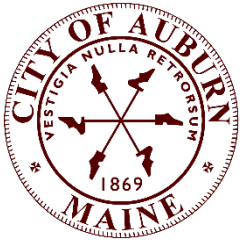
City Council Ordinance

IN CITY COUNCIL

TITLE: Zoning Map Amendment Rezoning Certain Land from AGRP to GB

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

Amend the official zoning map of the City of Auburn entitled "City of Auburn, Zoning Map, dated May 16, 2016," revised through its current date and revisions, as provided under Sec. 60-5 of the Zoning Ordinance, to rezone approximately 60 acres in parts of City Assessor's Parcel ID 289-001, 289-002, and 277-026 from the Agriculture and Resource Protection (AGRP) zoning district to the General Business (GB) zoning district, all as more particularly shown on the attached sketch map. (The attached sketch map is for general reference purposes only. The official zoning map amendment is available for review and inspection at the City Clerk's Office and the Planning & Permitting Department.)



**City of Auburn
City Council Information Sheet**

Council Workshop or Meeting Date: November 20, 2023

Author: John Blais

Subject: Map amendment revising the Lake Auburn Watershed Overlay District.

Information: Amending the Lake Auburn Watershed Overlay District in the “City of Auburn Zoning Map dated May 16, 2016,” revised through its current date and revisions, provided under Sec. 60-5 of the Zoning Ordinance to reflect the actual drainage boundary based on existing topography of the land and known groundwater flows. This new boundary matches the conservative line that was peer reviewed and agreed upon by FB Environmental Associates, Comprehensive Environmental Inc. (CEI), CDM Smith and Maine Drinking Water Program as well as recommended by the Lake Auburn Water Quality Ad-Hoc Committee. This map change was initiated by the Planning Board and is pursuant to Chapter 60, Article XVII, Division 2 - Amendment to the Zoning Ordinance or Zoning Map.

The 2021 report by FB Environmental Associates, Horsely Witten Group, and the University of Maine, “A Regulatory, Environmental, and Economic Analysis of Water supply Protection in Auburn, ME” offered several recommended revisions to Auburn’s Code of Ordinances and Regulations in the Lake Auburn Watershed Overlay District. One such recommendation was to update the Lake Auburn Watershed Overlay District Ordinance to reflect the revised watershed boundary, reducing the existing watershed boundary by 148 acres in the Gracelawn road area based on their understanding of the topography in the area.

Following a citizen-initiated petition against changing the zoning around the Lake Auburn Watershed Overlay District in the Gracelawn area, the Lake Auburn Watershed Overlay boundary, the City Council voted to repeal the ordinance that initially changed the Lake Auburn Watershed Overlay District and zoning to what they were prior to March 21, 2022.

Since the vote to repeal Ordinance 08-02072022, the Auburn Water and Sewer District, the City of Auburn, and the City of Lewiston have conducted peer reviews of the hydrogeological features of the Gracelawn area. The Maine Drinking Water Program (DWP) agrees with the CDM Smith finding that the “DWP Potential Boundary” shown in the attached memo is a conservative boundary that can be established with available data. More information would be necessary if there were to be any future amendment to the Lake Auburn Watershed Overlay district.

The purpose of this first public meeting is to amend the City’s Lake Auburn Watershed Overlay map on our GIS system to match the agreed upon Lake Auburn watershed boundary shown as “DWP Potential Boundary” in Figure 1 - 0 Site Plan Depicting Areas of Uncertainty, and “Proposed Change” map sourced from CDM Smith in the “Lake Auburn Watershed Overlay District for Public Hearing

November 14, 2023.” This meeting will be followed by a first reading in city council on November 20, and a second reading and public hearing in city council on December 4, 2023.

City Budgetary Impacts: None

Staff Recommended Action: Staff recommends that the Council discuss the proposals and hold the public meeting and first reading and forward a positive vote for a second reading and public hearing.

Previous Meetings and History:

- **Oct. 1, 2021**—A Regulator, Environmental, and Economic Analysis of Water Supply Protection in, Auburn ME. Report resulted in a watershed boundary change.
 - **Dec. 21, 2021**—City Council directive to forward recommendation on changing Gracelawn area (148 acres) from AG to CDD and moving CDD boundary to match new watershed boundary.
 - **Jan. 3, 2022**—City Council Workshop on changing 148 acres from AG to CDD boundary to match new watershed boundary on the southern part of Lake Auburn.
 - **Jan. 11, 2023**—Planning Board Workshop on amending 148 acres near the Gracelawn area from AG to CDD to match the watershed boundary.
 - **Feb. 8, 2022**—Planning Board Public Hearing on changing Gracelawn Area zoning from AG to GB and moving CDD boundary update from 2021 Comprehensive Plan. Favorable Recommendation.
 - **Mar. 7, 2022**—City Council first reading on amending 148 acres in the Gracelawn area to GB and moving CDD to match the new watershed boundary.
 - **Mar. 21, 2022**—City Council second reading on amending what has changed to 120 acres in the Gracelawn area to GB and moving CDD to match the new watershed boundary. Passes.
 - **Aug. 9, 2022**—City Clerk verifies a citizens’ petition to repeal Ordinance 08-03072022
 - **Sept. 6, 2022**—City Council Repeals Ordinance 08-03072022 which reverts the watershed boundary to what it was before March 21, 2022, and reverts the zoning in this area from GB back to AGRP.
 - **Sept. 5, 2023**—Maine Drinking Water Program (DWP) concurs with the “DWP Potential Boundary” depicted in in Figure 1 – Site Map Depicting Area of Uncertainty.
 - **Sept. 18, 2023**— “DWP Potential Boundary” was approved by Maine Drinking water following a peer review.
 - **Sept. 26, 2023**—Lake Auburn Water Quality Ad-Hoc Committee issues memorandum recommending that AWS and LWD forward the new watershed boundary to Maine Drinking Water for Approval.
 - **Oct. 10, 2023**—Planning Board workshop on amending the Lake Auburn Watershed Overlay District.
 - **Oct. 16, 2023**—City Council workshop on amending the Lake Auburn Watershed Overlay District.
 - **Nov. 2, 2023**—City staff send DWP Lake Auburn Watershed Overlay District updates.
 - **Nov. 14, 2023**—Planning Board Public Hearing on amending the Lake Auburn Watershed Overlay District.
 - **Nov. 20, 2023**—Anticipated City Council first reading on amending the Lake Auburn Watershed Overlay District.
 - **Dec. 4, 2023**—Anticipated City Council second reading and public hearing on amending the Lake Auburn Watershed Overlay District.
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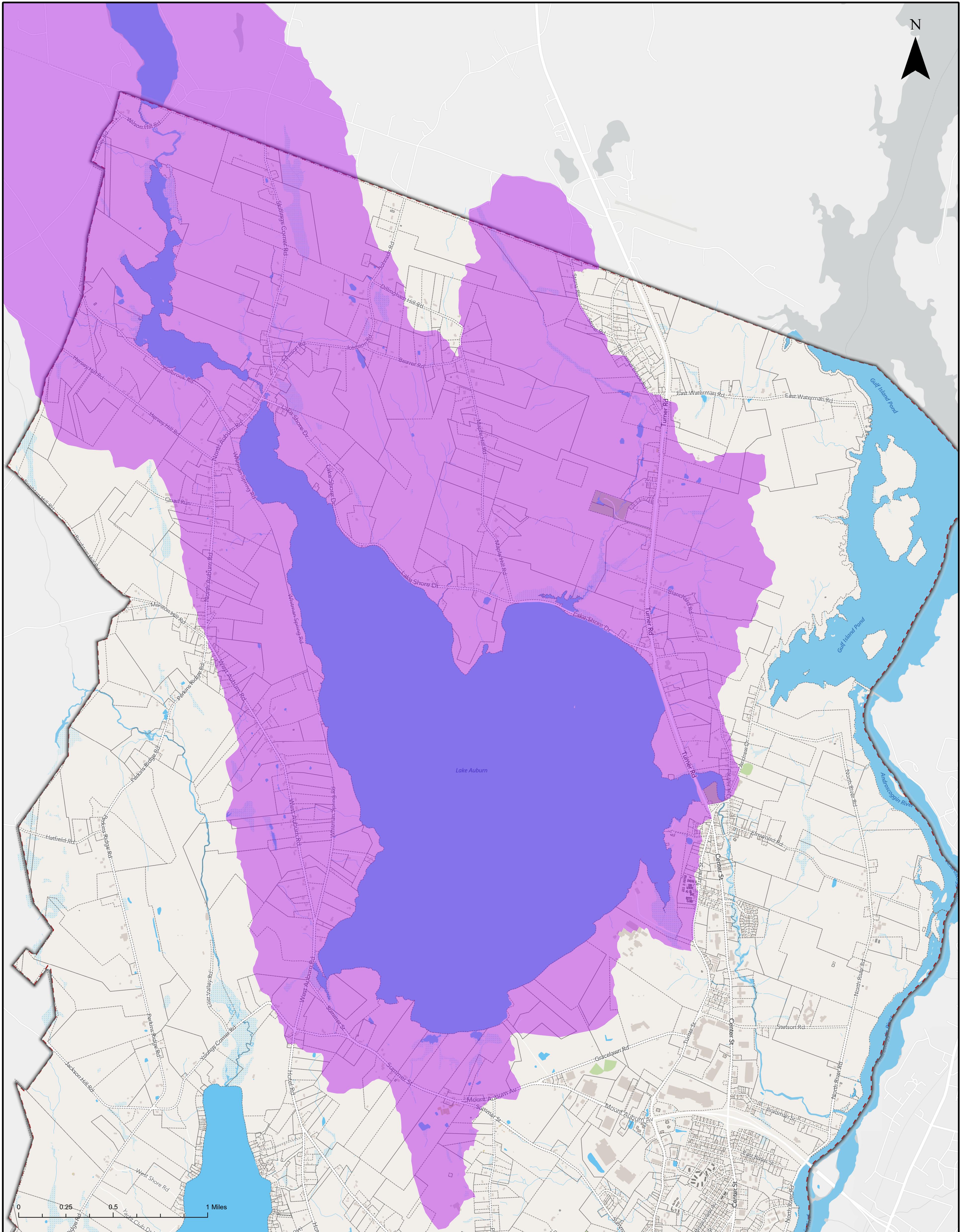
City Manager Comments:



I concur with the recommendation. Signature:

Attachments: planning board motion, staff report (new watershed boundary), DWP memo, LWD memo, Lewiston memo, City of Auburn Memo, watershed boundary map existing and proposed.

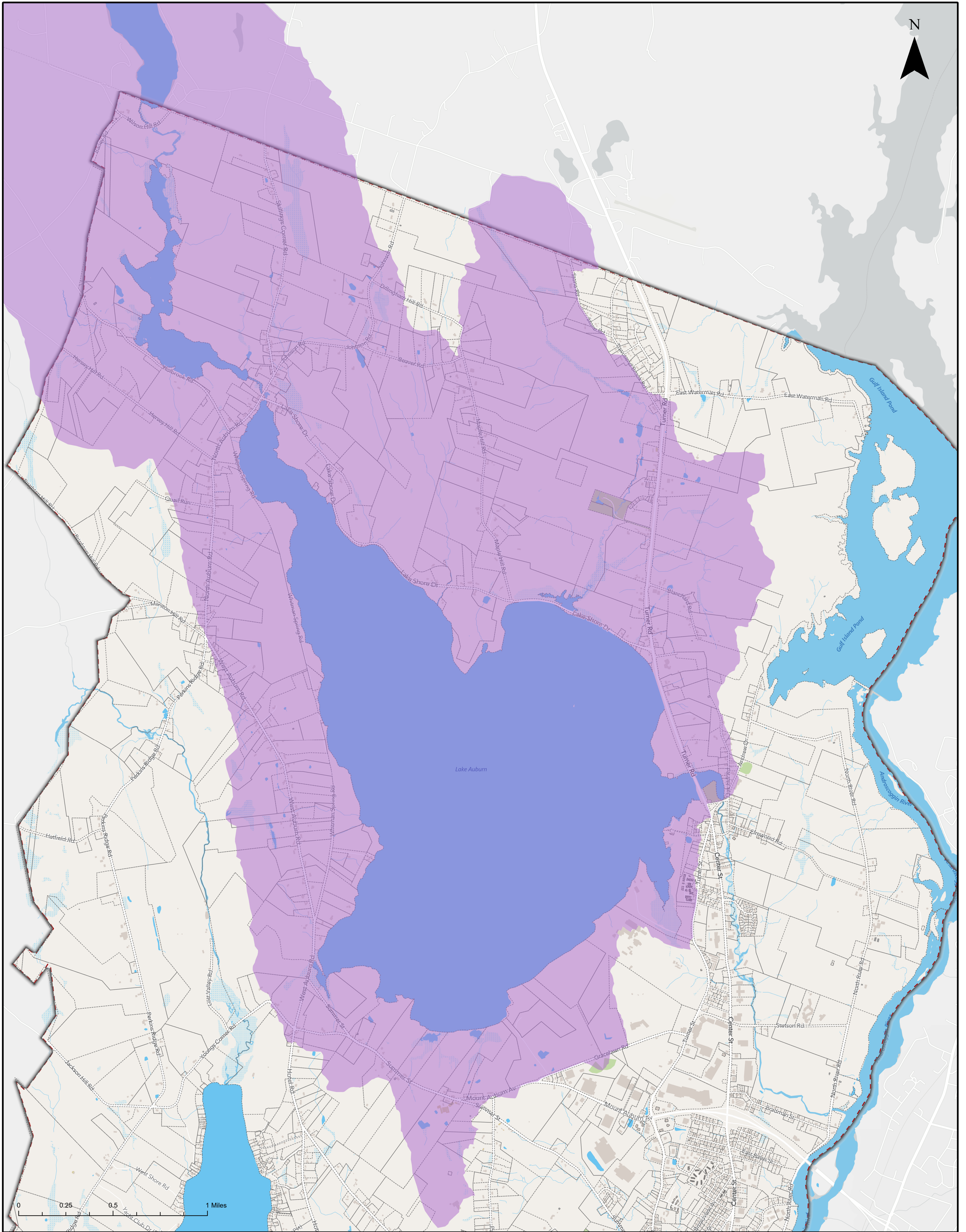
Proposed Lake Auburn Watershed Overlay District Zoning Map Amendment for Public Hearing November 14, 2023



- ▭ Parcels
- ▭ Proposed Lake Auburn Watershed Overlay District

*Proposed Lake Auburn Watershed Overlay District Source: CDM Smith

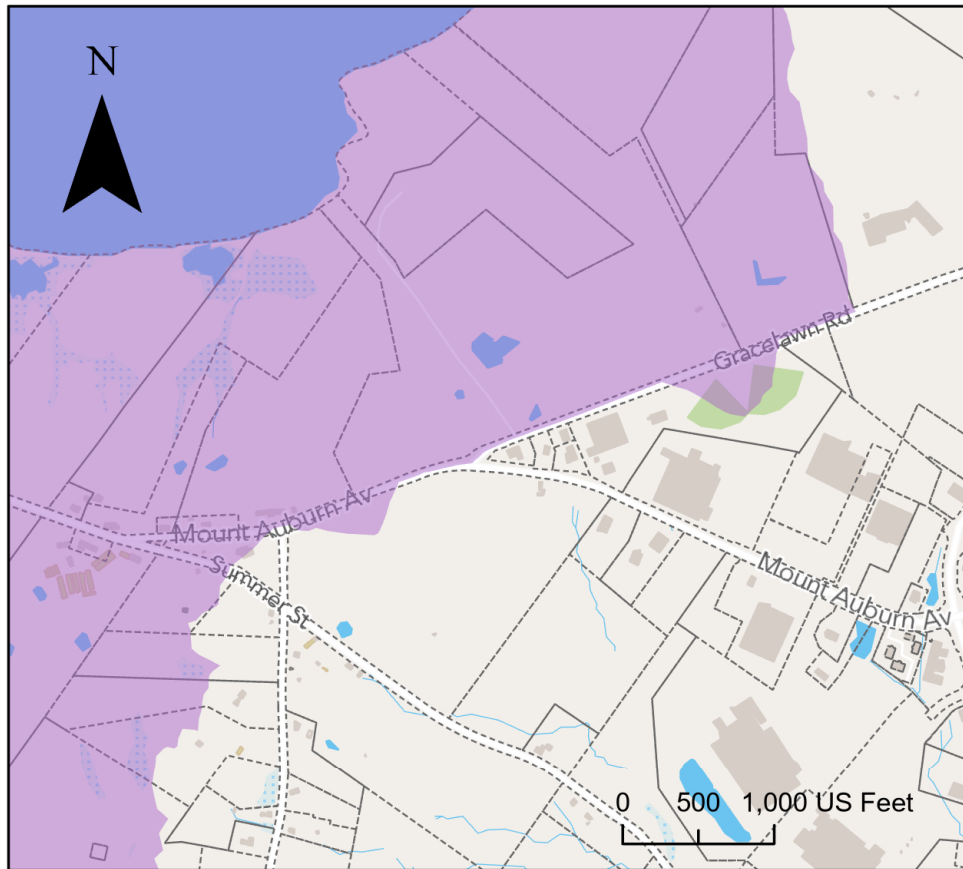
Existing Lake Auburn Watershed Overlay District Zoning Map Amendment for Public Hearing November 14, 2023



- ▭ Parcels
- ▭ Existing Lake Auburn Watershed Overlay District

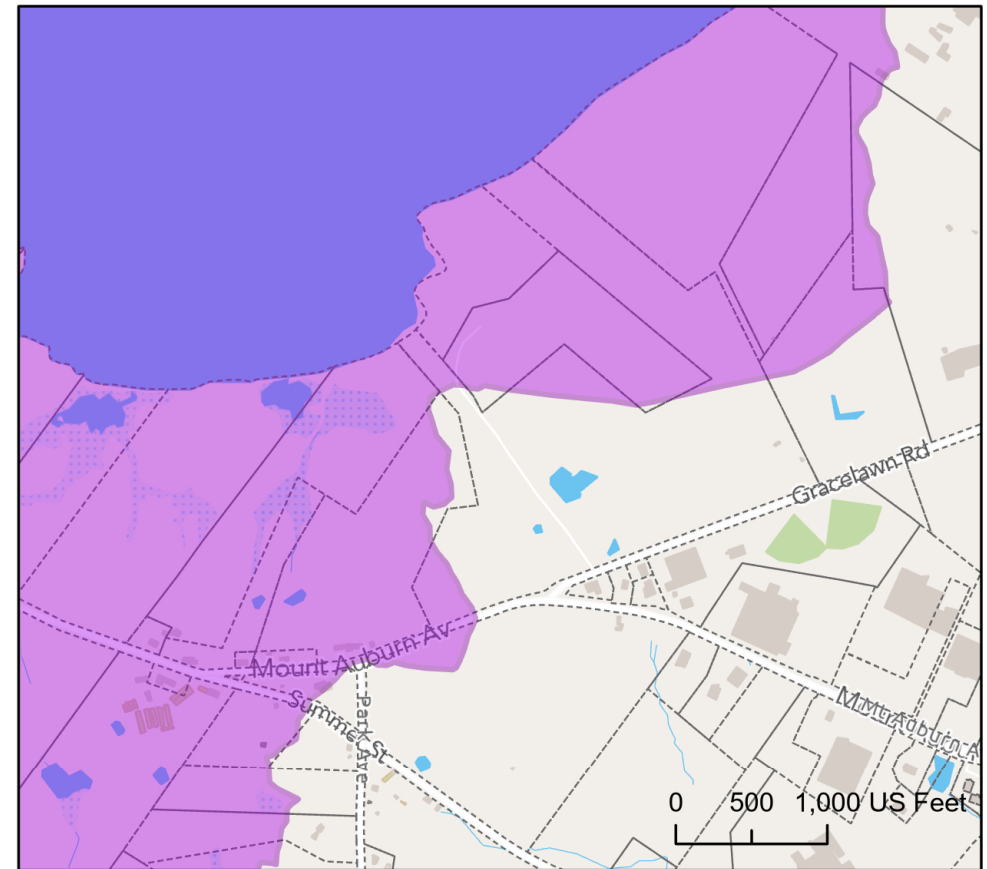
* City of Auburn, Zoning Map, dated May 16, 2016

Lake Auburn Watershed Overlay District Zoning Map Amendment for Public Hearing November 14, 2023



Existing Zoning

Source: City of Auburn, Zoning Map, dated May 16, 2016



Proposed Zoning

Source: CDM Smith

- Parcels
- Existing Lake Auburn Watershed Overlay District
- Proposed Lake Auburn Watershed Overlay District



City of Auburn, Maine

Planning & Permitting Department

Eric Cousens, Director

60 Court Street | Auburn, Maine 04210

www.auburnmaine.gov | 207.333.6601

Date: 11/20/2023

To: Auburn City Council

From: Auburn Planning Board

Subject: Planning Board Recommendation to City Council on proposed map amendment regarding the bounds of the Lake Auburn Watershed Overlay District

This is the report from the Planning Board regarding the attached map amendment pursuant to Section 60-1496 of the City of Auburn Ordinances. After notice and public hearings held on November 14, 2023, the Planning Board forwards this report to the City Council.

Proposal: Public Hearing/ Map Amendment: Consider amending the Lake Auburn Watershed Overlay District in the “City of Auburn Zoning Map dated May 16, 2016,” revised through its current date and revisions, provided under Sec. 60-5 of the Zoning Ordinance to reflect the actual drainage boundary based on existing topography of the land and known groundwater flows. This new boundary matches the conservative line that was peer reviewed and agreed upon by FB Environmental Associates, Comprehensive Environmental Inc. (CEI), CDM Smith and Maine Drinking Water Program as well as recommended by the Lake Auburn Water Quality Ad-Hoc Committee. This map change was initiated by the Planning Board and is pursuant to Chapter 60, Article XVII, Division 2 - Amendment to the Zoning Ordinance or Zoning Map.

MOTION: Evan Cyr makes a motion; **SECOND:** David Trask and Amanda Guerrette second simultaneously.

I make a motion to forward a favorable recommendation to City Council to amend the Lake Auburn Watershed Overlay District in the “City of Auburn Zoning Map dated May 16, 2016,” revised through its current date and revisions, provided under Sec. 60-5 of the Zoning Ordinance to reflect the actual drainage boundary based on existing topography of the land and known groundwater flows. This new boundary matches the conservative line that was peer reviewed and agreed upon by FB Environmental Associates, Comprehensive Environmental Inc. (CEI), CDM Smith and Maine Drinking Water Program as well as recommended by the Lake Auburn Water Quality Ad-Hoc Committee, as shown on the attached maps included in the staff report dated November 14th 2023 with subject heading being ‘Staff Report on proposed map amendment revising the Lake Auburn Watershed Overlay District.’”

VOTE: 7-0-0 motion passes.

Date: November 14, 2023

To: Auburn Planning Board

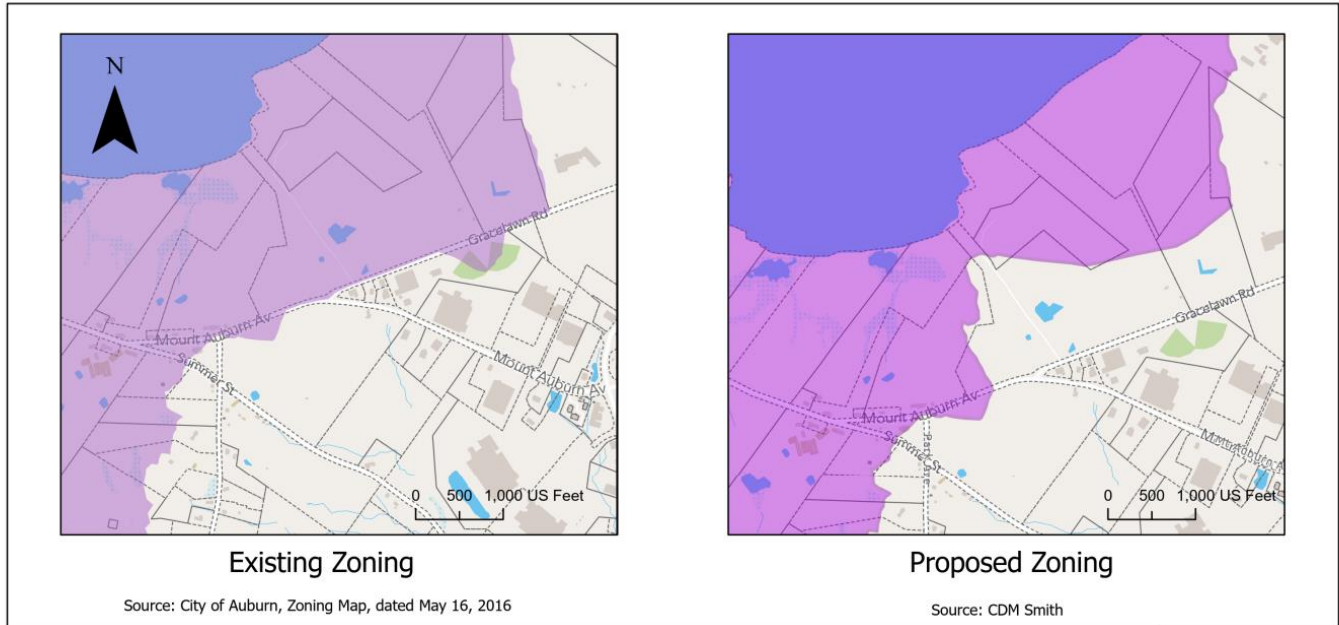
From: Katherine Cook, Planning Coordinator




Subject: Staff Report on proposed map amendment revising the Lake Auburn Watershed Overlay District

I. Proposal: Public Hearing/ Map Amendment:

Consider amending the Lake Auburn Watershed Overlay District in the “City of Auburn Zoning Map dated May 16, 2016,” revised through its current date and revisions, provided under Sec. 60-5 of the Zoning Ordinance to reflect the actual drainage boundary based on existing topography of the land and known groundwater flows. This new boundary matches the conservative line that was peer reviewed and agreed upon by FB Environmental Associates, Comprehensive Environmental Inc. (CEI), CDM Smith and Maine Drinking Water Program as well as recommended by the Lake Auburn Water Quality Ad-Hoc Committee. This map change was initiated by the Planning Board and is pursuant to Chapter 60, Article XVII, Division 2 - Amendment to the Zoning Ordinance or Zoning Map.

Lake Auburn Watershed Overlay District Zoning Map Amendment for Public Hearing November 14, 2023



-  Parcels
-  Existing Lake Auburn Watershed Overlay District
-  Proposed Lake Auburn Watershed Overlay District

II. Background:

The 2021 report by FB Environmental Associates, Horsely Witten Group, and the University of Maine, “A Regulatory, Environmental, and Economic Analysis of Water supply Protection in Auburn, ME” offered several recommended revisions to Auburn’s Code of Ordinances and Regulations in the Lake Auburn Watershed Overlay District. One such recommendation was to update the Lake Auburn Watershed Overlay

District Ordinance to reflect the revised watershed boundary, reducing the existing watershed boundary by 148 acres in the Gracelawn road area based on their understanding of the topography in the area.

In the following months, the Planning Board and City Council held public hearings on amending the Lake Auburn Watershed Overlay District and changing the zoning in the area formerly but no longer considered to be within the Lake Auburn watershed from the Agriculture and Resource Protection (AGRP or AG) zoning district to the General Business (GB) zoning district as well as on amending this area's designation in the in the Future Land Use Plan to the Community Development District (CDD).

Following a citizen-initiated petition against changing the zoning around the Lake Auburn Watershed Overlay District in the Gracelawn area, the Lake Auburn Watershed Overlay boundary, the City Council voted to repeal the ordinance that initially changed the Lake Auburn Watershed Overlay District and zoning to what they were prior to March 21, 2022.

Since the vote to repeal Ordinance 08-02072022, the Auburn Water and Sewer District, the City of Auburn, and the City of Lewiston have conducted peer reviews of the hydrogeological features of the Gracelawn area. The Maine Drinking Water Program (DWP) agrees with the CDM Smith finding that the "DWP Potential Boundary" shown in the attached memo is a conservative boundary that can be established with available data. More information would be necessary if there were to be any future amendment to the Lake Auburn Watershed Overlay district.

The purpose of this public hearing is to amend the City's Lake Auburn Watershed Overlay map on our GIS system to match the agreed upon Lake Auburn watershed boundary shown as "DWP Potential Boundary" in Figure 1 - 0 Site Plan Depicting Areas of Uncertainty, and "Proposed Change" map sourced from CDM Smith in the "Lake Auburn Watershed Overlay District for Public Hearing November 14, 2023." This meeting will be followed by a first reading in city council on November 20, and a second reading and public hearing in city council on December 4. Relevant meetings and actions up to this point and planned in the future have been listed below.

Previous Meetings and Actions:

- **Oct. 1, 2021**—A Regulator, Environmental, and Economic Analysis of Water Supply Protection in, Auburn ME. Report resulted in a watershed boundary change.
- **Dec. 21, 2021**—City Council directive to forward recommendation on changing Gracelawn area (148 acres) from AG to CDD and moving CDD boundary to match new watershed boundary.
- **Jan. 3, 2022**—City Council Workshop on changing 148 acres from AG to CDD boundary to match new watershed boundary on the southern part of Lake Auburn.
- **Jan. 11, 2023**—Planning Board Workshop on amending 148 acres near the Gracelawn area from AG to CDD to match the watershed boundary.
- **Feb. 8, 2022**—Planning Board Public Hearing on changing Gracelawn Area zoning from AG to GB and moving CDD boundary update from 2021 Comprehensive Plan. Favorable Recommendation.
- **Mar. 7, 2022**—City Council first reading on amending 148 acres in the Gracelawn area to GB and moving CDD to match the new watershed boundary.
- **Mar. 21, 2022**—City Council second reading on amending what has changed to 120 acres in the Gracelawn area to GB and moving CDD to match the new watershed boundary. Passes.
- **Aug. 9, 2022**—City Clerk verifies a citizens' petition to repeal Ordinance 08-03072022
- **Sept. 6, 2022**—City Council Repeals Ordinance 08-03072022 which reverts the watershed boundary to what it was before March 21, 2022, and reverts the zoning in this area from GB back to AGRP.
- **Sept. 5, 2023**—Maine Drinking Water Program (DWP) concurs with the "DWP Potential Boundary" depicted in in Figure 1 – Site Map Depicting Area of Uncertainty.
- **Sept. 18, 2023**— "DWP Potential Boundary" was approved by Maine Drinking water following a peer review.
- **Sept. 26, 2023**—Lake Auburn Water Quality Ad-Hoc Committee issues memorandum recommending that AWSD and LWD forward the new watershed boundary to Maine Drinking Water for Approval.
- **Oct. 10, 2023**—Planning Board workshop on amending the Lake Auburn Watershed Overlay District.
- **Oct. 16, 2023**—City Council workshop on amending the Lake Auburn Watershed Overlay District.

- Nov. 2, 2023**—City staff send DWP Lake Auburn Watershed Overlay District updates.
- **Nov. 14, 2023**—Planning Board Public Hearing on amending the Lake Auburn Watershed Overlay District.
 - **Nov. 20, 2023**—Anticipated City Council first reading on amending the Lake Auburn Watershed Overlay District.
 - **Dec. 4, 2023**—Anticipated City Council second reading and public hearing on amending the Lake Auburn Watershed Overlay District.

III. Planning Board Action:

Staff recommends that the planning board forward a favorable recommendation to amend the Lake Auburn Watershed Overlay District as described in the suggested motion below.


IV. Recommended Motion:

“I make a motion to forward a favorable recommendation to City Council to amend the Lake Auburn Watershed Overlay District in the “City of Auburn Zoning Map dated May 16, 2016,” revised through its current date and revisions, provided under Sec. 60-5 of the Zoning Ordinance to reflect the actual drainage boundary based on existing topography of the land and known groundwater flows. This new boundary matches the conservative line that was peer reviewed and agreed upon by FB Environmental Associates, Comprehensive Environmental Inc. (CEI), CDM Smith and Maine Drinking Water Program as well as recommended by the Lake Auburn Water Quality Ad-Hoc Committee, as shown on the attached maps included in this meeting’s materials.”

Public Works

September 18, 2023

Mr. Michael Broadbent, Superintendent
Auburn Water District
PO Box 414
Auburn, Maine 04212-0414


Superintendent Broadbent:

I am pleased, as I am sure you were, to have received the Maine Drinking Water Program's September 5, 2023 letter. As you know, the Drinking Water Program approved the "DWP Potential Boundary," after CDM Smith determined that the DWP Potential Boundary is a conservative boundary that could be established with available data, in the technical memorandum entitled Watershed Delineation Rezoning Review – Gracelawn Pit "Area of Uncertainty".

Of course, the Auburn Watershed boundary through the Gracelawn Parcel is an issue in the pending lawsuit, *City of Lewiston v. Auburn Water District, et al.* In an effort to remove that issue from suit, Lewiston consents to an amendment of the AWD bylaws to redefine the Level 1 zone of protection to exclude the portion of the Gracelawn parcel that lies between the DWP Potential Boundary line and the nearest roadway (and only to this extent).¹ Additionally, Lewiston proposes that AWD, Lewiston and the Town of Turner execute a memorandum of understanding memorializing that the term "Watershed," as used in the Basic Agreement, excludes the portion of the Gracelawn parcel that is between the DWP Potential Boundary line and the nearest roadway. Upon the successful completion of these actions, Lewiston will notify the court that it is dropping this issue from the lawsuit.

The Drinking Water Program's process to approve the DWP Potential Boundary confirms the success of a consensus-building approach premised on relying on peer-reviewed science. AWD has created an ad hoc committee to consider other zoning and land use ordinance or bylaw changes in the Lake Auburn Watershed. Lewiston remains optimistic that the committee can reach consensus on any other proposed changes based on peer-reviewed science, that these consensus changes will meet with regulators' approval, and that in this way the parties can amicably settle the remaining issues in the present lawsuit.

Please contact me with any questions.

Sincerely,



Kevin A. Gagne, P.E.
Deputy Director of Utilities

ENCLOSURES: Maine Drinking Water Program's September 5, 2023 letter

¹ As the City of Lewiston recently communicated to AWD through counsel, it is Lewiston's position that AWD's current bylaws limit the Board of Trustee's authority to revise and amend the watershed. The Board may more specifically identify and map "these restriction zones" only to the extent the map is consistent with the bylaws' existing definitions of the restriction zones. The Level 1 Intake Restricted Zone is defined to consist "of the shoreline of Lake Auburn upland to the closest roadway." The DWP Potential Boundary is between the shoreline of Lake Auburn and the closest roadway, so adopting it as the Watershed boundary will require a change to the bylaws.

Janet T. Mills
Governor

Jeanne M. Lambrew, Ph.D.
Commissioner



Maine Department of Health and Human Services
Maine Center for Disease Control and Prevention
11 State House Station
286 Water Street
Augusta, Maine 04333-0011
Tel; (207) 287-8016; Fax (207) 287-9058
TTY: Dial 711 (Maine Relay)

September 5, 2023

Mike Broadbent, Superintendent
Auburn Water District (PWSID# ME0090070)
268 Court Street
Auburn, ME 04210

Kevin Gagne, Deputy Director of Public Works
City of Lewiston
Lewiston Water & Sewer Division (PWSID# ME0090830)
103 Adams Avenue
Lewiston, ME 04240

**Subject: Approved - Lake Auburn Source Water Protection Area Boundary Re-Delineation,
Gracelawn Parcel area, Auburn, ME**

Dear Mr. Broadbent and Mr. Gagne:

On August 7, 2023, you jointly submitted to the Maine CDC Drinking Water Program (DWP) a proposed Lake Auburn source water protection area boundary re-delineation for the Gracelawn Parcel area. The proposed delineation and supporting information are located in the July 31, 2023, CDM Smith technical memorandum Watershed Delineation Rezoning Review – Gracelawn Pit “Area of Uncertainty” (CDM Smith Report). Figure 1 from the CDM Smith report is included below for reference.

The DWP agrees with the CDM Smith finding that the “DWP Potential Boundary” on Figure 1 below is a conservative boundary that can be established with available data. The DWP will not challenge this boundary, based on our current understanding of local hydrogeology.

The DWP also agrees that further investigation would be needed to establish a boundary closer to Lake Auburn. In addition to the CDM Smith Report’s recommendations that additional data be added to further refine the boundary location, the DWP recommends the following additional action items:

- Investigate further and integrate any impacts of the apparent clay-silt layer in the “Main Pit Area” into the understanding of bedrock flow in the study area. This layer is identified in the Summit Environmental Consultants Inc., Ground Water Assessment, Gracelawn Road Gravel Pit, Auburn, ME, September 2007 (Summit Report) in the Well Completion Logs for MW-11 and MW-12. Stratigraphy is not included in the Well Completion Logs for the other borings in the Summit Report. Additionally, a clay-silt layer identified as the Presumpscot Formation is also shown in this area on the Maine Geological Survey Surficial Geology Map of the Lake Auburn East Quadrangle, Maine (Open-File No. 08-72 2008).
- Investigate further and provide an explanation of the apparent “upward head gradients, i.e., groundwater flow into the lake” in 10 of 12 lake bottom sediment probes discussed on Page 7 (Paragraph A, second bullet) and shown in Figure 7 of the October 5, 2022, CDM Smith Watershed Delineation Rezoning Review – Gravel Pit Parcel, Lake Auburn Watershed Protection Commission memorandum.

It is possible that additional information may be required to establish a boundary closer to Lake Auburn, as determined by the DWP at the time of that investigation.

CDM Smith Report, Figure 1:

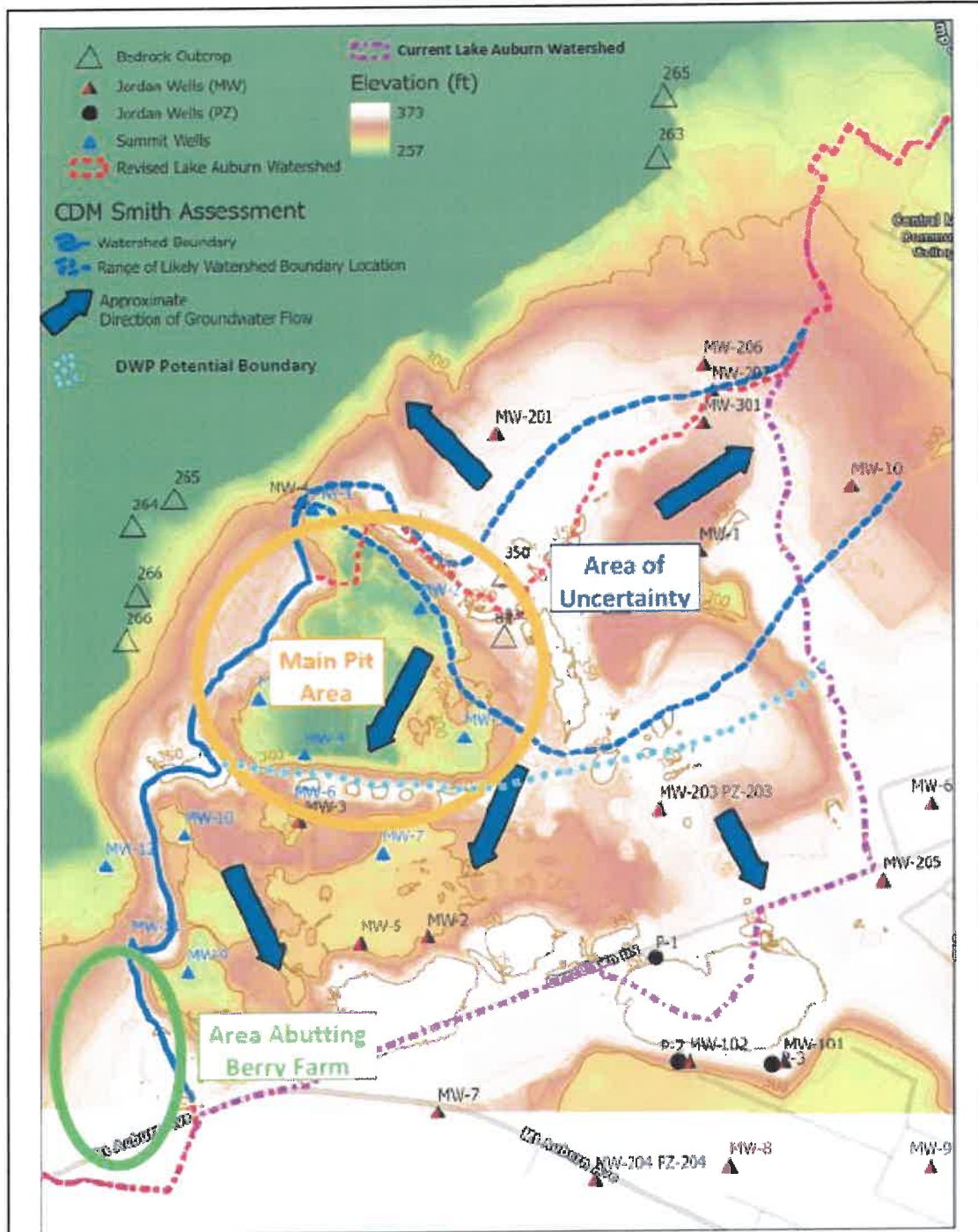


Figure 1 - Site Map Depicting Areas of Uncertainty

Feel free to contact me regarding our feedback within this letter, and thank you for your good work providing safe drinking water.

Sincerely,



Susan Breau, LG
Hydrogeologist, Water Resources Team Leader
Maine CDC Drinking Water Program
207.592.6981, susan.breau@maine.gov

cc Kevin Reilly, EPA Region 1
Denise Douin, DWP Public Water System Inspector; DWP file

Administration

Phil Crowell, City Manager
City of Auburn
60 Court Street
Auburn, Maine 04210

September 18, 2023

Manager Crowell,

Last week, the Auburn Water District and the Lewiston Water Division received a letter from the Maine Drinking Water Program. I am pleased, as I am sure you were, that the Drinking Water Program approved the "DWP Potential Boundary," after CDM Smith determined that the DWP Potential Boundary is a conservative boundary that could be established with available data, in the technical memorandum entitled *Watershed Delineation Rezoning Review – Gracelawn Pit "Area of Uncertainty"*.

In 2022, the City of Auburn City Council amended the Lake Auburn Watershed Overlay District, as it affected the Gracelawn Parcel. Lewiston consents to an amendment of the Lake Auburn Watershed Overlay District, provided that the Auburn Water District first amend its bylaws to exclude the portion of the Gracelawn parcel that is between the DWP Potential Boundary line and the nearest roadway and that, second, the Auburn Water District, Lewiston and the Town of Turner execute a memorandum of understanding memorializing that the term "Watershed," as used in the Basic Agreement, excludes the portion of the Gracelawn parcel that is between the DWP Potential Boundary line and the nearest roadway.

The Drinking Water Program's process to approve the DWP Potential Boundary confirms the success of a consensus-building approach premised on relying on peer-reviewed science. The Auburn Water District has created an ad hoc committee to consider other zoning and land use ordinance or bylaw changes in the Lake Auburn Watershed. Lewiston remains optimistic that the committee can reach consensus on any other proposed changes based on peer-reviewed science, that these consensus changes will meet with regulators' approval, and that in this way the remaining issues in the present lawsuit, *City of Lewiston v. Auburn Water District, et al.*, can be settled.

Please contact me with any questions.

Sincerely,



Heather Hunter



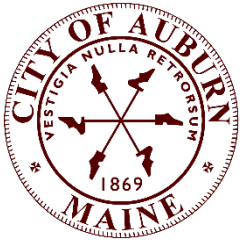
City Council Ordinance

IN CITY COUNCIL

TITLE: Zoning Map Amendment of Lake Auburn Watershed Overlay District Boundary

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

Amend the Lake Auburn Watershed Overlay District within the official zoning map of the City of Auburn entitled "City of Auburn, Zoning Map, dated May 16, 2016," revised through its current date and revisions, as provided under Sec. 60-5 of the Zoning Ordinance, to reflect the actual drainage boundary based on existing topography of the land and known groundwater flows, all as more particularly shown on the attached sketch map. (The attached sketch map is for general reference purposes only. The official zoning map amendment is available for review and inspection at the City Clerk's Office and the Planning & Permitting Department.)



**City of Auburn
City Council Information Sheet**

Council Workshop or Meeting Date: November 20, 2023

Author: John Blais

Subject: First Reading on proposed (11) votes/text amendments applied to the Lake Auburn watershed.

Information: Proposed Amendments to Chapter 60, Article XII, Division 4- Lake Auburn Watershed Overlay District pertaining to agricultural farms, agricultural buffer strips, subsurface wastewater disposal system setbacks from resources/buffer strips, private sewage disposal systems and subsurface wastewater standards and requirements. The text changes in this proposal have been initiated by the City Council and Planning Board and are pursuant to Chapter 60, Article XVII, Division 2- Amendment to the Zoning Ordinance or Zoning Map.

Since December of 2021, several amendments to Chapter 60, Article XII, Division 4 Lake Auburn Watershed Overlay District have been proposed. These amendments include 1.) changes to the private subsurface wastewater disposal system design and site standards and inspection requirements; 2.) changes to agricultural and subsurface wastewater system buffer widths from Lake Auburn and its tributaries and streams; and 3.) prohibiting new non-hobby agricultural farms within the Lake Auburn Watershed Overlay District. These amendments were brought forward over time to improve the quality of Lake Auburn as Auburn and Lewiston's drinking water supply by updating subsurface wastewater disposal standards and environmental regulations to meet current best practices and modern science. A culmination of all amendments was proposed at the November 14, 2023 Planning Board meeting and had favorable recommendation from the Planning Board and recommended these go forward with the contingency that Rural Residential (1 acre minimum) zoning within the watershed be changed to Low-Density Country Residential (3 acres-minimum) and are now ready for review and vote by the city council.

These amendments have been collectively reviewed by outside subject matter experts to include former State of Maine Soil Scientist and State of Maine licensed Soil Scientist and Site Evaluator, David Rocque. University of Rhode Island, Director of the Onsite Wastewater Resource Center, Alissa Cox PhD. In addition, the Lake Auburn Water Quality Ad-Hoc Committee has reviewed and recommends the adoption of the zoning ordinance text amendments.

City Budgetary Impacts: None

Staff Recommended Action Staff recommends that the Council discuss the proposals and issue the first vote on adoption of text **ordinance changes described in version B.**

Previous Meetings and History:

December 21, 2021: city council directive to amend watershed boundary
January 2, 2022: council directs planning board to consider certain septic requirement text change
January 3, 2022: city council workshop to change boundary of watershed and change from AG to CDD
January 11, 2022: planning board workshop on amending watershed boundary
February 8, 2022: planning board public hearing on changing Gracelawn area from AGRP to GB and moving the CDD boundary to match the newly interpreted watershed boundary (favorable recommendation)
March 7, 2022: city council first reading on amending 148 Gracelawn area from AGRP to GB
March 21, 2022: city council second reading on amending a slightly reduced area in the Gracelawn area from AGRP to GB (passes)
April 12, 2022: planning board workshop and public hearing on updating subsurface wastewater (SSWW) standards (favorable recommendation contingent upon RR to LDCR zone change)
April 19, 2022: city council workshop on Lake Auburn watershed updates
May 2, 2022: city council first reading on updating SSWW standards and increasing agricultural buffer strip (favorable vote). also asks board to consider reducing housing density in the watershed
May 3, 2022: special planning board workshop to consider changing RR to LDCR in the watershed
August 9, 2022: planning board workshop on FB Environmental Report
August 9, 2022: City Clerk verifies signatures on petition to repeal watershed boundary
August 15, 2022: city council workshop on RR to LDCR
September 6, 2022: City council repeals Ordinance 08-03072022 (watershed boundary)
October 11, 2022: planning board review text amendment to increase ag. buffer strips and update SSWW requirements (favorable recommendation)
January 17, 2023: city council directs staff to initiate prohibition on new residences and animal farms in Lake Auburn watershed also in AGRP zone
January 17, 2023: city council directs planning board to consider that no future SSWW systems be allowed within 300 feet of Lake Auburn
September 18, 2023: DWP Potential Boundary wrote favorable letter for new line by Maine Drinking Water
September 26, 2023: Oct 10, 2023, PB workshop, Oct. 16, 2023 CC workshop, Lake Auburn Water Quality Ad-Hoc Committee issues memo recommending AWSD and LWD forward new boundary to DWP, October 17, 2023, URI makes recommendation on peer review to staff, October 17, 2023. November 14, PB public hearing.

City Manager Comments:



I concur with the recommendation. Signature:

Attachments: Proposed Ordinance changes Version B, planning board motion, planning board staff report (text amendments) DWP memo, LWD memo, Lewiston memo, City of Auburn Memo, Vote sheet language for CC.

City Council Suggested Motion B (Staff and Legal Counsel Recommended):

- a. I make a motion to amend Sec. 60-950 adding the word “Overlay” to clarify the Lake Auburn Watershed Overlay District name as shown.

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)

- b. I make a motion to amend Sec. 60-951 (a)-Boundaries, adding the word “Overlay” to clarify the Lake Auburn Watershed Overlay District name, and changing “city water district” to “Auburn Water District” as shown.

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 City Water District on file in the office of the Auburn City 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.

- c. I make a motion to amend Sec. 60-951 (b)- Definitions, adding the definition of *curtain drain, hobby agricultural use, Lake Auburn Watershed Protection Commission or LAWPC, Non-hobby agricultural use, soil horizon, soil horizon limiting, or limiting soil horizon, and soil profile* to this section as shown below.

Sec. 60-951. Boundaries and definitions.

- (b) Definitions. For purposes of this Division 4, the following words and terms as used herein shall have the meanings or limitations of meaning hereby defined, explained or assigned:

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 (i) 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 (ii) the allowances set forth in Sec. 60-2 regarding "farm, livestock" of this chapter and the allowances set forth in Article VII, Division 4 of Chapter 8 of the City Code of Ordinances are not exceeded.

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

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.

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 6 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

- d. I make a motion to amend Sec. 60-952- use and environmental regulation (a) Agricultural uses prohibiting new non-hobby agricultural uses as of 1/1/24 and requiring approval by LAWPC's Watershed Manager to operate hobby agricultural uses after 12/31/23 as shown.

Sec. 60-952. Use and environmental regulations.

- (a) ~~Agricultural uses. All uses of land for chicken farms, cattle farms, horse farms, egg farms, piggeries, sheep farms, stables, crop farming and other agricultural purposes shall be subject to the approval of the city water district. Such approval shall be granted upon a showing that such uses will not cause groundwater contamination or contaminate or disturb the normal course of surface water runoff. 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 (i) 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 (ii) LAWPC's Watershed Manager approves such use or expansion in writing and so notifies the code enforcement officer.~~

- e. I make a motion to amend Sec. 60-952- use and environmental regulations (b) *residential dwellings in the agriculture and resource protection zoning district* by specifying that LD 2003 does not apply in the Lake Auburn Watershed Overlay District as shown:

Sec. 60-952. Use and environmental regulations.

- (b) ~~Residential dwellings in the agriculture and resource protection zoning district. Notwithstanding the provisions of Secs. subsections 60-145(a)(1), 60-145(b)(18) and 60-146(1)(c), new one-family detached dwellings units are only permitted prohibited in the Lake Auburn Watershed Overlay District on parcels containing no less than ten acres, provided that the dwelling is accessory to farming operations and subject to the following restriction: at least 50 percent of the total annual household income of the farm occupants living in the farm residence will be derived from farm uses. Pursuant to 30-A M.R.S. § 4364(9), 30-A M.R.S. § 4364-A(1-A), and 30-A M.R.S. § 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.~~

- f. I make a motion to amend Sec. 60-952 (c) by increasing the width of an untilled agricultural buffer strip near Lake Auburn or its perennial tributaries from 50 feet wide to 100 feet wide as shown:

Sec. 60-952. Use and environmental regulations.

- (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 10050 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.~~

- g. I make a motion to amend Sec. 60-952 (d) to prohibit all spreading of or disposal of sludge as shown.

Sec. 60-952. Use and environmental regulations.

- (d) ~~Municipal and manure and sludge disposal. All spreading and disposal of municipal sludge is prohibited, shall be accomplished in conformance with the Rules of Municipal Sludge Utilization on Land, published by the department of environmental protection in September, 1980. 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 Maine Guidelines for Manure and Manure Sludge Disposal on Land, published by the Life Sciences and Agriculture Experiment Station and the Cooperative Extension Service, University of Maine at Orono, and the Maine Soil and Water Conservation Commission in July, 1972.~~

- h. I make a motion to amend Sec. 60-952 (e) to change "water district" to "Auburn Water District" as shown.

Sec. 60-952. Use and environmental regulations.

- (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.

- i. I make a motion to amend Sec. 60-952 (f)-private subsurface wastewater disposal systems by (1) amending the separation requirements between the disposal field and the limiting soil horizon; (2) increasing the separation between septic systems and tributaries to Lake Auburn from 300 to 400 feet; (3) requiring that the plumbing inspector must ensure that new and replacement systems meet this set design criteria; (4) specifying the design standards of private subsurface wastewater disposal systems; (5) specifying that systems must be on the same lot as the unit they serve; (6) specifying that LAWPC or its designee shall have the right to inspect systems; (7) clarifying the follow-up steps in case of a malfunction; (8) changing the wording of overseeing agencies; and deleting original section 60-952 (f) (5) as shown.

Sec. 60-952. Use and environmental regulations.

- (f) *Private ~~subsurface wastewater/sewage~~ disposal systems.* The following regulations shall be adhered to in the development of private ~~subsurface wastewater/sewage~~ disposal systems in the Lake Auburn Watershed ~~Overlay District~~:
- (1) ~~Subsurface absorption areas shall not be permitted on sites on which the highest seasonal groundwater table, bedrock, or other impervious layer is less than 36 inches below the bottom of the organic horizon. Not less than 24 inches of suitable soil shall be present below the bottom of the subsurface absorption area. The bottom of such subsurface absorption area shall not be less than 12 inches below the bottom of the organic horizon measured from the lowest point on the subsurface absorption area. 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 filter 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 Maine 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 ordinance.~~
 - (2) ~~Within areas containing soils described as deep, loose and sandy or gravelly and which contain more than 70 percent sand as shown on table 9-2 of the state plumbing code, part II (April 25, 1975), no new disposal field/subsurface absorption area shall be installed closer than 400/300 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/sewage 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, 10-344 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 most appropriate based on the evaluation of groundwater conditions on the site by a Maine licensed site evaluator. The local plumbing inspector shall require that a Maine 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 ordinance.~~
- (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 3, 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 5 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 City 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 malfunctions that who shall require the abatement action by the property owner or operator of such defects or malfunctions.~~
- (8) ~~The local plumbing inspector shall furnish a copy of all site investigation evaluation reports in the Lake Auburn Watershed Overlay District to the Auburn City Water District or its designee.~~
- (9) ~~Replacement or reconstruction of private residential sewage disposal systems in existence and in use on December 17, 1982 shall not be subject to the requirements of this section but shall be required to comply with the current state plumbing code.~~

j. I make a motion to amend Sec. 60-1065 to clarify the text as shown.

Sec. 60-1065. Definitions.

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

Acceptable increase in lake phosphorus concentration (C) is based upon water quality and the city's selected level of protection. For Taylor Pond the number is 0.75; for Lake Auburn the number is 0.5.

Direct watershed means any land area which contributes storm-water runoff by either surface or subsurface flow to Taylor Pond or Lake Auburn without such runoff first passing through an upstream lake.

Future area to be developed (D) means an estimate of the acreage in the city's share of the direct watersheds that will be developed during the planning period of 50 years. For Taylor Pond, the estimated future developed acreage is 715.3; for Lake Auburn, the estimated future developed acreage is 1,180.0.

Lake Auburn means the Lake Auburn Watershed regulated by this chapter, which is all land areas within the direct watershed of Lake Auburn as defined on the attached map entitled Lake Auburn Watershed Overlay District Map.

Per-acre phosphorus allocation (P) means the acceptable increase of phosphorus export per acre in the watershed as determined by solving the following equation $(P) = (FC)/(D)$. For Taylor Pond, the phosphorus allocation is 0.036; for Lake Auburn, the phosphorus allocation is 0.047.

Phosphorus export coefficient (F) means the amount of phosphorus export from the watershed each year that will produce a one ppb increase in the lake's phosphorus concentration. For Taylor Pond, the phosphorus coefficient is 35.26 lbs/ppb/year; for Lake Auburn, the phosphorus coefficient is 109.9 lbs/ppb/year.

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

k. I make a motion to amend Sec. 60-1237 to clarify the text as shown:

Sec. 60-1237. Lake Auburn Watershed Overlay District ~~non~~-variance.

When by reason of extraordinary physical conditions peculiar to the land or buildings under appeal but not to other land or buildings adjoining or nearby, an owner of land would be subject to unusual difficulty or special hardships (not mere financial hardship or hardships caused by rigid subsurface wastewater/sewage disposal regulations) by reason of the literal application and rigorous enforcement of the terms of this chapter, the board of zoning appeals may grant a variance from strict compliance with the requirements of division 4 of article XII of this chapter after notice and public hearing as provided in this article. No such variance shall be granted unless the board is satisfied that the variance applied for will not adversely affect the quality of the Lake Auburn water supply. When an application for a variance is filed, it shall be forwarded to the Auburn City Water District with a request for an informational report and a recommendation to the board regarding the disposition of the requested variance application. In any case in which a variance request is granted, despite the recommendation of the Auburn City Water District that it be denied, the board of appeals shall make part of its permanent records a written statement of its reasons for taking such action. In granting any such variance application, the board may also impose reasonable conditions upon the use of the land in question which shall be reduced to writing and made a part of the permanent records of the board.



City of Auburn, Maine

Planning & Permitting Department

Eric Cousens, Director

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To: Auburn City Council

From: Auburn Planning Board

Subject: Planning Board Recommendation to City Council on proposed ordinance text changes within the Lake Auburn Watershed Overlay District

Date: 11/20/2023

This is the report from the Planning Board regarding the attached text amendments pursuant to Section 60-1496 of the City of Auburn Ordinances. After notice and Public Hearings held on November 14, 2023, the Planning Board forwards this report to the City Council.

Public Hearing/ Text Amendment: Proposed Amendments to Chapter 60, Article XII, Division 4- Lake Auburn Watershed Overlay District pertaining to non-hobby agricultural uses, agricultural buffer strips, subsurface wastewater disposal system setbacks from resources/buffer strips, private sewage disposal systems and subsurface wastewater standards and requirements. The text changes in this proposal have been initiated by the City Council and Planning Board and are pursuant to Chapter 60, Article XVII, Division 2- Amendment to the Zoning Ordinance or Zoning Map.

MOTION: Evan Cyr makes a motion; **SECOND:** David Trask seconds.

“I make a motion to forward a favorable recommendation to City Council to amend Sec. 60-950 adding the word “Overlay” to clarify the Lake Auburn Watershed Overlay District name as shown in section 6a of the staff report dated November 14th, 2023.” **VOTE:** 7-0-0 motion passes.

MOTION: Evan Cyr makes a motion; **SECOND:** David Trask seconds.

“I make a motion to forward a favorable recommendation to City Council to amend Sec. 60-951 (a)- Boundaries, adding the word “Overlay” to clarify the Lake Auburn Watershed Overlay District name, and changing “city water district” to “Auburn Water District” as shown in section 6 b of the staff report dated November 14th, 2023”. **VOTE:** 7-0-0 motion passes.

MOTION: Evan Cyr makes a motion; **SECOND:** David Trask seconds.

“I make a motion to forward a favorable recommendation to City Council to amend Sec. 60-951 (b)- Definitions, adding the definition of *curtain drain, hobby agricultural use, Lake Auburn Watershed Protection Commission or LAWPC, Non-hobby agricultural use, soil horizon, soil horizon limiting, or limiting soil horizon, and soil profile* to this section as shown in Section C of the staff report dated November 14th, 2023.” **VOTE:** 7-0-0 motion passes.

MOTION: Evan Cyr makes a motion; **SECOND:** David Trask seconds.

“I make a motion to forward a favorable recommendation to City Council to amend Sec. 60-952- use and environmental regulation (a) Agricultural uses prohibiting new non-hobby agricultural uses as of 1/1/24 and requiring approval by LAWPC’s Watershed Manager to operate hobby agricultural uses after 12/31/23 as shown in section 6d of the staff report dated November 14th, 2023.” **VOTE:** 7-0-0 motion passes.

MOTION: Evan Cyr makes a motion; **SECOND:** David Trask seconds.

“I make a motion to forward a favorable recommendation to City Council to amend Sec. 60-952- use and environmental regulations (b) *residential dwellings in the agriculture and resource protection zoning district* by specifying that LD 2003 does not apply in the Lake Auburn Watershed Overlay District as shown in section 6e on page 9 of 12 in the staff report dated November 14, 2023.” **VOTE:** 7-0-0 motion passes.

MOTION: Evan Cyr makes a motion; **SECOND:** David Trask seconds.

“I make a motion to forward a favorable recommendation to City Council to amend Sec. 60-952 (c) by increasing the width of an untilled agricultural buffer strip near Lake Auburn or its perennial tributaries from 50 feet wide to 100 feet wide as shown in section 6f beginning on page 9 of 12 and ending on page 10 of 12 in the staff report dated November 14th, 2023.” **VOTE:** 7-0-0 motion passes.

MOTION: Evan Cyr makes a motion; **SECOND:** David Trask seconds.

“I make a motion to forward a favorable recommendation to the City Council to amend Sec. 60-952 (d) to prohibit all spreading of or disposal of sludge as shown in section 6g on page 10 of 12 in the staff report dated November 14th, 2023.” **VOTE:** 7-0-0 motion passes.

MOTION: Evan Cyr makes a motion; **SECOND:** David Trask seconds.

“I make a motion to forward a favorable recommendation to the City Council to amend Sec. 60-952 (e) to change “water district” to “Auburn Water District” as shown in section 6h on page 10 of 12 in the staff report dated November 14th, 2023.” **VOTE:** 7-0-0 motion passes.

MOTION: Evan Cyr makes a motion; **SECOND:** David Trask seconds.

“I make a motion to forward a favorable recommendation to City Council to amend Sec. 60-952 (f)- private subsurface wastewater disposal systems by (1) amending the separation requirements between the disposal field and the limiting soil horizon; (2) increasing the separation between septic systems and tributaries to Lake Auburn from 300 to 400 feet; (3) requiring that the plumbing inspector must ensure that new and replacement systems meet this set of design criteria; (4) specifying the design standards of private subsurface wastewater disposal systems; (5) specifying that systems must be on the same lot as the unit they serve; (6) specifying that LAWPC or its designee shall have the right to inspect systems; (7) clarifying the follow-up steps in case of a malfunction; (8) changing the wording of the overseeing agencies; and deleting original section 60-952 (f) (5) as shown in section 6i beginning on page 10 of 12 and ending on page 11 of 12 of the staff report dated November 14th 2023.”

MOTION: Evan Cyr offers an amendment to the motion; **SECOND:** David Trask seconds.

“I would like to make a motion to amend the motion to state that the favorable recommendation be contingent upon council’s adoption of a density standard within the residential portion of the watershed not to exceed 1 unit per 3 acres.” **VOTE:** 7-0-0 amendment to the motion passes.

VOTE: 6-1-0 the motion as amended passes.

MOTION: Evan Cyr makes a motion; **SECOND:** David Trask seconds.

“I make a motion to forward a favorable recommendation to City Council to amend Sec. 60-1065 to clarify the text as shown in section 6j beginning on page 11 of 12 and ending on page 12 of 12 of the staff report dated November 14th, 2023.” **VOTE:** 7-0-0 motion passes.

MOTION: Evan Cyr makes a motion; **SECOND:** David Trask seconds.

“I make a motion to forward a favorable recommendation to City Council to amend Sec. 60-1237 to clarify the text as shown: in section 6k on page 12 of 12 of the staff report dated November 15, 2023.” **VOTE:** 7-0-0 motion passes.



City of Auburn, Maine

Office of Planning & Permitting

Eric Cousens, Director

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Date: November 14, 2023

To: Auburn Planning Board

From: Katherine Cook, Planning Coordinator

Re: Staff Report on proposed ordinance text changes within the Lake Auburn Watershed Overlay District

- I. Public Hearing/ Text Amendment:** Proposed Amendments to Chapter 60, Article XII, Division 4- Lake Auburn Watershed Overlay District pertaining to animal farms, agricultural buffer strips, subsurface wastewater disposal system setbacks from resources/buffer strips, private sewage disposal systems and subsurface wastewater standards and requirements. The text changes in this proposal have been initiated by the City Council and Planning Board and are pursuant to Chapter 60, Article XVII, Division 2- Amendment to the Zoning Ordinance or Zoning Map.
- II. Background:** Since January 2022, several amendments to Chapter 60, Article XII, Division 4 Lake Auburn Watershed Overlay District have been proposed. These amendments include 1.) changes to the private subsurface wastewater disposal system design and site standards and inspection requirements; 2.) changes to agricultural and subsurface wastewater system buffer widths from Lake Auburn and its tributaries and streams; and 3.) prohibiting new non-hobby animal farms within the Lake Auburn Watershed Overlay District. These amendments were brought forward over time to improve the quality of Lake Auburn as Auburn and Lewiston's drinking water supply by updating subsurface wastewater disposal standards and environmental regulations to meet current best practices and modern science. All amendments were proposed at various stages but are now ready for review and recommendation by the planning board with ultimate approval by the city council.

These amendments have been collectively reviewed by outside subject matter experts to include former State of Maine Soil Scientist and State of Maine licensed Soil Scientist and Site Evaluator, David Rocque. University of Rhode Island, Director of the Onsite Wastewater Resource Center, Alissa Cox PhD. In addition, the Lake Auburn Water Quality Ad-Hoc Committee has reviewed and recommends the adoption of the zoning amendments.

For reference, below is the relevant meetings to this point have been listed below:

Previous Meetings and Actions:

- **Jan. 3, 2022**—Council directs planning board to maintain requirement of 36 inches above limiting factor for septic systems while allowing updating septic design to meet state standards.
- **Apr. 12, 2022**—Planning Board Workshop and Public Hearing on updating Sec. 60-952(f) (1-5) and (c) subsurface wastewater systems in the Lake Auburn watershed. Planning Board forwarded a favorable recommendation contingent upon the change coinciding with a zone change reducing housing density in Lake Auburn watershed from one dwelling unit per acre to one dwelling units per three acres in the currently existing Rural Residence district in the Lake Auburn watershed.
- **April 19, 2022**—City council workshop on Lake Auburn watershed ordinance updates.

- **May 2, 2022**—City council first reading: updating Ch. 60, Article XII, Division 4, Sec. 60-952 (c) and (f) (1-5) for agricultural buffer strip and subsurface wastewater systems in the Lake Auburn Watershed. Favorable vote.
- **Aug. 9, 2022**—Planning board workshop on FB Environmental Report on updating Sec. 60-952 (f) (1-5) for subsurface wastewater systems.
- **Oct. 11, 2022**—Planning board review of text amendment to Ch. 60, Article XVII, Div. 4, Sec. 60-952(c) agricultural buffer strip and (f) (1-5) private sewage disposal systems.
- **Jan. 17, 2023**—City council directs staff to prepare ordinance text and map Amendment to prohibit any future residential structures and limit or prohibit animal farms in the Lake Auburn Watershed in the AGRP zone.
- **Jan. 17, 2023**—City council directs Planning Board to provide a recommendation for a zoning amendment that will prohibit any future subsurface wastewater disposal within 300’ of Lake Auburn.
- **Sept. 26, 2023**—Lake Auburn Watershed Ad-Hoc Committee issues memo to recommend that zoning text amendments pertaining to animal farms, agriculture buffer strips, and septic system standards and map amendments to the Lake Auburn Watershed Overlay District and changing the Rural Residence District to the Low-Density Country Residence District within the Lake Auburn Watershed Overlay District. This memo was included in the materials for the October Planning Board and City Council meetings.
- **Oct. 10, 2023**—Planning Board workshop on text amendments concerning septic system design standards, banning commercial agriculture in the Lake Auburn Watershed, increasing width agricultural buffer strips abutting Lake Auburn and its tributaries.
- **Oct. 16, 2023**—City Council workshop on text amendments concerning septic system design standards, banning commercial agriculture in the Lake Auburn Watershed, increasing width agricultural buffer strips abutting Lake Auburn and its tributaries.

Staff has provided the Planning Board with two versions of Chapter 60, Article XII, Division 4- Lake Auburn Watershed Overlay District. The first is titled “**VERSION A (per 10/10/23 Pl Bd Workshop)**” the yellow highlighted text in Version A was recommended by the Ad Hoc Committee. The second is titled “**VERSION B (with Additional Staff/Legal Suggested Changes highlighted in yellow).**” Below is a summary of the changes in the attached proposed text amendment, and name where each proposed change originated. There are asterisks (*) on changes that have been suggested since the October Workshop by legal counsel, and two asterisks (**) on changes which have been suggested by the planning board.

To capture the Planning Board’s preference and to receive appropriate feedback specific to each proposed text change, below we include two motions, Motion A and Motion B, each with several separate recommended motions which will together constitute the entire text amendment which is the subject of this agenda item. This will allow the Board and the public to discuss and form a recommendation on each component of the proposed changes individually. It should be noted that some of the changes rely on other changes to achieve the desired outcome of less development at a higher standard for the protection of Lake Auburn (Example: SSWW Disposal standards and change in density to reduce buildable lot potential).

Summary of Ordinance Text Changes:

1. Minor edits to clarify meaning made to Sec. 60-950. *(Edits suggested by legal counsel for clarity).*
2. Add Sec. 60-951 “(a) Boundaries”, make minor edits to clarify meaning. *(Edits made by legal counsel for clarity).*
3. Add Sec. 60-951” (b) Definitions” and under this section, add the definition of “curtain drain,” “hobby agricultural use,” “Lake Auburn Watershed Protection Commission or LAWPC”, (*) “non-hobby agricultural use,” “soil horizon,” “soil horizon, limiting or limiting soil horizon,” “soil

profile,” “soil filter media”, (*) and soil filter media specifications”. (*) (*Edits matching language in the State Plumbing Code made for specificity by legal counsel.*)

4. Amend Sec. 60-952(a) to state that as of January 1, 2024, non-hobby farms are not permitted, and hobby farms require review from the LAWPC Watershed Manager and notification to the code enforcement officer. (*Introduced by the city council.*)
5. Amend Sec. 60-952(b) to prohibit new dwelling units in the Lake Auburn Watershed Overlay District siting state law which may occasionally be amended. (*Language edit for clarity suggested by legal counsel, it should be noted, however, that the planning board and city council already took favorable action on this item’s content.*)
6. Amend Sec. 60-952(c) so that agricultural buffer strips become 100 feet wide instead of 50 feet wide and specify that applicable perennial or tributary streams should be identified on a 7.5-minute series USGS topographic map, dated 1981. (*City council introduced this item and has had first reading.*)
7. Amend Sec. 60-953(d) to prohibit any spreading of sludge and specify that manure spreading shall be in conformance with the then-current edition of the Maine Dept. of Agriculture Conservation and Forestry’s rules, regulations and guidelines for manure spreading and disposal. (*Edit made by legal counsel to reflect existing environmental guidelines and practices.*)
8. Make minor edits to add specificity and clarify meaning in Sec. 60-952(e)(2) and (3). (*Introduced by legal counsel to add clarity.*)
9. Amend Sec. 60-952(f) substituting “sewage” with “subsurface wastewater.” Under this section, also amend 60-952(f)(1) private subsurface wastewater disposal system design to specify that there must be at least 36 inches separation between the bottom of the disposal field and the limiting soil horizon and allows for 24 inches of this material be natural or fill; a change from the current ordinance. (*) (*Introduced by the city council with favorable recommendation made by the planning board.*)
10. Amend Sec. 60-952(f)(2) from requiring 300 feet between any new septic field to the high-water line of a stream, tributary, or outlet of Lake Auburn to requiring 400 feet separation. (*Introduced by the city council.*)
11. Add Sec. 60-952(f)(3) stating that all new or replacement systems must meet the above criteria or be designed in consultation with Auburn Water District or its designer (*). (*Introduced by legal counsel to add clarity.*)
12. Add Sec. 60-952(f)(4) that all replacement or new systems shall have either a curtain drain or a diversion ditch and that the design is signed off on by a site evaluator. (*Introduced by the city council.*)
13. Add Sec. 60-952(f)(5) which requires that all new and replacement systems be located on the same lot as the dwelling unit being served, or that in the case of an existing home, the applicant can prove to the plumbing inspector that it is physically impossible to have the septic system on the same lot. (*Introduced by the city council.*)
14. Add Sec. 60-952(f)(6) which requires that systems in the Lake Auburn Watershed Overlay District be inspected by LAWPC or its designee every five years (*). (*Introduced by the planning board.*)
15. Make minor edits to clarify wording made to Sec. 60-952(f)(7) (*). (*Introduced by legal counsel to add clarity.*)
16. Make grammatical edits to Sec. 60-952(f)(8). (*) (*Introduced by legal counsel.*)
17. Eliminate Sec. 60-952(f)(5) which exempts systems in existence since 1983 from meeting the provisions of this section.
18. Make grammatical edits made to Sec. 60-1237. (*Introduced by legal counsel.*)
19. Add clarifying wording to Sec. 60-1065- Definitions.

III. Department Review:

- Police - No Comments
- Auburn Water and Sewer – No Comments
- Fire Department/Code Enforcement – No Comments
- Engineering – No Comments
- Public Services - No Comments

- Airport – No Comments

IV. Planning Board Action: This proposed text amendment involves several parts, so staff has suggested a public hearing and motions to break up this agenda item into multiple sections for comments on each component. The staff has provided a series of recommended motions for the planning board forward to council. These motions will together constitute the favorable recommendation to amend Chapter 60, Article XII, Division 4 Lake Auburn Watershed Overlay District. Staff recommends Version B with final legal advice and clarifications included but has included Version A below for transparency and to give the Board options.

V. Potential Motion A:

- a. I make a motion to forward a favorable recommendation to City Council to amend Sec. 60-950 adding the word “Overlay” to clarify the Lake Auburn Watershed Overlay District name as shown:

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)

- b. I make a motion to forward a favorable recommendation to City Council to amend Sec. 60-951 (a)-Boundaries, adding the word “Overlay” to clarify the Lake Auburn Watershed Overlay District name, and changing “city water district” to “Auburn Water District” as shown:

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 City Water District on file in the office of the Auburn City 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.

- c. I make a motion to forward a favorable recommendation to City Council to amend Sec. 60-951 (b)- Definitions, adding the definition of *curtain drain*, *hobby agricultural use*, *Lake Auburn Watershed Protection Commission or LAWPC*, *Non-hobby agricultural use*, *soil horizon*, *soil horizon limiting*, or *limiting soil horizon*, and *soil profile* to this section as shown below:

Sec. 60-951. Boundaries and definitions.

(b) Definitions. For purposes of this Division 4, the following words and terms as used herein shall have the meanings or limitations of meaning hereby defined, explained or assigned:

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 (i) 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 (ii) the allowances set forth in Sec. 60-2 regarding “farm, livestock” of this chapter and the allowances set forth in Article VII, Division 4 of Chapter 8 of the City Code of Ordinances are not exceeded.

Lake Auburn Watershed Protection Commission or LAWPC means the commission formed through an interlocal cooperation agreement between the City of Lewiston, Auburn Water District, Town of Turner, and Town of Minot/Hebron/Buckfield.

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.

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 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 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.

- d. I make a motion to forward a favorable recommendation to City Council to amend Sec. 60-952-use and environmental regulation (a) Agricultural uses prohibiting new non-hobby agricultural uses as of 1/1/24 and requiring approval by LAWPC's Watershed Manager to operate hobby agricultural uses after 12/31/23 as shown:

Sec. 60-952. Use and environmental regulations.

- (a) Agricultural uses. All uses of land for chicken farms, cattle farms, horse farms, egg farms, piggeries, sheep farms, stables, crop farming and other agricultural purposes shall be subject to the approval of the city water district. Such approval shall be granted upon a showing that such uses will not cause groundwater contamination or contaminate or disturb the normal course of surface water runoff. 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 (i) 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 (ii) LAWPC's Watershed Manager approves such use or expansion in writing and so notifies the code enforcement officer.

- e. I make a motion to forward a favorable recommendation to City Council to amend Sec. 60-952-use and environmental regulations (b) *residential dwellings in the agriculture and resource protection zoning district* by specifying that LD 2003 does not apply in the Lake Auburn Watershed Overlay District as shown:

Sec. 60-952. Use and environmental regulations.

- (b) Residential dwellings in the agriculture and resource protection zoning district. Notwithstanding the provisions of Secs. subsections 60-145(a)(1), 60-145(b)(18) and 60-146(1)(c), new one-family detached dwellings units are only permitted-prohibited in the Lake Auburn Watershed Overlay District on parcels containing no less than ten acres, provided that the dwelling is accessory to farming operations and subject to the following restriction: at least 50 percent of the total annual household income of the farm occupants living in the farm residence will be derived from farm uses. Pursuant to 30-A M.R.S. § 4364(9), 30-A M.R.S. § 4364-A(1-A), and 30-A M.R.S. § 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.

- f. I make a motion to forward a favorable recommendation to City Council to amend Sec. 60-952 (c) by increasing the width of an untilled agricultural buffer strip near Lake Auburn or its perennial tributaries from 50 feet wide to 100 feet wide as shown:

Sec. 60-952. Use and environmental regulations.

- (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~~50~~ 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.

- g. I make a motion to forward a favorable recommendation to City Council to amend Sec. 60-952 (d) to prohibit all spreading of or disposal of sludge as shown.

Sec. 60-952. Use and environmental regulations.

- (d) Municipal and mManure and sludge disposal. All sSpreading and disposal of municipal-sludge is prohibited, shall be accomplished in conformance with the Rules of Municipal Sludge Utilisation on Land, published by the department of environmental protection in September, 1980. 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 disposalMAine Guidelines for Manure and Manure Sludge Disposal on Land, published by the Life Sciences and Agriculture Experiment Station and the Cooperative Extension Service, University of Maine at Orono, and the Maine Soil and Water Conservation Commission in July, 1972.

- h. I make a motion to forward a favorable recommendation to City Council to amend Sec. 60-952 (e) to change “water district” to “Auburn Water District” as shown:

Sec. 60-952. Use and environmental regulations.

- (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 W~~ater ~~D~~istrict. 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 W~~ater ~~D~~istrict indicating the changes so that a record can be maintained of watershed water yields to the system.

- i. I make a motion to forward a favorable recommendation to City Council to amend Sec. 60-952 (f)-private subsurface wastewater disposal systems by (1) amending the separation requirements between the disposal field and the limiting soil horizon; (2) increasing the separation between septic systems and tributaries to Lake Auburn from 300 to 400 feet; (3) requiring that the plumbing inspector must ensure that new and replacement systems meet this set design criteria; (4) specifying the design standards of private subsurface wastewater disposal systems; (5) specifying that systems must be on the same lot as the unit they serve; (6) specifying that LAWPC or its designee shall have the right to inspect systems; (7) clarifying the follow-up steps in case of a malfunction; (8) changing the wording of overseeing agencies; and deleting section 60-952 (f) (5) as shown.

Sec. 60-952. Use and environmental regulations.

- (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~~:
- (1) ~~Subsurface absorption areas shall not be permitted on sites on which the highest seasonal groundwater table, bedrock, or other impervious layer is less than 36 inches below the bottom of the organic horizon. Not less than 24 inches of suitable soil shall be present below the bottom of the subsurface absorption area. The bottom of such subsurface absorption area shall not be less than 12 inches below the bottom of the organic horizon measured from the lowest point on the subsurface absorption area. 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 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 Maine 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 ordinance.~~
 - (2) ~~Within areas containing soils described as deep, loose and sandy or gravelly and which contain more than 70 percent sand as shown on table 9-3 of the state plumbing code, part II (April 25, 1975), n~~No ~~new disposal fields~~subsurface absorption area shall be installed closer than ~~400~~300 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~~sewage 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, 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 most appropriate based on the evaluation of groundwater conditions on the site by a Maine licensed site evaluator. The local plumbing inspector shall require that a Maine 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 ordinance.~~
- (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 5 years or at the time that a property sold, whichever date is sooner.~~
- (7) ~~The Auburn City Wwater District 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 malfunctions that who shall require the abatement action by the property owner or operator of such defects or malfunctions.~~
- (8) ~~The local plumbing inspector shall furnish a copy of all site investigation evaluation reports in the Lake Auburn Watershed Overlay District to the Auburn City Wwater District.~~
- (9) ~~Replacement or reconstruction of private residential sewage disposal systems in existence and in use on December 17, 1983 shall not be subject to the requirements of this section but shall be required to comply with the current state plumbing code.~~

j. I make a motion to forward a favorable recommendation to City Council to amend Sec. 60-1065 to clarify the text as shown.

Sec. 60-1065. Definitions.

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

Acceptable increase in lake phosphorus concentration (C) is based upon water quality and the city's selected level of protection. For Taylor Pond the number is 0.75; for Lake Auburn the number is 0.5.

Direct watershed means any land area which contributes storm-water runoff by either surface or subsurface flow to Taylor Pond or Lake Auburn without such runoff first passing through an upstream lake.

Future area to be developed (D) means an estimate of the acreage in the city's share of the direct watersheds that will be developed during the planning period of 50 years. For Taylor Pond, the estimated future developed acreage is 715.3; for Lake Auburn, the estimated future developed acreage is 1,180.0.

Lake Auburn means the Lake Auburn Watershed regulated by this chapter, which is all land areas within the direct watershed of Lake Auburn as defined on the attached map entitled Lake Auburn Watershed Overlay District Map.

Per-acre phosphorus allocation (P) means the acceptable increase of phosphorus export per acre in the watershed as determined by solving the following equation $(P) = (FC)/(D)$. For Taylor Pond, the phosphorus allocation is 0.036; for Lake Auburn, the phosphorus allocation is 0.047.

Phosphorus export coefficient (F) means the amount of phosphorus export from the watershed each year that will produce a one ppb increase in the lake's phosphorus concentration. For Taylor Pond, the phosphorus coefficient is 35.26 lbs/ppb/year; for Lake Auburn, the phosphorus coefficient is 109.9 lbs/ppb/year.

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

k. I make a motion to forward a favorable recommendation to City Council to amend Sec. 60-1237 to clarify the text as shown:

Sec. 60-1237. Lake Auburn Watershed Overlay District ~~zone~~-variance.

When by reason of extraordinary physical conditions peculiar to the land or buildings under appeal but not to other land or buildings adjoining or nearby, an owner of land would be subject to unusual difficulty or special hardships (not mere financial hardship or hardships caused by rigid subsurface wastewater~~sewage~~ disposal regulations) by reason of the literal application and rigorous enforcement of the terms of this chapter, the board of zoning appeals may grant a variance from strict compliance with the requirements of division 4 of article XII of this chapter after notice and public hearing as provided in this article. No such variance shall be granted unless the board is satisfied that the variance applied for will not adversely affect the quality of the Lake Auburn water supply. When an application for a variance is filed, it shall be forwarded to the Auburn City Wwater~~D~~istrict with a request for an informational report and a recommendation to the board regarding the disposition of the requested variance application. In any case in which a variance request is granted, despite the recommendation of the Auburn Wwater~~D~~istrict that it be denied, the board of appeals shall make part of its permanent records a written statement of its reasons for taking such action. In granting any such variance application, the board may also impose reasonable conditions upon the use of the land in question which shall be reduced to writing and made a part of the permanent records of the board.

VI. Suggested Motion B (Staff and Legal Counsel Recommended):

- a. I make a motion to forward a favorable recommendation to City Council to amend Sec. 60-950 adding the word “Overlay” to clarify the Lake Auburn Watershed Overlay District name as shown:

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)

- b. I make a motion to forward a favorable recommendation to City Council to amend Sec. 60-951 (a)-Boundaries, adding the word “Overlay” to clarify the Lake Auburn Watershed Overlay District name, and changing “city water district” to “Auburn Water District” as shown:

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 City Water District on file in the office of the Auburn City 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.

- c. I make a motion to forward a favorable recommendation to City Council to amend Sec. 60-951 (b)- Definitions, adding the definition of *curtain drain*, *hobby agricultural use*, *Lake Auburn Watershed Protection Commission or LAWPC*, *Non-hobby agricultural use*, *soil horizon*, *soil horizon limiting*, or *limiting soil horizon*, and *soil profile* to this section as shown below:

Sec. 60-951. Boundaries and definitions.

- (b) Definitions. For purposes of this Division 4, the following words and terms as used herein shall have the meanings or limitations of meaning hereby defined, explained or assigned:

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 (i) 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 (ii) the allowances set forth in Sec. 60-2 regarding “farm, livestock” of this chapter and the allowances set forth in Article VII, Division 4 of Chapter 8 of the City Code of Ordinances are not exceeded.

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

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.

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 6 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

- d. I make a motion to forward a favorable recommendation to City Council to amend Sec. 60-952-use and environmental regulation (a) Agricultural uses prohibiting new non-hobby agricultural uses as of 1/1/24 and requiring approval by LAWPC’s Watershed Manager to operate hobby agricultural uses after 12/31/23 as shown:

Sec. 60-952. Use and environmental regulations.

- (a) Agricultural uses. All uses of land for chicken farms, cattle farms, horse farms, egg farms, piggeries, sheep farms, stables, crop farming and other agricultural purposes shall be subject to the approval of the city water district. Such approval shall be granted upon a showing that such uses will not cause groundwater contamination or contaminate or disturb the normal course of surface water runoff. 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 (i) 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 (ii) LAWPC’s Watershed Manager approves such use or expansion in writing and so notifies the code enforcement officer.

- e. I make a motion to forward a favorable recommendation to City Council to amend Sec. 60-952-use and environmental regulations (b) *residential dwellings in the agriculture and resource protection zoning district* by specifying that LD 2003 does not apply in the Lake Auburn Watershed Overlay District as shown:

Sec. 60-952. Use and environmental regulations.

- (b) Residential dwellings in the agriculture and resource protection zoning district. Notwithstanding the provisions of Secs. subsections 60-145(a)(1), 60-145(b)(18) and 60-146(1)(c), new one-family detached dwellings units are only permitted-prohibited in the Lake Auburn Watershed Overlay District on parcels containing no less than ten acres, provided that the dwelling is accessory to farming operations and subject to the following restriction: at least 50 percent of the total annual household income of the farm occupants living in the farm residence will be derived from farm uses. Pursuant to 30-A M.R.S. § 4364(9), 30-A M.R.S. § 4364-A(1-A), and 30-A M.R.S. § 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.

- f. I make a motion to forward a favorable recommendation to City Council to amend Sec. 60-952 (c) by increasing the width of an untilled agricultural buffer strip near Lake Auburn or its perennial tributaries from 50 feet wide to 100 feet wide as shown:

Sec. 60-952. Use and environmental regulations.

- (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 ~~10050~~ 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.

- g. I make a motion to forward a favorable recommendation to the City Council to amend Sec. 60-952 (d) to prohibit all spreading of or disposal of sludge as shown:

Sec. 60-952. Use and environmental regulations.

- (d) ~~Municipal and m~~*Manure and sludge disposal.* All ~~s~~spreading and disposal of ~~municipal~~ sludge is prohibited. ~~shall be accomplished in conformance with the Rules of Municipal Sludge Utilization on Land, published by the department of environmental protection in September, 1980. 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. Maine Guidelines for Manure and Manure Sludge Disposal on Land, published by the Life Sciences and Agriculture Experiment Station and the Cooperative Extension Service, University of Maine at Orono, and the Maine Soil and Water Conservation Commission in July, 1972.~~

- h. I make a motion to forward a favorable recommendation to the City Council to amend Sec. 60-952 (e) to change “water district” to “Auburn Water District” as shown:

Sec. 60-952. Use and environmental regulations.

- (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 W~~*water D*istrict. 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 ~~Auburneity W~~*water D*istrict indicating the changes so that a record can be maintained of watershed water yields to the system.

- i. I make a motion to forward a favorable recommendation to City Council to amend Sec. 60-952 (f)-private subsurface wastewater disposal systems by (1) amending the separation requirements between the disposal field and the limiting soil horizon; (2) increasing the separation between septic systems and tributaries to Lake Auburn from 300 to 400 feet; (3) requiring that the plumbing inspector must ensure that new and replacement systems meet this set design criteria; (4) specifying the design standards of private subsurface wastewater disposal systems; (5) specifying that systems must be on the same lot as the unit they serve; (6) specifying that LAWPC or its designee shall have the right to inspect systems; (7) clarifying the follow-up steps in case of a malfunction; (8) changing the wording of overseeing agencies; and deleting section 60-952 (f) (5) as shown:

Sec. 60-952. Use and environmental regulations.

- (f) ~~Private subsurface wastewater/sewage disposal systems.~~ The following regulations shall be adhered to in the development of private subsurface wastewater/sewage disposal systems in the Lake Auburn Watershed Overlay District:
- (1) ~~Subsurface absorption areas shall not be permitted on sites on which the highest seasonal groundwater table, bedrock, or other impervious layer is less than 36 inches below the bottom of the organic horizon. Not less than 24 inches of suitable soil shall be present below the bottom of the subsurface absorption area. The bottom of such subsurface absorption area shall not be less than 12 inches below the bottom of the organic horizon measured from the lowest point on the subsurface absorption area. 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 filter 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 Maine 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 ordinance.~~
 - (2) ~~Within areas containing soils described as deep, loose and sandy or gravelly and which contain more than 70 percent sand as shown on table 9-3 of the state plumbing code, part II (April 25, 1975), no new disposal field/subsurface absorption area shall be installed closer than 400/200 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/sewage 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 most appropriate based on the evaluation of groundwater conditions on the site by a Maine licensed site evaluator. The local plumbing inspector shall require that a Maine 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 ordinance.~~
 - (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 5 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 city Wwater 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 malfunctions that who shall require the abatement action by the property owner or operator of such defects or malfunctions.~~
 - (8) ~~The local plumbing inspector shall furnish a copy of all site investigation/evaluation reports in the Lake Auburn Watershed Overlay District to the Auburn city Wwater District or its designee.~~
 - (5) ~~Replacement or reconstruction of private residential sewage disposal systems in existence and in use on December 17, 1983 shall not be subject to the requirements of this section but shall be required to comply with the current state plumbing code.~~

- j. I make a motion to forward a favorable recommendation to City Council to amend Sec. 60-1065 to clarify the text as shown:

Sec. 60-1065. Definitions.

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

Acceptable increase in lake phosphorus concentration (C) is based upon water quality and the city's selected level of protection. For Taylor Pond the number is 0.75; for Lake Auburn the number is 0.5.

Direct watershed means any land area which contributes storm-water runoff by either surface or subsurface flow to Taylor Pond or Lake Auburn without such runoff first passing through an upstream lake.

Future area to be developed (D) means an estimate of the acreage in the city's share of the direct watersheds that will be developed during the planning period of 50 years. For Taylor Pond, the estimated future developed acreage is 715.3; for Lake Auburn, the estimated future developed acreage is 1,180.0.

Lake Auburn means the Lake Auburn Watershed regulated by this chapter, which is all land areas within the direct watershed of Lake Auburn as defined on the attached map entitled Lake Auburn Watershed Overlay District Map.

Per-acre phosphorus allocation (P) means the acceptable increase of phosphorus export per acre in the watershed as determined by solving the following equation $(P) = (FC)/(D)$. For Taylor Pond, the phosphorus allocation is 0.036; for Lake Auburn, the phosphorus allocation is 0.047.

Phosphorus export coefficient (F) means the amount of phosphorus export from the watershed each year that will produce a one ppb increase in the lake's phosphorus concentration. For Taylor Pond, the phosphorus coefficient is 35.26 lbs/ppb/year; for Lake Auburn, the phosphorus coefficient is 109.9 lbs/ppb/year.

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

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- k. I make a motion to forward a favorable recommendation to City Council to amend Sec. 60-1237 to clarify the text as shown:

Sec. 60-1237. Lake Auburn Watershed Overlay District zone-variance.

When by reason of extraordinary physical conditions peculiar to the land or buildings under appeal but not to other land or buildings adjoining or nearby, an owner of land would be subject to unusual difficulty or special hardships (not mere financial hardship or hardships caused by rigid subsurface wastewatersewage disposal regulations) by reason of the literal application and rigorous enforcement of the terms of this chapter, the board of zoning appeals may grant a variance from strict compliance with the requirements of division 4 of article XII of this chapter after notice and public hearing as provided in this article. No such variance shall be granted unless the board is satisfied that the variance applied for will not adversely affect the quality of the Lake Auburn water supply. When an application for a variance is filed, it shall be forwarded to the Auburn City Wwater Deistrict with a request for an informational report and a recommendation to the board regarding the disposition of the requested variance application. In any case in which a variance request is granted, despite the recommendation of the Auburn Wwater Deistrict that it be denied, the board of appeals shall make part of its permanent records a written statement of its reasons for taking such action. In granting any such variance application, the board may also impose reasonable conditions upon the use of the land in question which shall be reduced to writing and made a part of the permanent records of the board.

PART II - CODE OF ORDINANCES
Chapter 60 - ZONING

ARTICLE XII. - ENVIRONMENTAL REGULATIONS

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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)

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 City Water District on file in the office of the Auburn City 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 4, the following words and terms as used herein shall have the meanings or limitations of meaning hereby defined, explained or assigned:

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 (i) 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 (ii) the allowances set forth in Sec. 60-2 regarding "farm, livestock" of this chapter and the allowances set forth in Article VII, Division 4 of Chapter 8 of the City Code of Ordinances are not exceeded.

Lake Auburn Watershed Protection Commission or LAWPC means the commission formed through an interlocal cooperation agreement between the City of Lewiston, Auburn Water District, Town of Turner, and Town of Minot/Hebron/Buckfield.

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.

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.

(Ord. of 9-21-2009, § 5.3B)

Sec. 60-952. Use and environmental regulations.

- (a) Agricultural uses. All uses of land for chicken farms, cattle farms, horse farms, egg farms, piggeries, sheep farms, stables, crop farming and other agricultural purposes shall be subject to the approval of the city water district. Such approval shall be granted upon a showing that such uses will not cause groundwater contamination or contaminate or disturb the normal course of surface water runoff. 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 (i) 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 (ii) LAWPC's Watershed Manager approves such use or expansion in writing and so notifies the code enforcement officer.
- (b) Residential dwellings in the agriculture and resource protection zoning district. Notwithstanding the provisions of Secs. subsections 60-145(a)(1), 60-145(b)(18) and 60-146(1)(c), new one-family detached dwellings units are only permitted prohibited in the Lake Auburn Watershed Overlay District on parcels containing no less than ten acres, provided that the dwelling is accessory to farming operations and subject to the following restriction: at least 50 percent of the total annual household income of the farm occupants living in the farm residence will be derived from farm uses. Pursuant to 30-A M.R.S. § 4364(9), 30-A M.R.S. § 4364-A(1-A), and 30-A M.R.S. § 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) 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 10050 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) Municipal and mManure and sludge disposal. All sSpreading and disposal of municipal-sludge is prohibited. shall be accomplished in conformance with the Rules of Municipal Sludge Utilization on Land, published by the department of environmental protection in September, 1980. 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 disposalMaine

~~Guidelines for Manure and Manure Sludge Disposal on Land, published by the Life Sciences and Agriculture Experiment Station and the Cooperative Extension Service, University of Maine at Orono, and the Maine Soil and Water Conservation Commission in July, 1972.~~

- (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 Wwater Ddistrict. 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 Auburncity Wwater Ddistrict indicating the changes so that a record can be maintained of watershed water yields to the system.
- (f) *Private subsurface wastewatersewage disposal systems.* The following regulations shall be adhered to in the development of private subsurface wastewatersewage disposal systems in the Lake Auburn Watershed Overlay District:
- (1) ~~Subsurface absorption areas shall not be permitted on sites on which the highest seasonal groundwater table, bedrock, or other impervious layer is less than 36 inches below the bottom of the organic horizon. Not less than 24 inches of suitable soil shall be present below the bottom of the subsurface absorption area. The bottom of such subsurface absorption area shall not be less than 12 inches below the bottom of the organic horizon measured from the lowest point on the subsurface absorption area. 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 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 Maine 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 ordinance.~~
 - (2) ~~Within areas containing soils described as deep, loose and sandy or gravelly and which contain more than 70 percent sand as shown on table 9-3 of the state plumbing code, part II (April 25, 1975), nNo new disposal fields~~subsurface absorption area shall be installed closer than ~~400~~300 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 wastewatersewage 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, 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.

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- (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 most appropriate based on the evaluation of groundwater conditions on the site by a Maine licensed site evaluator. The local plumbing inspector shall require that a Maine 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 ordinance.
- (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 5 years or at the time that a property sold, whichever date is sooner.
- (73) The Auburn city Wwater Ddistrict 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 malfunctions that who shall require the abatement action by the property owner or operator of such defects or malfunctions.
- (84) The local plumbing inspector shall furnish a copy of all site investigation-evaluation reports in the Lake Auburn Watershed Overlay District to the Auburn city Wwater Ddistrict.
- ~~(5) Replacement or reconstruction of private residential sewage disposal systems in existence and in use on December 17, 1983 shall not be subject to the requirements of this section but shall be required to comply with the current state plumbing code.~~

(Ord. of 9-21-2009, § 5.3C; Ord. No. 19-12022019, 12-9-2019)

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)

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ARTICLE XIII. ENVIRONMENTAL PERFORMANCE STANDARDS

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DIVISION 2. PHOSPHORUS CONTROL

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Sec. 60-1065. Definitions.

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

Acceptable increase in lake phosphorus concentration (C) is based upon water quality and the city's selected level of protection. For Taylor Pond the number is 0.75; for Lake Auburn the number is 0.5.

Direct watershed means any land area which contributes storm-water runoff by either surface or subsurface flow to Taylor Pond or Lake Auburn without such runoff first passing through an upstream lake.

Future area to be developed (D) means an estimate of the acreage in the city's share of the direct watersheds that will be developed during the planning period of 50 years. For Taylor Pond, the estimated future developed acreage is 715.3; for Lake Auburn, the estimated future developed acreage is 1,180.0.

Lake Auburn means the Lake Auburn Watershed regulated by this chapter, which is all land areas within the direct watershed of Lake Auburn as defined on the attached map entitled Lake Auburn Watershed Overlay District Map.

Per-acre phosphorus allocation (P) means the acceptable increase of phosphorus export per acre in the watershed as determined by solving the following equation $(P) = (FC)/(D)$. For Taylor Pond, the phosphorus allocation is 0.036; for Lake Auburn, the phosphorus allocation is 0.047.

Phosphorus export coefficient (F) means the amount of phosphorus export from the watershed each year that will produce a one ppb increase in the lake's phosphorus concentration. For Taylor Pond, the phosphorus coefficient is 35.26 lbs/ppb/year; for Lake Auburn, the phosphorus coefficient is 109.9 lbs/ppb/year.

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

(Ord. of 9-21-2009, § 5.7B)

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ARTICLE XV. BOARD OF APPEALS

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DIVISION 6. SPECIAL APPEAL

Sec. 60-1237. Lake Auburn Watershed Overlay District ~~zone~~-variance.

When by reason of extraordinary physical conditions peculiar to the land or buildings under appeal but not to other land or buildings adjoining or nearby, an owner of land would be subject to unusual difficulty or special hardships (not mere financial hardship or hardships caused by rigid subsurface wastewatersewage disposal regulations) by reason of the literal application and rigorous enforcement of the terms of this chapter, the board of zoning appeals may grant a variance from strict compliance with the requirements of division 4 of article XII of this chapter after notice and public hearing as provided in this article. No such variance shall be granted unless the board is satisfied that the variance applied for will not adversely affect the quality of the Lake Auburn water supply. When an application for a variance is filed, it shall be forwarded to the Auburneity Wwater District with a request for an informational report and a recommendation to the board regarding the disposition of the requested variance application. In any case in which a variance request is granted, despite the recommendation of the Auburn Wwater District that it be denied, the board of appeals shall make part of its permanent records a written statement of its reasons for taking such action. In granting any such variance application, the board may also impose reasonable conditions upon the use of the land in question which shall be reduced to writing and made a part of the permanent records of the board.

(Ord. of 9-21-2009, § 6.5C)

PART II - CODE OF ORDINANCES

Chapter 60 - ZONING

ARTICLE XII. - ENVIRONMENTAL REGULATIONS

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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)

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 city Wwater Deistrict on file in the office of the Auburn city Wwater Deistrict, 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 4, the following words and terms as used herein shall have the meanings or limitations of meaning hereby defined, explained or assigned:

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 (i) 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 (ii) the allowances set forth in Sec. 60-2 regarding "farm, livestock" of this chapter and the allowances set forth in Article VII, Division 4 of Chapter 8 of the City Code of Ordinances are not exceeded.

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

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.

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 6 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

(Ord. of 9-21-2009, § 5.3B)

Sec. 60-952. Use and environmental regulations.

- (a) *Agricultural uses.* ~~All uses of land for chicken farms, cattle farms, horse farms, egg farms, piggeries, sheep farms, stables, crop farming and other agricultural purposes shall be subject to the approval of the city water district. Such approval shall be granted upon a showing that such uses will not cause groundwater contamination or contaminate or disturb the normal course of surface water runoff. 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 (i) 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 (ii) LAWPC's Watershed Manager approves such use or expansion in writing and so notifies the code enforcement officer.~~
- (b) *Residential dwellings in the agriculture and resource protection zoning district.* Notwithstanding ~~the provisions of Secs. subsections~~ 60-145(a)(1), 60-145(b)(18) and 60-146(1)(c), new one-family detached dwellings units are only permitted-prohibited in the Lake Auburn Watershed Overlay District on parcels containing no less than ten acres, provided that the dwelling is accessory to farming operations and subject to the following restriction: at least 50 percent of the total annual household income of the farm occupants living in the farm residence will be derived from farm uses. Pursuant to 30-A M.R.S. § 4364(9), 30-A M.R.S. § 4364-A(1-A), and 30-A M.R.S. § 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) *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 10050 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) ~~*Municipal and mManure and sludge disposal.* All sSpreading and disposal of municipal-sludge is prohibited. shall be accomplished in conformance with the Rules of Municipal Sludge Utilization on Land, published by the department of environmental protection in September, 1980. 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 Maine Guidelines for Manure and Manure Sludge Disposal on Land, published by the Life Sciences and Agriculture Experiment Station and the Cooperative Extension Service, University of Maine at Orono, and the Maine Soil and Water Conservation Commission in July, 1972.~~
- (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 Wwater Ddistrict. 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.
- (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:
- (1) Subsurface absorption areas shall not be permitted on sites on which the highest seasonal groundwater table, bedrock, or other impervious layer is less than 36 inches below the bottom of the organic horizon. Not less than 24 inches of suitable soil shall be present below the bottom of the subsurface absorption area. The bottom of such subsurface absorption area shall not be less than 12 inches below the bottom of the organic horizon measured from the lowest point on the subsurface absorption area. 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 filter 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 Maine 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 ordinance.
 - (2) Within areas containing soils described as deep, loose and sandy or gravelly and which contain more than 70 percent sand as shown on table 9-3 of the state plumbing code, part II (April 25, 1975), no new disposal fields~~subsurface absorption area~~ shall be installed closer than ~~400~~300 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 certain 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 most appropriate based on the evaluation of groundwater conditions on the site by a Maine licensed site evaluator. The local plumbing inspector shall require that a Maine 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 ordinance.
 - (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
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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 5 years and/or at the time that a property sold, whichever time frame is deemed most appropriate by LAWPC or its designee.
- (73) The Auburn city Wwater 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 malfunctions that who shall require the abatement action by the property owner or operator of such defects or malfunctions.
- (84) The local plumbing inspector shall furnish a copy of all site investigation evaluation reports in the Lake Auburn Watershed Overlay District to the Auburn city Wwater District or its designee.
- ~~(5) Replacement or reconstruction of private residential sewage disposal systems in existence and in use on December 17, 1983 shall not be subject to the requirements of this section but shall be required to comply with the current state plumbing code.~~

(Ord. of 9-21-2009, § 5.3C; Ord. No. 19-12022019, 12-9-2019)

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)

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ARTICLE XIII. ENVIRONMENTAL PERFORMANCE STANDARDS

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DIVISION 2. PHOSPHORUS CONTROL

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Sec. 60-1065. Definitions.

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

Acceptable increase in lake phosphorus concentration (C) is based upon water quality and the city's selected level of protection. For Taylor Pond the number is 0.75; for Lake Auburn the number is 0.5.

Direct watershed means any land area which contributes storm-water runoff by either surface or subsurface flow to Taylor Pond or Lake Auburn without such runoff first passing through an upstream lake.

Future area to be developed (D) means an estimate of the acreage in the city's share of the direct watersheds that will be developed during the planning period of 50 years. For Taylor Pond, the estimated future developed acreage is 715.3; for Lake Auburn, the estimated future developed acreage is 1,180.0.

Lake Auburn means the Lake Auburn Watershed regulated by this chapter, which is all land areas within the direct watershed of Lake Auburn as defined on the attached map entitled Lake Auburn Watershed Overlay District Map.

Per-acre phosphorus allocation (P) means the acceptable increase of phosphorus export per acre in the watershed as determined by solving the following equation $(P) = (FC)/(D)$. For Taylor Pond, the phosphorus allocation is 0.036; for Lake Auburn, the phosphorus allocation is 0.047.

Phosphorus export coefficient (F) means the amount of phosphorus export from the watershed each year that will produce a one ppb increase in the lake's phosphorus concentration. For Taylor Pond, the phosphorus coefficient is 35.26 lbs/ppb/year; for Lake Auburn, the phosphorus coefficient is 109.9 lbs/ppb/year.

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

(Ord. of 9-21-2009, § 5.7B)

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ARTICLE XV. BOARD OF APPEALS

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DIVISION 6. SPECIAL APPEAL

Sec. 60-1237. Lake Auburn Watershed Overlay District ~~zone~~-variance.

When by reason of extraordinary physical conditions peculiar to the land or buildings under appeal but not to other land or buildings adjoining or nearby, an owner of land would be subject to unusual difficulty or special hardships (not mere financial hardship or hardships caused by rigid subsurface wastewatersewage disposal regulations) by reason of the literal application and rigorous enforcement of the terms of this chapter, the board of zoning appeals may grant a variance from strict compliance with the requirements of division 4 of article XII of this chapter after notice and public hearing as provided in this article. No such variance shall be granted unless the board is satisfied that the variance applied for will not adversely affect the quality of the Lake Auburn water supply. When an application for a variance is filed, it shall be forwarded to the Auburneity Wwater Deistrict with a request for an informational report and a recommendation to the board regarding the disposition of the requested variance application. In any case in which a variance request is granted, despite the recommendation of the Auburn Wwater Deistrict that it be denied, the board of appeals shall make part of its permanent records a written statement of its reasons for taking such action. In granting any such variance application, the board may also

impose reasonable conditions upon the use of the land in question which shall be reduced to writing and made a part of the permanent records of the board.

(Ord. of 9-21-2009, § 6.5C)

AUBURN WATER DISTRICT

MEMBER MAINE WATER UTILITIES ASSOCIATION

268 COURT ST. - P.O. BOX 414

AUBURN, MAINE 04212-0414

Susan Breau
Maine CDC Drinking Water Program
11 State House Station
286 Water Street
Augusta, Me 04333-0011

November 1, 2023

Subject: Review of Ordinance Revisions and improved Lake Protections

Susan,

In an effort to strengthen Lake protections, the Auburn Water District has formed the "Lake Auburn Water Quality Ad-Hoc Committee". This Committee is made up of representatives appointed from the Auburn Water District, City of Lewiston Water Division, City of Auburn Planning and Permitting, and representatives of the Lake Auburn Watershed Protection Commission. The Committee was charged with the task of reviewing and advising changes to any watershed related ordinances. These recommendations were based on several science-based recommendations made by FB Environmental, Comprehensive Environmental, Inc and CDM Smith. The recommendations represent text amendments to the Lake Auburn Watershed Overlay District within the City of Auburn. Attached for your reference are the amendments that the collective group believes will strengthen Lake protections, reduce development, and lessen the impacts of sub-surface waste systems on Lake Auburn.

Attached with this letter is the memo signed by all members of the Committee present at the last meeting on September 26, indicating agreement on the following actions:

- Re-delineation of the Watershed Boundary as approved by the DWP.
- Increasing lot size requirements from 1-acre residential areas to 3-acre residential area minimums.
- The Committee further recommends that the Stake Holders represented on the Committee draft and execute an engagement with the Upper watershed towns to explore application of improved watershed protections in those towns.

The Ad-hoc committee unanimously agreed to endorse the currently proposed changes to the Auburn Watershed Overlay District. The draft changes as of September 26 are attached to our enclosed memo of that date. The City of Auburn has recently provided 2 further drafts for public hearing, versions A and Version B are both enclosed with this Letter.

The City of Auburn's current schedule is, 11/14 Planning Board review, 11/20 City Council First Reading and 12/4 City Council Public Hearing and 2nd reading. The ad hoc committee was in agreement that

these drafts should be forwarded to the Maine DWP to allow your review of the proposed changes, in case there was follow up necessary from your office.

Our organizations continue to be engaged in working together toward necessary watershed protections, we welcome your input on these measures. If you have comments or suggestions, we welcome those in this process.

Sincerely;

A handwritten signature in black ink, appearing to read "Michael Broadbent". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Michael Broadbent
Superintendent
Auburn Water and Sewer District

Cc Kevin Gagne, Eric Cousens, Camilla Parrish

Lake Auburn Water Quality Ad-Hoc Committee

MEMO

To: Auburn Water District, Lewiston Water Division

From: The desk of the Lake Auburn Water Quality Ad-Hoc Committee

Date: 9.26.23

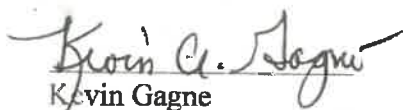
Subject: Lake Auburn Watershed Overlay District Text and Map Amendments


The Lake Auburn Water Quality Ad-Hoc Committee has reviewed the following documents and recommends the adoption of zoning amendments for the protection of Lake Auburn. The attached text and map amendments have been reviewed, and consensus has been reached to support the changes based on peer-reviewed science. The Ad Hoc Committee recommends that the Auburn Water District and Lewiston Water Division forward the proposed changes to the Maine Drinking Water Program for review. The Committee further recommends that the Stakeholders represented on the Committee plan and execute an engagement with upper watershed towns to explore application of improved watershed protections in those towns, with legal advice on the authority of Auburn Water District to implement watershed protections.

The Summary of Changes Include:

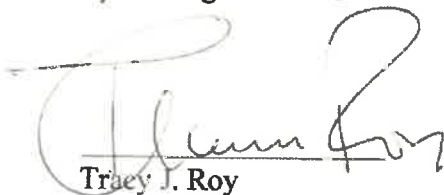
- 1.) Proposed zoning text amendments, Sec 60-950 through 1065 (Exhibit A)
- 2.) Proposed Lake Auburn Watershed Boundary, As recommended by the Maine DWP (Exhibit B)
- 3.) Map Amendment; Changing 1-acre residential areas (Rural Residential) to 3-acres residential areas minimums (Low-Density Country Residential).

Committee Members:


Kevin Gagne

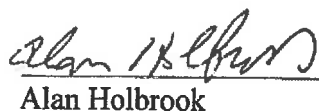

Mike Broadbent


Eric Cousens


Tracy J. Roy


Steve Milks


Rick R. LaChapelle


Alan Holbrook


John Blais


Matthew Waite

ARTICLE XII. - ENVIRONMENTAL REGULATIONS

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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)

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 Auburneity Wwater Deistrict on file in the office of the Auburneity Wwater Deistrict, 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 4, the following words and terms as used herein shall have the meanings or limitations of meaning hereby defined, explained or assigned:

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 (i) 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 (ii) the allowances set forth in Sec. 60-2 regarding "farm, livestock" of this chapter and the allowances set forth in Article VII, Division 4 of Chapter 8 of the City Code of Ordinances are not exceeded.

Lake Auburn Watershed Protection Commission or LAWPC means the commission formed through an interlocal cooperation agreement between the City of Lewiston, Auburn Water District, and Town of Turner, Minot / Hebron / Buckfield.

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.

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.

(Ord. of 9-21-2009, § 5.3B)

Sec. 60-952. Use and environmental regulations.

- (a) ***Agricultural uses.*** ~~All uses of land for chicken farms, cattle farms, horse farms, egg farms, piggeries, sheep farms, stables, crop farming and other agricultural purposes shall be subject to the approval of the city water district. Such approval shall be granted upon a showing that such uses will not cause groundwater contamination or contaminate or disturb the normal course of surface water runoff. 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 (i) 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 (ii) LAWPC's Watershed Manager approves such use or expansion in writing and so notifies the code enforcement officer.~~
- (b) ***Residential dwellings in the agriculture and resource protection zoning district.*** ~~Notwithstanding the provisions of Secs subsections 60-145(a)(1), 60-145(b)(18) and 60-146(1)(c), new one-family detached dwellings units are only permitted prohibited in the Lake Auburn Watershed Overlay District on parcels containing no less than ten acres, provided that the dwelling is accessory to farming operations and subject to the following restriction: at least 50 percent of the total annual household income of the farm occupants living in the farm residence will be derived from farm uses. Pursuant to 30-A M.R.S. § 4364(9), 30-A M.R.S. § 4364-A(1-A), and 30-A M.R.S. § 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) ***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 10050 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.~~
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- (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 Wwater Deistrict](#). 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 [Auburncity Wwater Deistrict](#) indicating the changes so that a record can be maintained of watershed water yields to the system.
- (f) *Private [subsurface wastewatersewage disposal systems](#).* The following regulations shall be adhered to in the development of private [subsurface wastewatersewage disposal systems](#) in the Lake Auburn Watershed [Overlay District](#):
- (1) ~~Subsurface absorption areas shall not be permitted on sites on which the highest seasonal groundwater table, bedrock, or other impervious layer is less than 36 inches below the bottom of the organic horizon. Not less than 24 inches of suitable soil shall be present below the bottom of the subsurface absorption area. The bottom of such subsurface absorption area shall not be less than 12 inches below the bottom of the organic horizon measured from the lowest point on the subsurface absorption area. 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 fill material 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 Maine 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 ordinance.~~
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 - (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.~~
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~~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 most appropriate based on the evaluation of groundwater conditions on the site by a Maine licensed site evaluator. The local plumbing inspector shall require that a Maine 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 ordinance.~~

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(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)

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ARTICLE XIII. ENVIRONMENTAL PERFORMANCE STANDARDS

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Lake Auburn means the Lake Auburn Watershed regulated by this chapter, [which](#) is all land areas within the direct watershed of Lake Auburn as defined on the attached map entitled Lake Auburn Watershed [Overlay District Map](#).

Per-acre phosphorus allocation (P) means the acceptable increase of phosphorus export per acre in the watershed as determined by solving the following equation $(P) = (FC)/(D)$. For Taylor Pond, the phosphorus allocation is 0.036; for Lake Auburn, the phosphorus allocation is 0.047.

Phosphorus export coefficient (F) means the amount of phosphorus export from the watershed each year that will produce a one ppb increase in the lake's phosphorus concentration. For Taylor Pond, the phosphorus coefficient is 35.26 lbs/ppb/year; for Lake Auburn, the phosphorus coefficient is 109.9 lbs/ppb/year.

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

(Ord. of 9-21-2009, § 5.7B)

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ARTICLE XV. BOARD OF APPEALS

• • •

DIVISION 6. SPECIAL APPEAL

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

When by reason of extraordinary physical conditions peculiar to the land or buildings under appeal but not to other land or buildings adjoining or nearby, an owner of land would be subject to unusual difficulty or special hardships (not mere financial hardship or hardships caused by rigid [subsurface wastewatersewage](#) disposal regulations) by reason of the literal application and rigorous enforcement of the terms of this chapter, the board of zoning appeals may grant a variance from strict compliance with the requirements of division 4 of article XII of this chapter after notice and public hearing as provided in this article. No such variance shall be granted unless the board is satisfied that the variance applied for will not adversely affect the quality of the Lake Auburn water supply. When an application for a variance is filed, it shall be forwarded to the [Auburn City Wwater District](#) with a request for an informational report and a recommendation to the board regarding the disposition of the requested variance application. In any case in which a variance request is granted, despite the recommendation of the [Auburn Wwater District](#) that it be denied, the board of appeals shall make part of its permanent records a written statement of its reasons for taking such action. In granting any such variance application, the board may also impose reasonable conditions upon the use of the land in question which shall be reduced to writing and made a part of the permanent records of the board.

(Ord. of 9-21-2009, § 6.5C)

Janet T. Mills
Governor



Jeanne M. Lambrew, Ph.D.
Commissioner

Maine Department of Health and Human Services
Maine Center for Disease Control and Prevention
11 State House Station
286 Water Street
Augusta, Maine 04333-0011
Tel; (207) 287-8016; Fax (207) 287-9058
TTY: Dial 711 (Maine Relay)

September 5, 2023

Mike Broadbent, Superintendent
Auburn Water District (PWSID# ME0090070)
268 Court Street
Auburn, ME 04210

Kevin Gagne, Deputy Director of Public Works
City of Lewiston
Lewiston Water & Sewer Division (PWSID# ME0090830)
103 Adams Avenue
Lewiston, ME 04240

**Subject: Approved - Lake Auburn Source Water Protection Area Boundary Re-Delineation,
Gracelawn Parcel area, Auburn, ME**

Dear Mr. Broadbent and Mr. Gagne:

On August 7, 2023, you jointly submitted to the Maine CDC Drinking Water Program (DWP) a proposed Lake Auburn source water protection area boundary re-delineation for the Gracelawn Parcel area. The proposed delineation and supporting information are located in the July 31, 2023, CDM Smith technical memorandum *Watershed Delineation Rezoning Review – Gracelawn Pit “Area of Uncertainty”* (CDM Smith Report). Figure 1 from the CDM Smith report is included below for reference.

The DWP agrees with the CDM Smith finding that the “DWP Potential Boundary” on Figure 1 below is a conservative boundary that can be established with available data. The DWP will not challenge this boundary, based on our current understanding of local hydrogeology.

The DWP also agrees that further investigation would be needed to establish a boundary closer to Lake Auburn. In addition to the CDM Smith Report’s recommendations that additional data be added to further refine the boundary location, the DWP recommends the following additional action items:

- Investigate further and integrate any impacts of the apparent clay-silt layer in the “Main Pit Area” into the understanding of bedrock flow in the study area. This layer is identified in the Summit Environmental Consultants Inc., Ground Water Assessment, Gracelawn Road Gravel Pit, Auburn, ME, September 2007 (Summit Report) in the Well Completion Logs for MW-11 and MW-12. Stratigraphy is not included in the Well Completion Logs for the other borings in the Summit Report. Additionally, a clay-silt layer identified as the Presumpscot Formation is also shown in this area on the Maine Geological Survey Surficial Geology Map of the Lake Auburn East Quadrangle, Maine (Open-File No. 08-72 2008).
- Investigate further and provide an explanation of the apparent “upward head gradients, i.e., groundwater flow into the lake” in 10 of 12 lake bottom sediment probes discussed on Page 7 (Paragraph A, second bullet) and shown in Figure 7 of the October 5, 2022, CDM Smith *Watershed Delineation Rezoning Review – Gravel Pit Parcel, Lake Auburn Watershed Protection Commission* memorandum.

It is possible that additional information may be required to establish a boundary closer to Lake Auburn, as determined by the DWP at the time of that investigation.

CDM Smith Report, Figure 1:

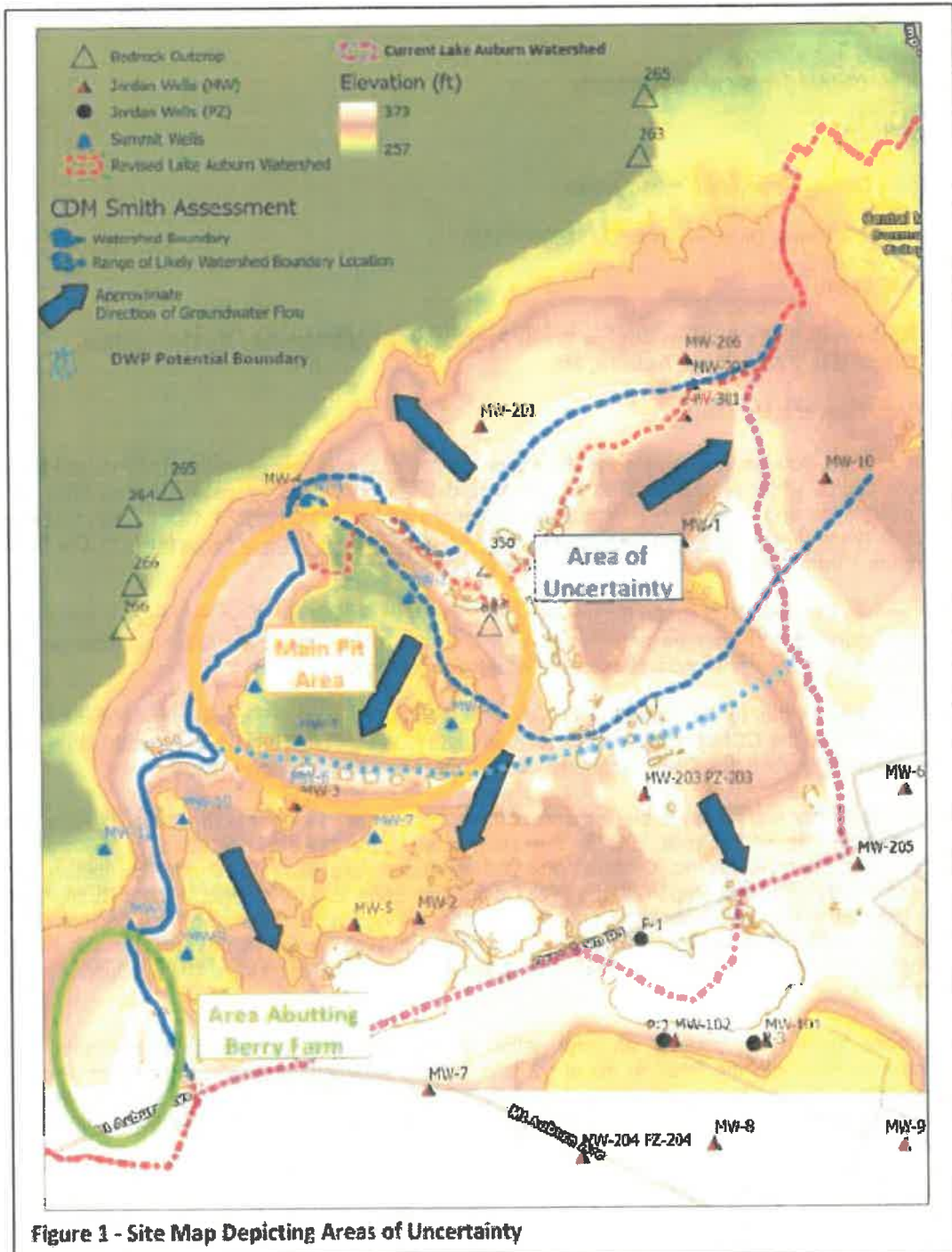


Figure 1 - Site Map Depicting Areas of Uncertainty

Feel free to contact me regarding our feedback within this letter, and thank you for your good work providing safe drinking water.

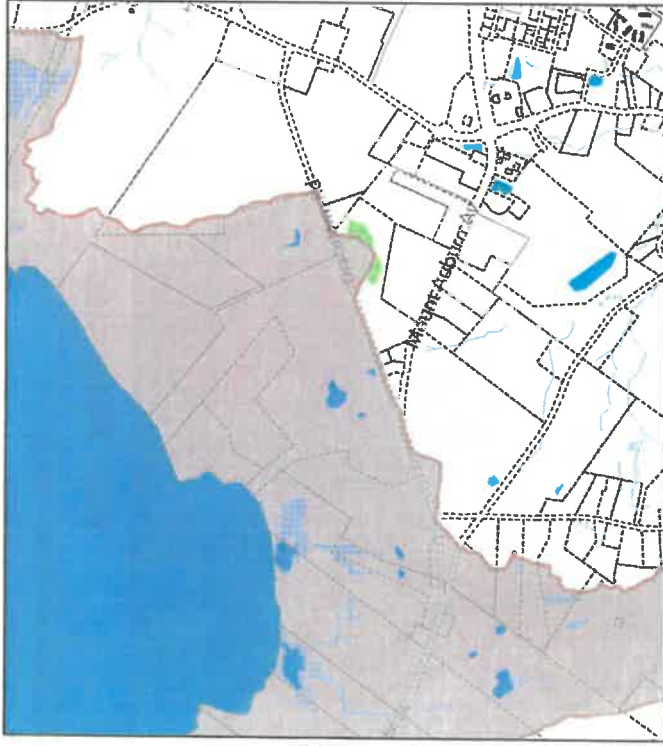
Sincerely,

A handwritten signature in black ink that reads "Susan F. Breau". The signature is written in a cursive style with a large initial 'S'.

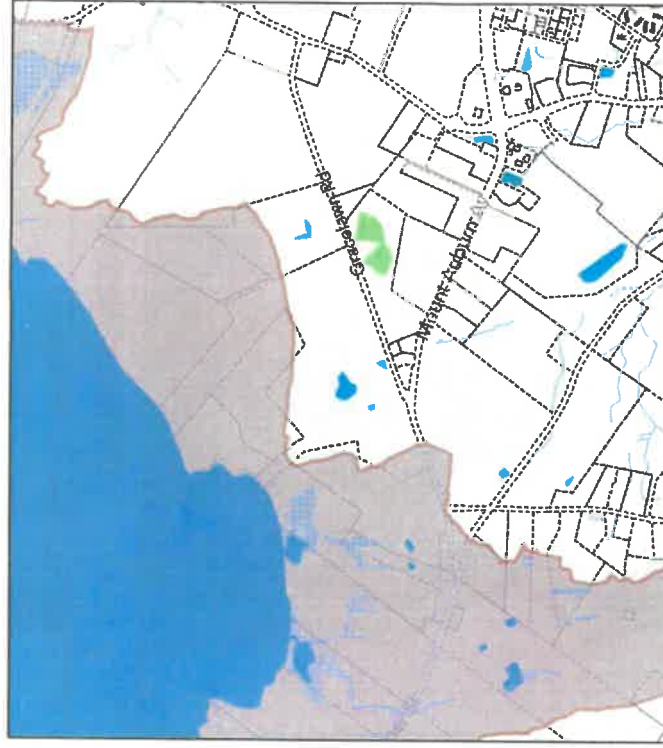
Susan Breau, LG
Hydrogeologist, Water Resources Team Leader
Maine CDC Drinking Water Program
207.592.6981, susan.breau@maine.gov

cc Kevin Reilly, EPA Region 1
Denise Douin, DWP Public Water System Inspector; DWP file

Proposed Auburn Watershed Boundary



Current Boundary

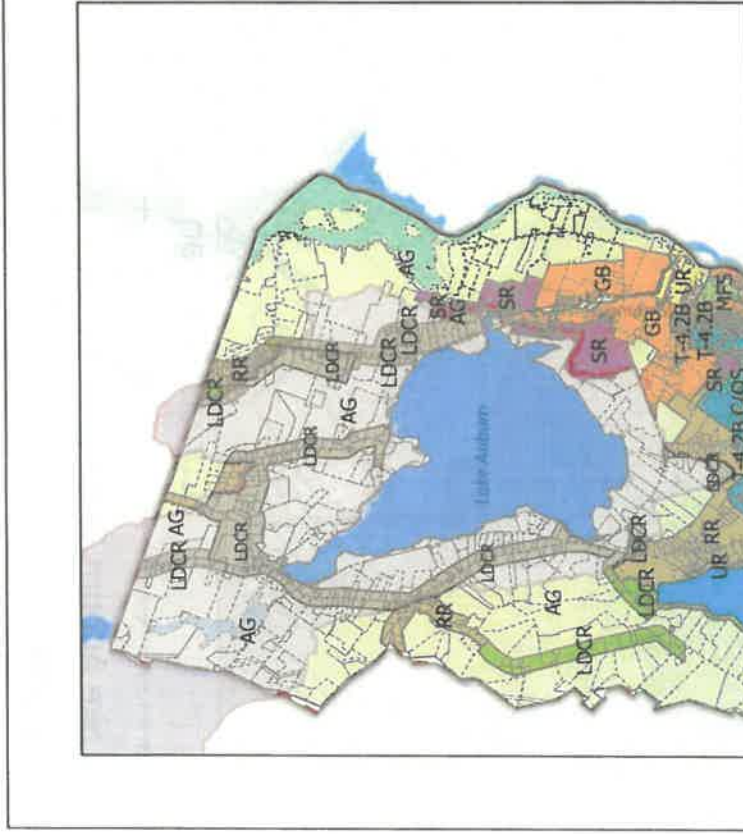


Proposed Change

— Lake Auburn Watershed Boundary

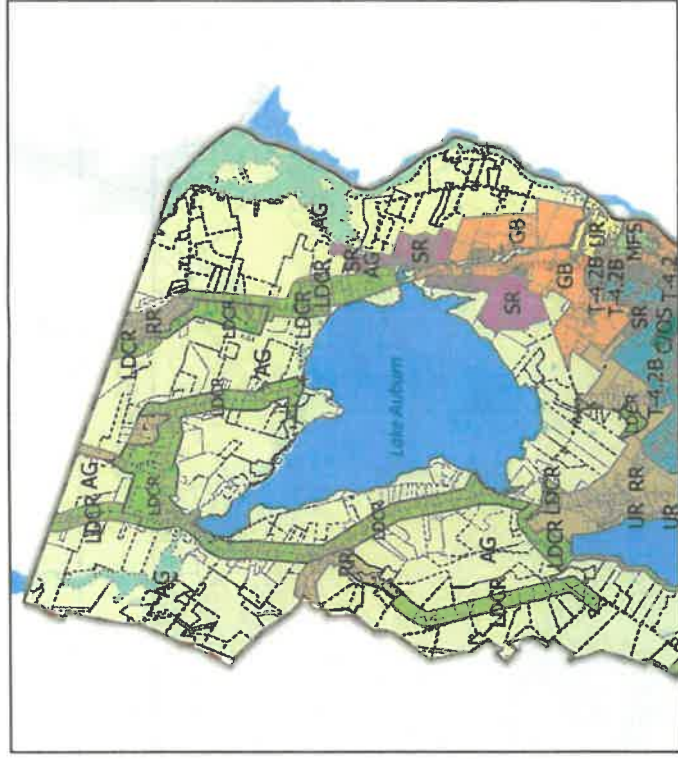
- - - Parcels

Proposed Zoning



With Watershed

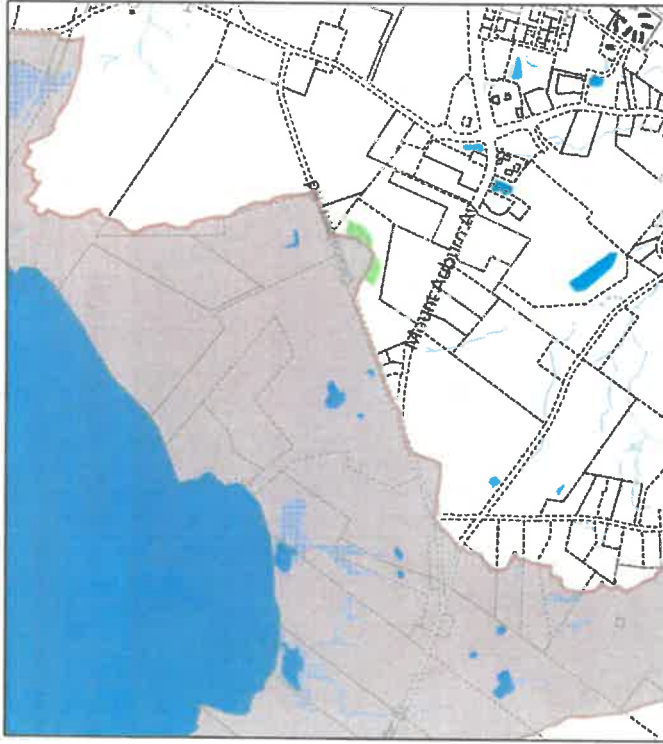
- AG - Agriculture and Resource Protection
- C/OS - Conservation / Open Space
- GB - General Business
- GB II - General Business II
- ID - Industrial
- LDCR - Low Density Country Residential
- MFS - Multi-Family Suburban
- NB - Neighborhood Business
- RR - Rural Residential
- SR - Suburban Residential
- T-4.1 - Traditional Mainstreet Neighborhood
- T-4.2 - Traditional Downtown Neighborhood
- T-4.2B - Traditional Neighborhood Development District
- T-5.1 - Downtown Traditional Center



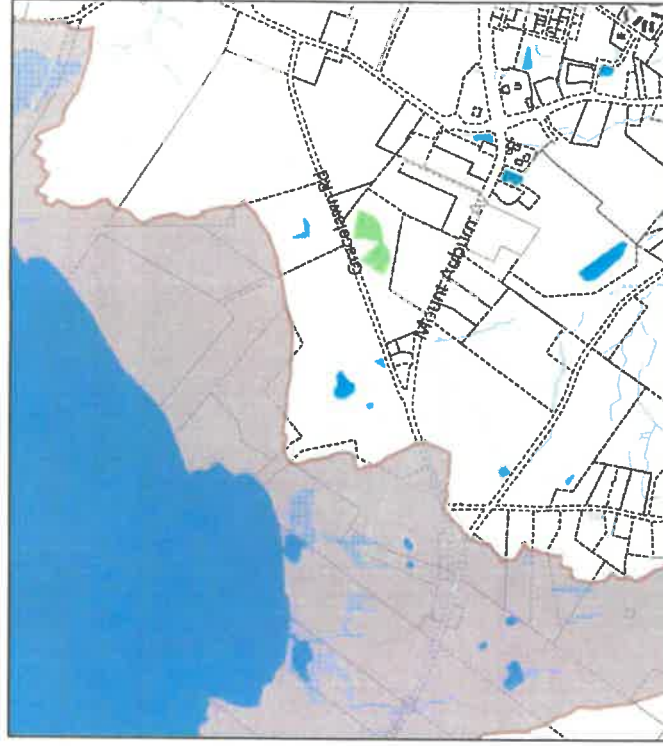
Without Watershed

- T-5.2 - Downtown City Center
- T-6 - Great Falls Metropolitan
- UR - Urban Residential
- Parcels
- Lake Auburn Watershed

Proposed Auburn Watershed Boundary



Current Boundary

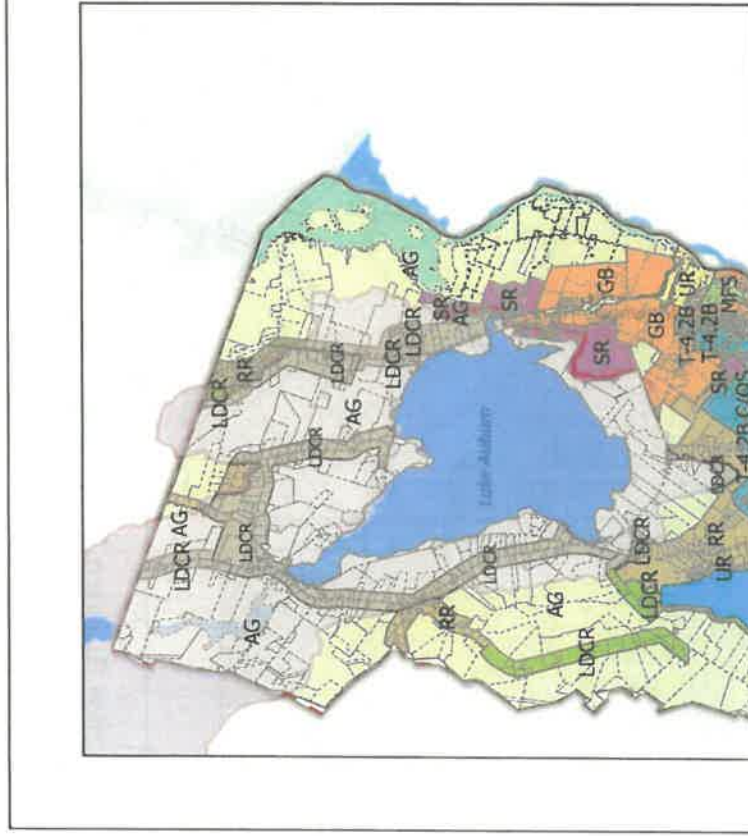


Proposed Change

— Lake Auburn Watershed Boundary

- - - Parcels

Proposed Zoning



With Watershed

- AG - Agriculture and Resource Protection
- C/OS - Conservation / Open Space
- GB - General Business
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- ID - Industrial
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Without Watershed

- T-5.2 - Downtown City Center
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- UR - Urban Residential
- Parcels
- Lake Auburn Watershed

PART II - CODE OF ORDINANCES
Chapter 60 - ZONING

ARTICLE XII. - ENVIRONMENTAL REGULATIONS

• • •

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)

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 Auburneity Wwater Deistrict on file in the office of the Auburneity Wwater Deistrict, 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 4, the following words and terms as used herein shall have the meanings or limitations of meaning hereby defined, explained or assigned:

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 (i) 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 (ii) the allowances set forth in Sec. 60-2 regarding "farm, livestock" of this chapter and the allowances set forth in Article VII, Division 4 of Chapter 8 of the City Code of Ordinances are not exceeded.

Lake Auburn Watershed Protection Commission or LAWPC means the commission formed through an interlocal cooperation agreement between the City of Lewiston, Auburn Water District, Town of Turner, and Town of Minot/Hebron/Buckfield.

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.

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.

(Ord. of 9-21-2009, § 5.3B)

Sec. 60-952. Use and environmental regulations.

- (a) *Agricultural uses.* All uses of land for chicken farms, cattle farms, horse farms, egg farms, piggeries, sheep farms, stables, crop farming and other agricultural purposes shall be subject to the approval of the city water district. Such approval shall be granted upon a showing that such uses will not cause groundwater contamination or contaminate or disturb the normal course of surface water runoff. 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 (i) 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 (ii) LAWPC's Watershed Manager approves such use or expansion in writing and so notifies the code enforcement officer.
- (b) *Residential dwellings in the agriculture and resource protection zoning district.* Notwithstanding the provisions of Secs. subsections 60-145(a)(1), 60-145(b)(18) and 60-146(1)(c), new one-family detached dwellings units are only permitted-prohibited in the Lake Auburn Watershed Overlay District on parcels containing no less than ten acres, provided that the dwelling is accessory to farming operations and subject to the following restriction: at least 50 percent of the total annual household income of the farm occupants living in the farm residence will be derived from farm uses. Pursuant to 30-A M.R.S. § 4364(9), 30-A M.R.S. § 4364-A(1-A), and 30-A M.R.S. § 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) *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 10050 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) *Municipal and mManure and sludge disposal.* All spreading and disposal of municipal sludge is prohibited. shall be accomplished in conformance with the Rules of Municipal Sludge Utilization on Land, published by the department of environmental protection in September, 1980. 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. Maine

~~Guidelines for Manure and Manure Sludge Disposal on Land, published by the Life Sciences and Agriculture Experiment Station and the Cooperative Extension Service, University of Maine at Orono, and the Maine Soil and Water Conservation Commission in July, 1972.~~

- (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 Wwater Ddistrict. 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 Auburneity Wwater Ddistrict indicating the changes so that a record can be maintained of watershed water yields to the system.
- (f) *Private subsurface wastewatersewage disposal systems.* The following regulations shall be adhered to in the development of private subsurface wastewatersewage disposal systems in the Lake Auburn Watershed Overlay District:
- (1) ~~Subsurface absorption areas shall not be permitted on sites on which the highest seasonal groundwater table, bedrock, or other impervious layer is less than 36 inches below the bottom of the organic horizon. Not less than 24 inches of suitable soil shall be present below the bottom of the subsurface absorption area. The bottom of such subsurface absorption area shall not be less than 12 inches below the bottom of the organic horizon measured from the lowest point on the subsurface absorption area. 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 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 Maine 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 ordinance.~~
 - (2) ~~Within areas containing soils described as deep, loose and sandy or gravelly and which contain more than 70 percent sand as shown on table 9-3 of the state plumbing code, part II (April 25, 1975), nNo new disposal fieldsubsurface absorption area shall be installed closer than 400300 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 wastewatersewage 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, 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.

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- (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 most appropriate based on the evaluation of groundwater conditions on the site by a Maine licensed site evaluator. The local plumbing inspector shall require that a Maine 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 ordinance.
 - (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 5 years or at the time that a property sold, whichever date is sooner.
 - (73) The Auburn city Wwater Deistrict 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 malfunctions that who shall require the abatement action by the property owner or operator of such defects or malfunctions.
 - (84) The local plumbing inspector shall furnish a copy of all site investigation-evaluation reports in the Lake Auburn Watershed Overlay District to the Auburn city Wwater Deistrict.
 - ~~(5) Replacement or reconstruction of private residential sewage disposal systems in existence and in use on December 17, 1983 shall not be subject to the requirements of this section but shall be required to comply with the current state plumbing code.~~

(Ord. of 9-21-2009, § 5.3C; Ord. No. 19-12022019, 12-9-2019)

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)



ARTICLE XIII. ENVIRONMENTAL PERFORMANCE STANDARDS

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DIVISION 2. PHOSPHORUS CONTROL

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Sec. 60-1065. Definitions.

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

Acceptable increase in lake phosphorus concentration (C) is based upon water quality and the city's selected level of protection. For Taylor Pond the number is 0.75; for Lake Auburn the number is 0.5.

Direct watershed means any land area which contributes storm-water runoff by either surface or subsurface flow to Taylor Pond or Lake Auburn without such runoff first passing through an upstream lake.

Future area to be developed (D) means an estimate of the acreage in the city's share of the direct watersheds that will be developed during the planning period of 50 years. For Taylor Pond, the estimated future developed acreage is 715.3; for Lake Auburn, the estimated future developed acreage is 1,180.0.

Lake Auburn means the Lake Auburn Watershed regulated by this chapter, which is all land areas within the direct watershed of Lake Auburn as defined on the attached map entitled Lake Auburn Watershed Overlay District Map.

Per-acre phosphorus allocation (P) means the acceptable increase of phosphorus export per acre in the watershed as determined by solving the following equation $(P) = (FC)/(D)$. For Taylor Pond, the phosphorus allocation is 0.036; for Lake Auburn, the phosphorus allocation is 0.047.

Phosphorus export coefficient (F) means the amount of phosphorus export from the watershed each year that will produce a one ppb increase in the lake's phosphorus concentration. For Taylor Pond, the phosphorus coefficient is 35.26 lbs/ppb/year; for Lake Auburn, the phosphorus coefficient is 109.9 lbs/ppb/year.

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

(Ord. of 9-21-2009, § 5.7B)

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ARTICLE XV. BOARD OF APPEALS

• • •

DIVISION 6. SPECIAL APPEAL

Sec. 60-1237. Lake Auburn Watershed Overlay District zone-variance.

When by reason of extraordinary physical conditions peculiar to the land or buildings under appeal but not to other land or buildings adjoining or nearby, an owner of land would be subject to unusual difficulty or special hardships (not mere financial hardship or hardships caused by rigid subsurface wastewatersewage disposal regulations) by reason of the literal application and rigorous enforcement of the terms of this chapter, the board of zoning appeals may grant a variance from strict compliance with the requirements of division 4 of article XII of this chapter after notice and public hearing as provided in this article. No such variance shall be granted unless the board is satisfied that the variance applied for will not adversely affect the quality of the Lake Auburn water supply. When an application for a variance is filed, it shall be forwarded to the Auburncity Wwater District with a request for an informational report and a recommendation to the board regarding the disposition of the requested variance application. In any case in which a variance request is granted, despite the recommendation of the Auburn Wwater District that it be denied, the board of appeals shall make part of its permanent records a written statement of its reasons for taking such action. In granting any such variance application, the board may also impose reasonable conditions upon the use of the land in question which shall be reduced to writing and made a part of the permanent records of the board.

(Ord. of 9-21-2009, § 6.5C)

PART II - CODE OF ORDINANCES

Chapter 60 - ZONING

ARTICLE XII. - ENVIRONMENTAL REGULATIONS

• • •

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)

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 Auburneity Wwater Deistrict on file in the office of the Auburneity Wwater Deistrict, 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 4, the following words and terms as used herein shall have the meanings or limitations of meaning hereby defined, explained or assigned:

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 (i) 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 (ii) the allowances set forth in Sec. 60-2 regarding "farm, livestock" of this chapter and the allowances set forth in Article VII, Division 4 of Chapter 8 of the City Code of Ordinances are not exceeded.

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

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.

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 6 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

(Ord. of 9-21-2009, § 5.3B)

Sec. 60-952. Use and environmental regulations.

- (a) *Agricultural uses.* ~~All uses of land for chicken farms, cattle farms, horse farms, egg farms, piggeries, sheep farms, stables, crop farming and other agricultural purposes shall be subject to the approval of the city water district. Such approval shall be granted upon a showing that such uses will not cause groundwater contamination or contaminate or disturb the normal course of surface water runoff. 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 (i) 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 (ii) LAWPC's Watershed Manager approves such use or expansion in writing, and so notifies the code enforcement officer.~~
- (b) *Residential dwellings in the agriculture and resource protection zoning district.* ~~Notwithstanding the provisions of Secs. subsections 60-145(a)(1), 60-145(b)(18) and 60-146(1)(c), new one-family detached dwellings units are only permitted prohibited in the Lake Auburn Watershed Overlay District on parcels containing no less than ten acres, provided that the dwelling is accessory to farming operations and subject to the following restriction: at least 50 percent of the total annual household income of the farm occupants living in the farm residence will be derived from farm uses. Pursuant to 30-A M.R.S. § 4364(9), 30-A M.R.S. § 4364-A(1-A), and 30-A M.R.S. § 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) *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 10050 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) *Municipal and mManure and sludge disposal.* ~~All sSpreading and disposal of municipal sludge is prohibited. shall be accomplished in conformance with the Rules of Municipal Sludge Utilization on Land, published by the department of environmental protection in September, 1980. 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 Maine Guidelines for Manure and Manure Sludge Disposal on Land, published by the Life Sciences and Agriculture Experiment Station and the Cooperative Extension Service, University of Maine at Orono, and the Maine Soil and Water Conservation Commission in July, 1972.~~
- (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 Wwater Ddistrict. 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 City Water District indicating the changes so that a record can be maintained of watershed water yields to the system.

(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:

- (1) Subsurface absorption areas shall not be permitted on sites on which the highest seasonal groundwater table, bedrock, or other impervious layer is less than 36 inches below the bottom of the organic horizon. Not less than 24 inches of suitable soil shall be present below the bottom of the subsurface absorption area. The bottom of such subsurface absorption area shall not be less than 12 inches below the bottom of the organic horizon measured from the lowest point on the subsurface absorption area. 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 filter 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 Maine 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 ordinance.
- (2) Within areas containing soils described as deep, loose and sandy or gravelly and which contain more than 70 percent sand as shown on table 9-3 of the state plumbing code, part II (April 25, 1975), no new disposal field subsurface absorption area 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 most appropriate based on the evaluation of groundwater conditions on the site by a Maine licensed site evaluator. The local plumbing inspector shall require that a Maine 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 ordinance.
- (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 5 years and/or at the time that a property sold, whichever time frame is deemed most appropriate by LAWPC or its designee.
- (73) The Auburn city Wwater 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 malfunctions that who shall require the abatement action by the property owner or operator of such defects or malfunctions.
- (84) The local plumbing inspector shall furnish a copy of all site investigation-evaluation reports in the Lake Auburn Watershed Overlay District to the Auburn city Wwater District or its designee.
- (5) ~~Replacement or reconstruction of private residential sewage disposal systems in existence and in use on December 17, 1983 shall not be subject to the requirements of this section but shall be required to comply with the current state plumbing code.~~

(Ord. of 9-21-2009, § 5.3C; Ord. No. 19-12022019, 12-9-2019)

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)

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ARTICLE XIII. ENVIRONMENTAL PERFORMANCE STANDARDS

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DIVISION 2. PHOSPHORUS CONTROL

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Sec. 60-1065. Definitions.

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

Acceptable increase in lake phosphorus concentration (C) is based upon water quality and the city's selected level of protection. For Taylor Pond the number is 0.75; for Lake Auburn the number is 0.5.

Direct watershed means any land area which contributes storm-water runoff by either surface or subsurface flow to Taylor Pond or Lake Auburn without such runoff first passing through an upstream lake.

Future area to be developed (D) means an estimate of the acreage in the city's share of the direct watersheds that will be developed during the planning period of 50 years. For Taylor Pond, the estimated future developed acreage is 715.3; for Lake Auburn, the estimated future developed acreage is 1,180.0.

Lake Auburn means the Lake Auburn Watershed regulated by this chapter, which is all land areas within the direct watershed of Lake Auburn as defined on the attached map entitled Lake Auburn Watershed Overlay District Map.

Per-acre phosphorus allocation (P) means the acceptable increase of phosphorus export per acre in the watershed as determined by solving the following equation $(P) = (FC)/(D)$. For Taylor Pond, the phosphorus allocation is 0.036; for Lake Auburn, the phosphorus allocation is 0.047.

Phosphorus export coefficient (F) means the amount of phosphorus export from the watershed each year that will produce a one ppb increase in the lake's phosphorus concentration. For Taylor Pond, the phosphorus coefficient is 35.26 lbs/ppb/year; for Lake Auburn, the phosphorus coefficient is 109.9 lbs/ppb/year.

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

(Ord. of 9-21-2009, § 5.7B)

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ARTICLE XV. BOARD OF APPEALS

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DIVISION 6. SPECIAL APPEAL

Sec. 60-1237. Lake Auburn Watershed Overlay District ~~zone~~ variance.

When by reason of extraordinary physical conditions peculiar to the land or buildings under appeal but not to other land or buildings adjoining or nearby, an owner of land would be subject to unusual difficulty or special hardships (not mere financial hardship or hardships caused by rigid subsurface wastewatersewage disposal regulations) by reason of the literal application and rigorous enforcement of the terms of this chapter, the board of zoning appeals may grant a variance from strict compliance with the requirements of division 4 of article XII of this chapter after notice and public hearing as provided in this article. No such variance shall be granted unless the board is satisfied that the variance applied for will not adversely affect the quality of the Lake Auburn water supply. When an application for a variance is filed, it shall be forwarded to the Auburncity Wwater District with a request for an informational report and a recommendation to the board regarding the disposition of the requested variance application. In any case in which a variance request is granted, despite the recommendation of the Auburn Wwater District that it be denied, the board of appeals shall make part of its permanent records a written statement of its reasons for taking such action. In granting any such variance application, the board may also

impose reasonable conditions upon the use of the land in question which shall be reduced to writing and made a part of the permanent records of the board.

(Ord. of 9-21-2009, § 6.5C)



City Council Ordinance

IN CITY COUNCIL

TITLE: Zoning Map Amendment Rezoning Certain Land from LDRR or RR to LDCR

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

Proposed Amendments to Chapter 60, Article XII, Division 4- Lake Auburn Watershed Overlay District pertaining to agricultural farms, agricultural buffer strips, subsurface wastewater disposal system setbacks from resources/buffer strips, private sewage disposal systems and subsurface wastewater standards and requirements. The text changes in this proposal have been initiated by the City Council and Planning Board and are pursuant to Chapter 60, Article XVII, Division 2- Amendment to the Zoning Ordinance or Zoning Map and are detailed below.

- a. I make a motion to amend Sec. 60-950 adding the word “Overlay” to clarify the Lake Auburn Watershed Overlay District name as shown.

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)

- b. I make a motion to amend Sec. 60-951 (a)-Boundaries, adding the word “Overlay” to clarify the Lake Auburn Watershed Overlay District name, and changing “city water district” to “Auburn Water District” as shown.

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 Auburneity Wwater Deistrict on file in the office of the Auburneity Wwater Deistrict, 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.

- c. I make a motion to amend Sec. 60-951 (b)- Definitions, adding the definition of *curtain drain, hobby agricultural use, Lake Auburn Watershed Protection*



City Council Ordinance

Commission or LAWPC, Non-hobby agricultural use, soil horizon, soil horizon limiting, or limiting soil horizon, and soil profile to this section as shown below.

Sec. 60-951. Boundaries and definitions.

(b) Definitions. For purposes of this Division 4, the following words and terms as used herein shall have the meanings or limitations of meaning hereby defined, explained or assigned:

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 (i) 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 (ii) the allowances set forth in Sec. 60-2 regarding "farm, livestock" of this chapter and the allowances set forth in Article VII, Division 4 of Chapter 8 of the City Code of Ordinances are not exceeded.

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

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.

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 6 inches of upper fill layer meeting the following upper fill layer specifications:



City Council Ordinance

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

- d. I make a motion to amend Sec. 60-952- use and environmental regulation (a) Agricultural uses prohibiting new non-hobby agricultural uses as of 1/1/24 and requiring approval by LAWPC’s Watershed Manager to operate hobby agricultural uses after 12/31/23 as shown.

Sec. 60-952. Use and environmental regulations.

(a) Agricultural uses. All uses of land for chicken farms, cattle farms, horse farms, egg farms, piggeries, sheep farms, stables, crop farming and other agricultural purposes shall be subject to the approval of the city water district. Such approval shall be granted upon a showing that such uses will not cause groundwater contamination or contaminate or disturb the normal course of surface water runoff. 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 (i) 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 (ii) LAWPC’s Watershed Manager approves such use or expansion in writing and so notifies the code enforcement officer.

- e. I make a motion to amend Sec. 60-952- use and environmental regulations (b) *residential dwellings in the agriculture and resource protection zoning district* by specifying that LD 2003 does not apply in the Lake Auburn Watershed Overlay District as shown:



City Council Ordinance

Sec. 60-952. Use and environmental regulations.

- (b) *Residential dwellings in the agriculture and resource protection zoning district.* Notwithstanding the provisions of Secs. subsections 60-145(a)(1), 60-145(b)(18) and 60-146(1)(c), new one-family detached dwellings units are only permitted-prohibited in the Lake Auburn Watershed Overlay District on parcels containing no less than ten acres, provided that the dwelling is accessory to farming operations and subject to the following restriction: at least 50 percent of the total annual household income of the farm occupants living in the farm residence will be derived from farm uses. Pursuant to 30-A M.R.S. § 4364(9), 30-A M.R.S. § 4364-A(1-A), and 30-A M.R.S. § 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.

- f. I make a motion to amend Sec. 60-952 (c) by increasing the width of an untilled agricultural buffer strip near Lake Auburn or its perennial tributaries from 50 feet wide to 100 feet wide as shown:

Sec. 60-952. Use and environmental regulations.

- (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~~50~~ 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.

- g. I make a motion to amend Sec. 60-952 (d) to prohibit all spreading of or disposal of sludge as shown.

Sec. 60-952. Use and environmental regulations.

- (d) *Municipal and mManure and sludge disposal.* All sSpreading and disposal of municipal-sludge is prohibited. shall be accomplished in conformance with the Rules of Municipal Sludge Utilization on Land, published by the department of environmental protection in September, 1980. 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 Maine Guidelines for Manure and Manure Sludge Disposal on Land, published by the Life Sciences and Agriculture Experiment Station and the Cooperative Extension Service, University of Maine at Orono, and the Maine Soil and Water Conservation Commission in July, 1972.

- h. I make a motion to amend Sec. 60-952 (e) to change "water district" to "Auburn Water District" as shown.

Sec. 60-952. Use and environmental regulations.



City Council Ordinance

- (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 Wwater 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 Auburncity Wwater District indicating the changes so that a record can be maintained of watershed water yields to the system.
- i. I make a motion to amend Sec. 60-952 (f)-private subsurface wastewater disposal systems by (1) amending the separation requirements between the disposal field and the limiting soil horizon; (2) increasing the separation between septic systems and tributaries to Lake Auburn from 300 to 400 feet; (3) requiring that the plumbing inspector must ensure that new and replacement systems meet this set design criteria; (4) specifying the design standards of private subsurface wastewater disposal systems; (5) specifying that systems must be on the same lot as the unit they serve; (6) specifying that LAWPC or its designee shall have the right to inspect systems; (7) clarifying the follow-up steps in case of a malfunction; (8) changing the wording of overseeing agencies; and deleting original section 60-952 (f) (5) as shown.

Sec. 60-952. Use and environmental regulations.



City Council Ordinance

- (f) Private ~~subsurface wastewatersewage~~ disposal systems. The following regulations shall be adhered to in the development of private ~~subsurface wastewatersewage~~ disposal systems in the Lake Auburn Watershed Overlay District:
- (1) ~~Subsurface absorption areas shall not be permitted on sites on which the highest seasonal groundwater table, bedrock, or other impervious layer is less than 36 inches below the bottom of the organic horizon. Not less than 24 inches of suitable soil shall be present below the bottom of the subsurface absorption area. The bottom of such subsurface absorption area shall not be less than 12 inches below the bottom of the organic horizon measured from the lowest point on the subsurface absorption area. 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 filter 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 Maine 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 ordinance.~~
 - (2) ~~Within areas containing soils described as deep, loose and sandy or gravelly and which contain more than 70 percent sand as shown on table 9-2 of the state plumbing code, part II (April 25, 1975), no new disposal fields/subsurface absorption area shall be installed closer than 400/300 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 wastewatersewage 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 most appropriate based on the evaluation of groundwater conditions on the site by a Maine licensed site evaluator. The local plumbing inspector shall require that a Maine 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 ordinance.~~
 - (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 5 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 city 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 malfunctions that who shall require the abatement action by the property owner or operator of such defects or malfunctions.~~
 - (8) ~~The local plumbing inspector shall furnish a copy of all site investigation-evaluation reports in the Lake Auburn Watershed Overlay District to the Auburn city Water District or its designee.~~
 - (9) ~~Replacement or reconstruction of private residential sewage disposal systems in existence and in use on December 17, 1982 shall not be subject to the requirements of this section but shall be required to comply with the current state plumbing code.~~

j. I make a motion to amend Sec. 60-1065 to clarify the text as shown.



City Council Ordinance

Sec. 60-1065. Definitions.

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

Acceptable increase in lake phosphorus concentration (C) is based upon water quality and the city's selected level of protection. For Taylor Pond the number is 0.75; for Lake Auburn the number is 0.5.

Direct watershed means any land area which contributes storm-water runoff by either surface or subsurface flow to Taylor Pond or Lake Auburn without such runoff first passing through an upstream lake.

Future area to be developed (D) means an estimate of the acreage in the city's share of the direct watersheds that will be developed during the planning period of 50 years. For Taylor Pond, the estimated future developed acreage is 715.3; for Lake Auburn, the estimated future developed acreage is 1,180.0.

Lake Auburn means the Lake Auburn Watershed regulated by this chapter, which is all land areas within the direct watershed of Lake Auburn as defined on the attached map entitled Lake Auburn Watershed Overlay District Map.

Per-acre phosphorus allocation (P) means the acceptable increase of phosphorus export per acre in the watershed as determined by solving the following equation $P = (FC)/(D)$. For Taylor Pond, the phosphorus allocation is 0.036; for Lake Auburn, the phosphorus allocation is 0.047.

Phosphorus export coefficient (F) means the amount of phosphorus export from the watershed each year that will produce a one ppb increase in the lake's phosphorus concentration. For Taylor Pond, the phosphorus coefficient is 35.26 lbs/ppb/year; for Lake Auburn, the phosphorus coefficient is 109.9 lbs/ppb/year.

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

Ord. 28-11202023

- k. I make a motion to amend Sec. 60-1237 to clarify the text as shown:

Sec. 60-1237. Lake Auburn Watershed Overlay District ~~zone~~ variance.

When by reason of extraordinary physical conditions peculiar to the land or buildings under appeal but not to other land or buildings adjoining or nearby, an owner of land would be subject to unusual difficulty or special hardships (not mere financial hardship or hardships caused by rigid subsurface wastewatersewage disposal regulations) by reason of the literal application and rigorous enforcement of the terms of this chapter, the board of zoning appeals may grant a variance from strict compliance with the requirements of division 4 of article XII of this chapter after notice and public hearing as provided in this article. No such variance shall be granted unless the board is satisfied that the variance applied for will not adversely affect the quality of the Lake Auburn water supply. When an application for a variance is filed, it shall be forwarded to the Auburn City Wwater Deistrict with a request for an informational report and a recommendation to the board regarding the disposition of the requested variance application. In any case in which a variance request is granted, despite the recommendation of the Auburn Wwwater Deistrict that it be denied, the board of appeals shall make part of its permanent records a written statement of its reasons for taking such action. In granting any such variance application, the board may also impose reasonable conditions upon the use of the land in question which shall be reduced to writing and made a part of the permanent records of the board.