

AUBURN WATER DISTRICT

Private and Special Laws of 1923 as Amended by

P. & S. L. 1965 Ch. 214

and as Amended by S.P. 868 on February 19, 1982

CHAPTER 60

An Act to Incorporate the Auburn Water District.

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. Territorial limits; name; purpose. The following territory and the people therein, namely: All the territory and people constituting the city of Auburn except that portion of said city and the people therein within the following boundaries, to wit: Beginning at the junction of the Holland road, so-called, with the South River road, so-called; thence westerly by said Holland road to its junction with the Old Danville road, so-called; thence southerly by said Old Danville road to its junction with the Pownal road, so-called, thence southerly by said Pownal road to the Durham town line; thence northeasterly by said Durham town line to the Androscoggin river; thence northerly by said Androscoggin river to a point opposite said Holland road; thence westerly to the junction of said Holland road and said South River road at the point of beginning; shall constitute a public municipal corporation under the name of the Auburn Water District, for the purpose of supplying the inhabitants of said district and of contiguous territory not already served, with pure water for domestic, sanitary and municipal purposes. All incidental rights, powers and privileges necessary to the accomplishment of the main object herein set forth are granted to the corporation hereby created.

Sec. 2. Title to all property of Auburn Water Commissioners and city of Auburn to vest in Auburn Water District. At the time this act takes effect, the title of the Auburn Water Commissioners, the corporations heretofore charged with the control and management of the water system in said district, and the title of the city of Auburn, to the entire plant, property and franchises, rights and privileges, including all lands, buildings, waters, water rights, dams, reservoirs, pumping-stations, pipes, aqueducts, machinery, fixtures, hydrants, tools, apparatus and appliances, used or capable of being used for the purpose of maintaining a public water supply, together with all sinking funds, current funds, moneys, bills and accounts receivable, and all books, plans and documents shall vest in and become the property of said Auburn Water District. Said city of Auburn and said Auburn Water Commissioners shall each make, execute and deliver to said Auburn Water District, within thirty days after this act takes effect, such deeds and conveyances of real property and rights and interests therein, and such transfer, assignment and delivery or personal property, funds, moneys, bills and accounts receivable, books, plans and documents, as shall effectuate the purpose and intention of this section.

Sec. 3. Auburn Water District to assume all liabilities of old corporation, obligations of bonds not impaired. As consideration for the transfer and conveyance of the property and rights described in the foregoing section, said Auburn Water District shall assume all the existing indebtedness and all liability of every nature of the City of Auburn and of the Auburn Water Commissioners incurred prior to the time when this act takes effect in the establishment, maintenance, operation, extension and improvement of the present water system in the City of Auburn, and all outstanding bonds issued for any and all of said purposes, whether issued by said City of Auburn or by said Auburn Water Commissioners, shall be and become legal and binding obligations of said Auburn Water District, and nothing herein shall be construed to impair the obligation of said bonds or the right of the Water Commissioners and any person, firm or corporation shall be assumed and carried out by said Auburn Water District.

Sec. 4. Trustees; mayor of Auburn a trustee ex-officio; present trustees to serve out terms; trustees to be elected by city council; vacancies. All the affairs of said Auburn Water District shall be managed by a board of seven trustees, which in the first instance shall be the members of the Auburn Water Commissioners, including the mayor if the city of Auburn holding office at the time this act takes effect. The six trustees, exclusive of the mayor of the city of Auburn, shall each hold office according to the respective terms of office which they now hold and upon the expiration of said terms of office trustees shall there afterwards be elected annually as follows in the month of March by the city council of the city of Auburn for a term of four years. One trustee shall be appointed in 1982; one trustee shall be appointed in 1983; one trustee shall be appointed in 1984 and every year thereafter; one trustee shall be appointed in 1985 and every 4 years thereafter; 2 trustees shall be appointed in 1986 and every 4 years thereafter; and 2 trustees shall be appointed in 1987 and every 4 years thereafter. The mayor of the city of Auburn shall by virtue of his office be a trustee of said Auburn Water District during his term as mayor. The city council of the city of Auburn may at any time fill any vacancy in said board of trustees, exclusive of the mayor of said , caused by death, resignation or otherwise, or in the first instance by the refusal to act of any member or members of the Auburn Water Commissioners about denominated; in such case however, the trustee so appointed shall hold office for the unexpired term of the trustee whose office is made vacant. From and after the organization of the board of trustees as above provided, and the transfer to said Auburn Water District of the water system as provided in section two of this act, the rights and powers of the Auburn Water Commissioners to the control and management of said water system shall cease and terminate.

Sec. 5. Organization of board seal, by laws; trustees to elect superintendent, treasurer and clerk, and employ other agents, etc., annual report. Said board of trustees shall organize by electing one of their number president at a meeting to be held within thirty days after this act takes effect , and annually thereafter in the month of March subsequent to the appointment by the city council of the city of Auburn of one trustee as herein provided. Said trustees shall adopt a corporate seal and such by-laws are as necessary for their own convenience and the proper management of the affairs of said

Auburn Water District. Said trustees shall choose annually a superintendent, treasurer and clerk, and employ from time to time such other officers, agents and servants as they deem necessary. Said officers, agents and servants shall perform such duties as shall be designated by the trustees, and be subject to removal by the trustees may require. Said trustees shall annually in the month of March, compile and print a statement of the condition of the property and finances of said district, with an account of all receipts and expenditures.

Sec. 6. Powers; municipal court of Auburn given jurisdiction to enforce by- laws. Said Auburn Water District shall have power to adopt by-laws, not inconsistent with the general laws of the state, to prevent pollution of the water of Lake Auburn and to preserve the purity of said water, and may prescribe penalties for the violation thereof, which said by-laws shall have the same force and effect as municipal ordinances, and the municipal court of the city of Auburn shall have jurisdiction of violations thereof. Said Auburn Water District shall have power and authority to complain by bill in equity to the supreme judicial court to enjoin, prevent or restrain any persons, firms or corporations from polluting the water of Lake Auburn, provided such pollution shall tend to corrupt or impair the quality of the water of said Lake Auburn for domestic purposes, or render it injurious to health.

Sec. 7. Right of eminent domain conferred. The said Auburn Water District, for the purposes of its incorporation, is hereby authorized to take and hold, as for public uses, by purchase, eminent domain, or otherwise, any land or interest therein, or water rights necessary for erecting and maintaining dams, for collecting, storing and holding water, for flowage, for power for pumping its water supply through its mains, for reservoirs, for guarding against pollution and for preserving the purity of the water and water shed, for laying and maintaining pipes, aqueducts and other structures, for taking, distributing, discharging and disposing of water and for rights of way or roadways to its sources of supply its dams, power and pumping stations, reservoirs, mains, pipes, aqueducts, structures and lands.

Sec. 8. Plans of location to be filed registry of deeds; may correct locations and file new descriptions; notice to be given of all entries. In exercising from time to time the right of eminent domain conferred upon it by law, the said Auburn Water District shall file in the office by the county commissioners of Androscoggin county and cause to be recorded in the registry of deeds in said county plans of the location of all lands or interests therein or water rights, to be taken, with an appropriate description and the names of the owners thereof, it known. When for any reason the district fails to acquire property which it is authorized to take and which is described in such location, or if the location so recorded is defective and uncertain, it may at any time correct and perfect such location and file a new description thereof; and in such cases the district is liable in damages only for property for which the owner had not previously been paid, to be assessed as of the time of the original taking, and the district shall not be liable for any act which would have been justified if the original taking had been lawful. No entry shall be made on any private lands, except to make surveys, until the expiration of ten days from such filing whereupon possession may be had of all said lands or interests therein or

water rights so taken, but title thereto shall not vest in said district until payment therefore.

Sec. 9. Assessment of damages by county commissioners; procedure on appeals. If any person sustaining damages by any taking as aforesaid shall not agree with said district upon the sum to be paid therefore, either party, upon petition to the county commissioners of Androscoggin county, may have said damages assessed by them; the procedure and all subsequent proceedings and right of appeal thereon shall be had under the same restrictions, conditions and limitations as are or may be by law prescribed in the case of damages by the laying out of highways.

Sec. 10. Authorized to erect and maintain pumping stations, dams. Etc. Said Auburn Water District is hereby authorized to erect, construct and maintain all power and pumping stations, dams, and reservoirs, mains, aqueducts, structures, roadways and fixtures necessary and convenient for its corporate purposes.

Sec. 11. Authorized to lay pipes in streets. Said Auburn Water District is hereby authorized to lay in and through the streets, roads and ways and highways of the city of Auburn and across private lands therein, and to maintain, repair and replace all such pipes, mains, aqueducts and fixtures as may be necessary and convenient for its corporate purposes; and whenever said district shall lay any pipe, aqueduct or main in any street, road or way it shall cause the same to be down with as little obstruction as practicable to the public travel, and shall at its own expense without unnecessary delay cause the earth and pavement removed by it to be replaced in proper condition.

Sec. 12. Crossings of railroad regulated. In case of any crossing of any railroad, unless consent is given by the company owning or operating such railroad as to place, manner and conditions of the crossing, within thirty days after such consent is requested by said district, the public utilities commission shall determine the place, manner and conditions of such crossing; and all work within the limits of such railroad location shall be done under the supervision and to the satisfaction of such railroad company, but at the expense of the district.

Sec. 13. May issue bonds and borrow money and issue notes; bonds and notes legal investment for savings banks. The Auburn Water District is hereby authorized, with the permission of the city of council of the city of Auburn first obtained, and under the further permission and direction of the public utilities commission, to issue bonds for the purpose of paying or refunding the indebtedness assumed by said district in the acquisition of the property and rights of the Auburn Water Commissioners and the city of Auburn in the creation of said district, and from time to time of Auburn in the creation of said district, and from time to time for the further purpose of the purchase or acquisition of other property and rights, of making extensions, additions and improvements to its water system and to the existing sources of water supply and of securing additional sources of each water supply. Said Auburn Water District is also authorized to borrow money for temporary purposes and to issue therefore the interest-bearing negotiable notes of the district, which said notes shall be payable not later than one year from the date

thereof. Said notes and bonds shall be legal obligations of said Auburn Water District, which is hereby declared to be quasi-municipal corporation within the meaning of section one hundred and five, chapter fifty-one, of the revised statutes, and all the provisions of said section and acts amendatory thereof shall be applicable thereto. Said notes and bonds shall be legal investments for saving banks. Every issue of bonds shall be payable within a term of thirty years.

Sec. 14. Bonds, now payable; sinking fund may be created. Bonds issue by said Auburn Water District under authority of this act shall be payable in such annual installments as will extinguish each issue in thirty years from its date; and the amount of such annual installment in any year shall not be less then the amount of the principal of said issue payable in any subsequent year; or in lieu of such provision for several payments, said Auburn Water District shall create a sinking fund by setting aside annually from its income such amount as shall be sufficient with interest accumulations to extinguish and pay at maturity any issue of bonds which contain no provision for several payment as aforesaid. The money so set aside shall be devoted to the purchase or retirement of the obligations of said district, or invested in securities legal for savings banks in the state of Maine.

Sec. 15. Property exempt from taxation. The property rights and franchises of said district shall be forever exempt from taxation.

Sec. 16. RATES, NOW ESTABLISHED AND PAID. All individuals, firms and corporations, public or private, other than the City of Auburn, shall pay to the treasurer of said district the rates established by its board of trustees for the service used by them, which shall be uniform within the territory supplied by the district and shall be subject to the approval of the Public Utilities Commission. Beginning October 1, 1964, the City of Auburn shall pay for the service used by it in its public school buildings such meter rate as shall be fixed by its board of trustees and such sum for each public fire hydrant payable on an annual basis as the board of trustees of the district and the City of Auburn, may from time to time, determine by contract to extend for such period of time as shall be fixed thereby, or the sum of \$30 for each such hydrant for which water is supplied by the district each year, whichever is greater, all to be subject to the approval of the Public Utilities Commission.

Said rates shall be so established as to provide revenue for the following purposes:

1. To pay current expenses for operating and maintaining the water system.
2. To provide for the payment of the interest on the indebtedness created by the district.
3. To provide each year a sum equal to not less than 1% nor more than 5% of the entire indebtedness created by the district, which sum shall be turned into a sinking fund and there kept and used for the extinguishment of said

indebtedness. The money set aside for the sinking fund until used for the retirement of the obligations of the district may be placed at interest in any bank or trust company or invested in such securities as savings banks or fiduciaries or trustees are now or hereafter allowed to hold. Provided, however, that the trustees may, in their discretion and in lieu of the establishment of a sinking fund, issue the bonds of the district to mature as provided by section 13.

If any surplus remains at the end of the year, it may be used for the improvement of the system or turned into the sinking fund.

Sec. 17. Local referendum provided for; form of ballots. This act shall take effect when approved by a majority of all legal voters of the city of Auburn voting at a special meeting to be held on the second Monday in September in the year nineteen hundred and twenty- three. Said meeting shall be called, held and conducted and the results thereof determined in the manner provided for municipal elections in said city of Auburn. The city clerk of the city of Auburn shall prepare suitable ballots upon which shall be printed the following questions: "Shall the act to incorporate the Auburn Water District; enacted by the people of Maine at the eighty-first legislature in the year nineteen hundred and twenty-three, be accepted?" with the words

Yes

No

printed and arranged there under substantially so printed herein. The voters shall indicate their choice by a cross placed in the appropriate square.

Sec. 18. Act to take effect for purposes of election 90 days after adjournment of legislature. This act shall take effect in ninety days after the final adjournment of the legislature, so far as necessary to empower the calling and holding of the special meeting authorized in section seventeen herein.

AUBURN WATER DISTRICT

BY-LAWS

Adopted March 25, 1969

Amended May 6, 1969

Amended July 11, 1974

Amended April 11, 1981

October 14, 1981

ARTICLE I. MEETINGS

- Section 1. The annual meeting of the Board of Trustees shall be held on the first Tuesday in March following the appointment of a new trustee by the Auburn City Council, at 4:30 o'clock in the afternoon.
- Section 2. Regular meetings of the Board of Trustees shall be held on Tuesday following the 5th of the month at 4:30 o'clock in the afternoon.
- Section 3. Special meetings of the Board of Trustees may be held at any time. They shall be called by the Clerk, at the request of the President or at the written request of two Trustees, by written notice given in hand or mailed to each Trustee not less than 48 hours before the time appointed for the meeting.
- Section 4. A special meeting of said Board may be held without previous notice at any time, and at a place within the City of Auburn, when and where all of the Trustees are present and unanimously consent thereto. No business shall be transacted at any special meeting other than as set forth in the call unless all members of the Board are present at the meeting and a majority consents thereto.

ARTICLE II. QUORUM

- Section 1. At any meeting of the Board of Trustees, 4 Trustees shall constitute a quorum for the transaction of business; and all matters requiring action by the Board shall be determined by the vote of a majority of the members present.

ARTICLE III. ELECTIONS

- Section 1. At each annual meeting the Board of Trustees shall elect by written ballot those officers designated by the charter and in addition thereto shall so elect an auditor.

Section 2. If for any reason all of the aforesaid officers should not be elected at the annual meeting, any such officer not so elected may be elected at any subsequent regular meeting.

Section 3. All said officers elected by the Board of Trustees shall serve until the next annual meeting or until their successors are elected and qualified, unless otherwise provided in these by-laws or by the charter.

Section 4. At any regular or special meeting of said Board other officers, not specified above, and employees may be chosen or employed to serve during the pleasure of said Board.

ARTICLE IV. VACANCIES

Section 1. Any vacancy occurring in any office mentioned in the first section of Article III shall be filled for the remainder of the unexpired term by written ballot of the Trustees at any regular meeting of said Board.

ARTICLE V. PRESIDENT

Section 1. The President, when present, shall preside at all meetings of the Board, and in his absence a President pro tempore shall be appointed by the Trustees. The President shall be paid such compensation for his services as the Board shall determine.

Section 2. The President shall sign all checks for the payment of money and all notes and bonds issued by the District which shall be countersigned by the Treasurer. In the absence of the President, or in the event of his inability to act, checks shall be signed by the immediate past President of the District.

ARTICLE VI. CLERK

Section 1. The Clerk shall attend all meetings of said Board and keep the records of the Board and shall act as recording secretary at all meetings.

Section 2. The Clerk shall type the minutes of all meetings of the Board and preserve them in permanent form in a journal of proceedings. Copies of the minutes of each meeting shall be submitted by mail to all the Trustees before the date of the following meeting or earlier upon request of the Trustees.

- Section 3. The Clerk shall have custody of the seal and shall have power to affix the seal to all legal instruments authorized to be executed by the Board and to certify copies of records of the Board as being authenticated copies of the original records in his possession.
- Section 4. The Clerk shall have care and custody of all funds of the District and shall deposit the same in the name of the District in such bank or banks as the Board may select.
- Section 5. The Clerk shall keep regular books of account showing receipts and expenditures and shall render to the Board an account of his transactions and of the financial condition of the District when requested.
- Section 6. The compensation of the Clerk shall be established by the Board, provided, however, that one of the Trustees may be elected to serve as Clerk on a temporary basis in which case no compensation shall be paid except reimbursement of necessary expense.

ARTICLE VII. TREASURER

- Section 1. The Treasurer shall countersign all checks for the payment of money and all notes and bonds issued by the District. In the absence of the Treasurer, or in the event of his inability to act, checks shall be counter-signed by the immediate past President of the District.
- Section 2. The Treasurer must be a member of the Board of Trustees and shall be paid such compensation for his services as the Board shall determine.

ARTICLE VIII. AMENDMENTS

- Section 1. These by-laws may be amended at any regular or special meeting by a unanimous vote of the six Trustees without previous notice, or at any regular meeting by a majority vote, provided written notice of the proposed amendment was given at the last previous regular meeting.

Meeting May 6, 1969
Meeting May 6, 1969

Article V, section 2 is amended by adding thereto the following: "In the absence of the President, or in the event of his inability to act, checks shall be signed by the immediate past President of the District."

Article VII, section 1 is amended by adding thereto the following: "In the absence of the Treasurer, or in the event of his inability to act, checks shall be counter-signed by the immediate past President of the District."

Meeting June 11, 1974

Voted: To adopt the following change in the By-laws:

Article I --

Section 1: change meeting time to read "at 4:00 o'clock in the afternoon".

Section 2: change meeting time to read "at 4:00 o'clock in the afternoon".

Meeting May 6, 1969

Article V, section 2 is amended by adding thereto the following: "In the absence of the President, or in the event of his inability to act, checks shall be signed by the immediate past President of the District."

Article VII, section 1 is amended by adding thereto the following: "In the absence of the Treasurer, or in the event of his inability to act, checks shall be counter-signed by the immediate past President of the District."

Meeting June 11, 1974

Voted: To adopt the following change in the By-laws:

Article I --

Section 1: change meeting time to read "at 4:00 o'clock in the afternoon".

Section 2: change meeting time to read "at 4:00 o'clock in the afternoon".

Meeting April 11, 1981

Voted: --

Article I --

Section 2: Regular meetings of the Trustees shall be held on the First Tuesday following the fifth of the month at such times as may be determined by the Board

Meeting October 14, 1981

Voted: --"to add to the officers, a Vice President, and an Assistant Treasurer; to act in the absence of the President and the Treasurer."

AUBURN WATER DISTRICT

By-Laws for Protection of Lake Auburn

WHEREAS, the Auburn Water District was granted a Legislative Charter by Chapter 60 of the Private and Special Laws of 1923, as amended, and under the terms of its Charter, the said Auburn Water District was granted the power "to adopt by-laws, not inconsistent with the general laws of the state, to prevent pollution of the water of Lake Auburn and to preserve the purity of said water, and may prescribe penalties for the violation thereof, which said by-laws shall have the same force and effect as municipal ordinances"; and

WHEREAS, the said Auburn Water District was also granted under its Charter the "power and authority" to bring legal proceedings "to enjoin, prevent or restrain any persons, firms or corporations from polluting the water of Lake Auburn, provided such pollution shall tend to corrupt or impair the quality of the water of said Lake Auburn for domestic purposes, or render it injurious to health"; and

WHEREAS, the Auburn Water District has the further duty under the terms of its said Charter to provide pure and potable drinking water to persons within the City of Auburn; and

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WHEREAS, Lake Auburn is the public drinking water supply for water consumers in the City of Auburn and also (pursuant to Chapter 153 of the Laws of 1899) is the public drinking water supply for the City of Lewiston; and

WHEREAS, pursuant to 22 M.R.S.A. §2647, "Any water utility... is authorized to take reasonable steps to protect a public water source from pollution"; and

WHEREAS, the United States Environmental Protection Agency, pursuant to the Safe Drinking Water Act, promulgated rules in June of 1989 calling for the filtration of all surface water supplies that cannot meet stringent criteria with respect to purity; and

WHEREAS, the Auburn Water District and City of Lewiston have jointly engaged the services of environmental consultants to consider appropriate measures for the protection of the purity of the water in Lake Auburn, and to secure an exception from the aforesaid filtration requirements in order to avoid substantial costs to the water ratepayers in the communities of Lewiston and Auburn; and

WHEREAS, the Trustees of the Auburn Water District conducted a public hearing on March 20, 1991, and another public hearing on July 17, 1991, to consider the possibility of developing and adopting regulations and restrictions to

protect the purity of the water in Lake Auburn and have received and reviewed both oral and written comment thereon; and

WHEREAS, the Trustees of the Auburn Water District have been advised by their consultants that water protection control measures are necessary to prevent pollution of the water of Lake Auburn and to preserve the purity of said water, and in order to successfully pursue an exception from filtration requirements as aforesaid; and

WHEREAS, these restrictions have been developed in an attempt to achieve the public purposes described above and yet permit some recreational uses of Lake Auburn.

NOW, THEREFORE, pursuant to their lawful authority as aforesaid and based upon the record of evidence presented to them at the public hearings and in written submissions, the Trustees of the Auburn Water District hereby make the following findings:

1. That Lake Auburn is a great pond held in trust by the State for the benefit of all citizens of the State of Maine.

2. That Lake Auburn is a public drinking water supply, pursuant to Legislative authorization, providing water to the citizens of Lewiston and Auburn and to other water

customers and users within those cities.

3. The Legislature of the State of Maine has specifically authorized and delegated to the Trustees of the Auburn Water District the authority to promulgate by-laws regulating and restricting recreational and other uses of Lake Auburn as may be required to preserve the purity of the water in said Lake and to protect it as a public drinking water supply.

4. The Auburn Water District and the City of Lewiston will be excepted from the surface water filtration requirements under the Safe Drinking Water Act, provided they can demonstrate adequate measures have been created and can be enforced to preserve the purity of the water of Lake Auburn. Compliance with the filtration requirements, if the exception cannot be obtained, based on current estimates, will cost somewhere between \$20,000,000 and \$24,000,000 with annual operating costs projected at \$1,500,000 to \$2,000,000 at the expense of water consumers and ratepayers within the Lewiston and Auburn communities.

5. Reasonable recreational opportunities on Lake Auburn can be preserved with restrictions that, at the same time, will advance the goal of preserving and protecting the purity of the water in Lake Auburn and obtaining the excep-

tion from the unreasonable cost of meeting filtration requirements.

ACCORDINGLY, based on the record before them and the foregoing findings, the Auburn Water District Trustees, acting pursuant to their legal authority, hereby adopt the following By-Laws establishing Lake Auburn and Lake Auburn Watershed Restrictions and Controls:

1. There shall be and hereby are established four levels or zones of protection as follows:

- | | |
|----------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <u>Level 1</u> | <u>Intake Restricted Zone</u>
Consisting of the shoreline of Lake Auburn upland to the closest roadway and the surface of the Lake encompassed by a line between "Point of Pines" and a point southerly of the Route 4 boat launch, as shown on a map approved by the Trustees, titled "Lake Auburn Watershed Protection Zones." |
| <u>Level 2</u> | <u>Shoreline Protected Zone</u>
Other remaining surface of the Lake and shoreline areas and direct tributaries of the Lake |
| <u>Level 3</u> | <u>Lower Watershed</u>
The remainder of the watershed of Lake Auburn located within the city limits of the City of Auburn |
| <u>Level 4</u> | <u>Upper Watershed</u>
The watershed of the Lake outside the jurisdiction of the City of Auburn |

These restriction areas are more specifically identified and mapped on the official Lake Auburn and Lake Auburn Watershed Protection Zone map on file with the Auburn Water

District, which may be revised and amended from time to time by the Trustees of the Auburn Water District.

2. The specific restrictions for the protection areas identified above shall be as follows:

Protection Level 1: Intake Restricted Zone

This is the most critical area for protection since microbiological, chemical particulate, and other contaminants are most likely to reach the intake from this location. Protection Level 1 is described above and includes a 1,500 foot radius around the intake in the water plus a large area of the shoreline extending out to the closest roadways. On Lake Auburn, this Level 1 protection area allows absolutely no trespassing on District land, year-round. On land, Level 1 is the highest priority area for land acquisition or for written agreements and easements for the few remaining parcels of land not already owned by the District. The specific restrictions and prohibitions in Protection Level 1 are:

a. All water-related activities in this area are absolutely prohibited, at all times throughout the year. The term "water-related" activity includes, without limitation, any activity in, on,

or from the surface waters of the lake or the watershed, such as swimming, boating, water skiing, sailboarding, canoeing, kayaking, jet skiing, sailing, fishing, or diving, and the landing or taking off of seaplanes. Provisions shall be made to permit Zone 1 private landowners to reach Zone 2 for their personal non-commercial recreational purposes via a route deemed by the District to minimize potential contaminants to the water near the intake structure.

b. There shall be signs and/or buoys in the lake at regular intervals, indicating absolutely no trespassing and the penalties to be imposed within Protection Level 1.

c. Signs shall be placed at selected locations on the shoreline, to be seen from shore, and indicating absolutely no trespassing and the penalties imposed from time to time imposed.

d. Any violation of these restrictions shall be subject to land use citation and complaint proceedings pursuant to the Maine Rules of Civil Procedure for any one or more of injunctive relief, restoration, mitigation, or the imposition of a

maximum fine of \$2,500 for each and every violation.

Protection Level 2: Shoreline Protection Zone

This second protection zone includes the entire shoreline of the lake except the small bay downstream of Route 4 near the outlet and any areas included within Protection Level 1. This zone extends inland to the nearest roadway. Protection Level 2 also includes all of the lake except for that included within Protection Level 1. Protection measures for Level 2 are:

a. Seeking closure of portions or all of Spring Road, with resident access only to the southern half of the road, and limited access only to the northern half of the road where there are no residents.

b. Prohibition of all water-related activities, as defined above, except small recreational boats used without human contact with the water. Boats with on-board toilet and sleeping facilities are prohibited. Landing or taking off of seaplanes is also prohibited in this section.

c. The strict enforcement of the State of Maine's "no wake" rule and signage for all motorized boats within 200 feet of any shoreline, where boats are allowed.

d. Any special public gathering or event which may draw attendance of 50 or more people in close proximity to (100 feet) or on the Lake, must receive approval from the District in the form of a permit at least 45 days in advance of the event. The fee for the permit shall cover all cost incurred by the District.

e. Suitable signs shall be posted to advise the public of these restrictions and to prescribe penalties.

f. The penalty for violation of these restrictions shall be the same as for Level 1.

Protection Level 3: Lower Watershed

This area is protected by the Lake Auburn Overlay Zoning District (adopted by the City of Auburn) and the Auburn Water District Land Use Policy already in place, as from time revised and amended. These zoning and land use policies, and the enforcement of them, are deemed to provide sufficient protection for the water supply from the adverse effects of human activities in the watershed. The Trustees reserve the enactment of additional or more specific restrictions for some time in the future.

Protection Level 4: Upper Watershed

The Trustees of the Auburn Water District are investigating the establishment of an entity or authority for the protection and control of the Lake Auburn Watershed, including those portions located in other municipalities, and shall provide technical assistance and enforcement assistance for watershed protection controls to homeowners and residents of the extended watershed area.

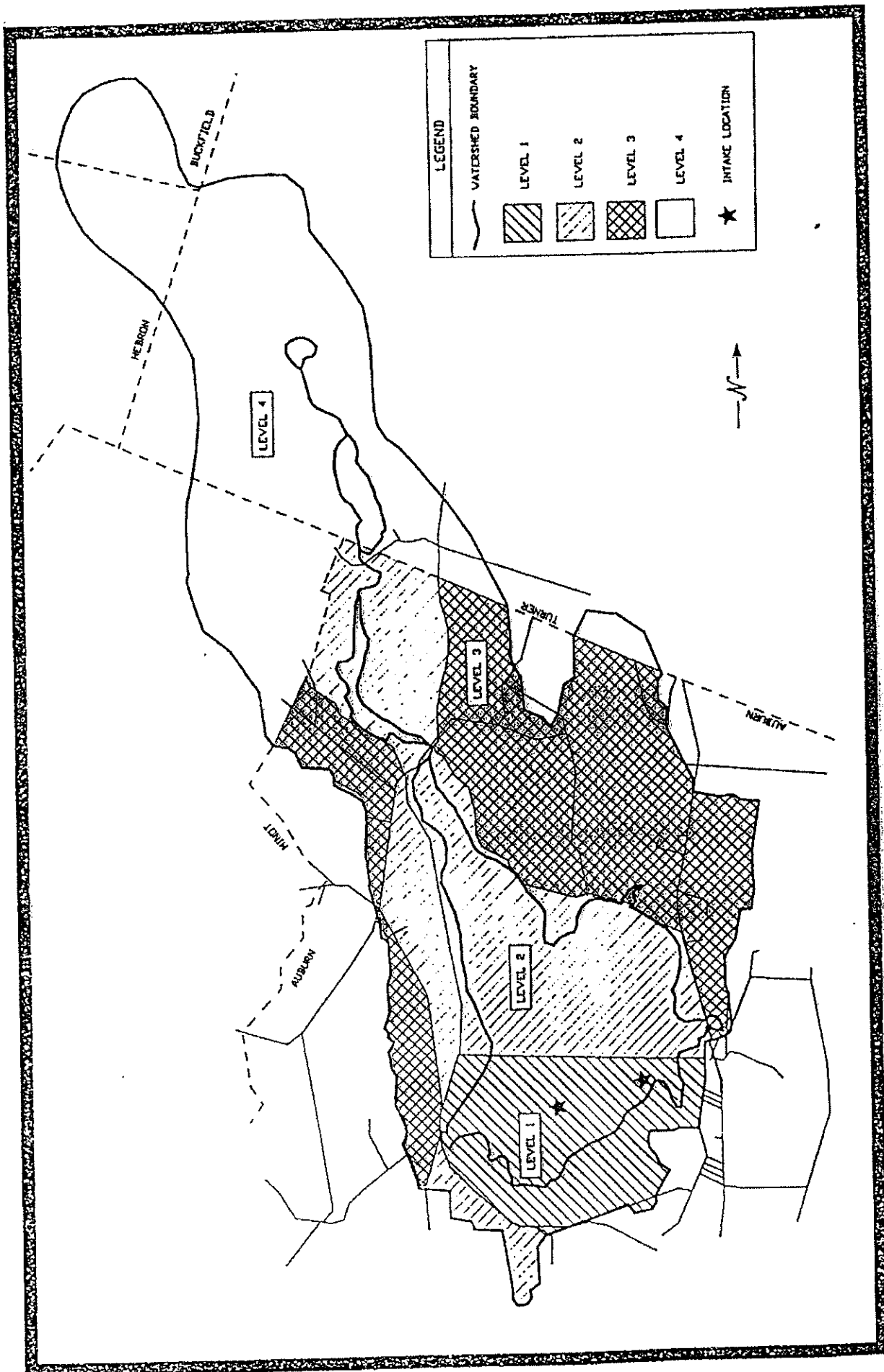
3. The foregoing By-Laws shall be enforced pursuant to Maine Rule of Civil Procedure 80K or in any other manner provided by law for land use ordinances, and the superintendent of the Auburn Water District is hereby designated as an officer authorized to implement and enforce the foregoing By-Laws and restrictions by all appropriate means, including without limitation by bringing legal proceedings for the enforcement thereof.

4. These By-Laws are subject to amendment from time to time in order to achieve more completely the purposes set forth above. If, and to the extent, any portion of these By-Laws is found to be in excess of the legal authority of the Auburn Water District Trustees or unenforceable for some

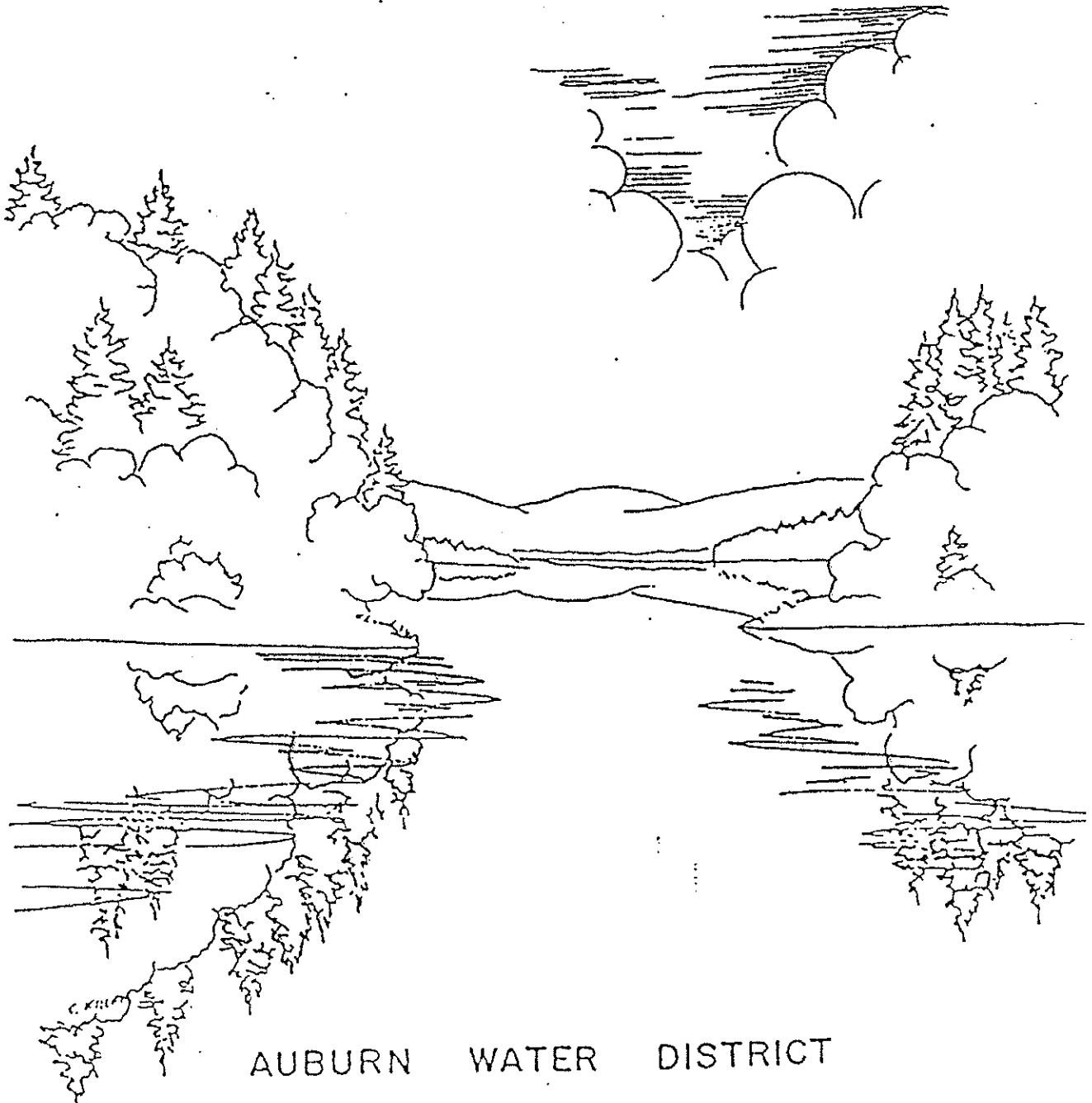
other reason, it is intended that the remainder be deemed severable from said invalid or unenforceable provisions and that the remaining regulations be enforced in full according to their terms.

5. The effective date of these By-Laws is January 1, 1992. They shall be reviewed by the Trustees at least once every five years to consider their continued effectiveness and necessity. The Trustees shall notify the public of such review and provide a reasonable opportunity for public comment.

Adopted August 27, 1991



LAKE AUBURN
WATERSHED
ZONING ORDINANCE



AUBURN WATER DISTRICT

5.3 Lake Auburn Watershed Overlay Districts (LAO)

- A. Purpose - The Lake Auburn Watershed District is intended to maintain safe and healthful environmental conditions; prevent and control water pollution; protect spawning grounds, 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.
- B. Boundaries and Definitions - The Lake Auburn Watershed District is that section of Auburn in which surface and subsurface waters ultimately flow or drain into Lake Auburn as such section is delineated on a watershed map and survey by the Auburn Water District on file in the offices of the Auburn Water District, the Auburn Department of Community Development and Planning, and the Auburn City Clerk. The Lake Auburn Watershed 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 District.
- C. Use and Environmental Regulations
1. 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 Auburn Water District. Such approval shall be granted upon a showing that such uses will not cause ground water contamination or contaminate or disturb the normal course of surface water runoff.
 2. Agricultural Buffer Strip - Where land adjoining Lake Auburn or its perennial tributaries is tilled for agricultural purposes, an untilled buffer strip fifty (50) feet wide shall be retained between the tilled area and the normal high water mark. This Subsection shall not be interpreted as permitting agricultural tillage in any zoning district in which it is not otherwise permitted.
 3. Municipal and Manure Sludge Disposal - All spreading and disposal of municipal sludge 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 "Maine Guidelines for Manure and Manure Sludge Disposal on Land," published by the Life Sciences and Agriculture Experiment Sta-

tion and the Cooperative Extension Service, University of Maine at Orono, and the Maine Soil and Water Conservation Commission in July, 1972.

4. Erosion Control - The following provisions shall be observed for the control of erosion in the Lake Auburn Watershed:

- a. 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 water body in the watershed is prohibited.
- b. 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 Water District. Such plan will be approved or disapproved on the basis of its conformance with good watershed management practice for domestic water supplies.
- c. Trees may be cleared, provided the cleared areas are converted to 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 normal 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 10 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 (3) 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.

5. Private Sewage Disposal Systems - The following regulations shall be adhered to in the development of private sewage disposal systems in the Lake Auburn Watershed:

- a. 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.

- b. 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 of Maine Plumbing Code, Part II (April 25, 1975) no subsurface absorption area shall be installed closer than 300 feet to the normal high water mark of any lake, pond, or year-round or intermittent stream. Where the daily 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 watermark of any lake, pond, or year-round intermittent stream.
- c. The Auburn Water District shall have the right to inspect any system within the Lake Auburn Watershed District during its construction and operation and may notify the Health Office, Police Chief, Local Plumbing Inspector or Housing Inspector of any defects or malfunctions. The Health Officer, Police Chief, Local Plumbing Inspector or Housing Inspector shall require the abatement of such defects or malfunctions.
- d. The Local Plumbing Inspector shall furnish a copy of all Site Investigation Reports in the Lake Auburn Watershed District to the Auburn Water District.
- e. Replacement or reconstruction of private residential sewage disposal systems in existence and in use on December 17, 1972 shall not be subject to the requirements of this section but shall be required to comply with the current State Plumbing code.

D. Dimensional Regulations

1. 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 boat houses, 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.

- E. 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.

Shoreland Overlay District (SLO)

A. Purpose - The purpose of the Shoreland Overlay District is to maintain safe and healthful environmental conditions; prevent and control water pollution; protect spawning grounds, fish, aquatic life, bird and other wildlife habitats; control building sites, placement of structures and land uses; and conserve shore cover, wetlands, visual and physical points of access to waters and natural beauty.

B. Boundaries and Definitions - The Shoreland Overlay District are those sections of Auburn which are located within 250 feet of the normal high water mark of those areas noted on the Official Shoreland Zoning Map for the City. The perimeters of the Shoreland Overlay District shall be superimposed over underlying zoning districts shall continue subject to compliance with the provisions of the Shoreland Overlay District. Nothing in this section shall permit uses in districts where such uses are not otherwise permitted.

Normal High Water Mark - The line along lakes and ponds where vegetative cover changes from predominantly aquatic to predominantly terrestrial and, along rivers and streams, the highest elevation on the bank of a channel at which the water has left a definite mark.

C. Non-conforming Structures

1. Expansions - A non-conforming structure may be added to or expanded after obtaining a permit from the Building Inspector and Code Enforcement Officer if such addition or expansion does not increase the non-conformity of the structure.

Further Limitations:

- a. After January 1, 1989, if any portion of a structure is less than the required setback from the normal high-water line of a water body or upland edge of a wetland, that portion of the structure shall not be expanded in floor area or volume, by 30% or more, during the lifetime of the structure.
- b. Construction or enlargement of a foundation beneath the existing structure shall not be considered an expansion of the structure provided; that the structure and new foundation are placed such that the setback requirement is met to the greatest practical extent as determined by the Board of Appeals, basing its decision on the criteria specified in subsection 2. Relocation, below; that the completed foundation

does not extend beyond the exterior dimensions of the structure; and that the foundation does not cause the structure to be elevated by more than three (3) additional feet.

- c. No structure which is less than the required setback from the normal high-water line of a water body, tributary stream, or upland edge of a wetland shall be expanded toward the water body, tributary stream, or wetland.
2. Relocation - A non-conforming structure may be relocated within the boundaries of the parcel on which the structure is located provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the Board of Appeals and provided that the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of State Law and the State of Maine Subsurface Wastewater Disposal Rules or that a new system can be installed in compliance with the law and said Rules. In no case shall a structure be relocated in a manner that causes the structure to be more non-conforming.

In determining whether the building relocation meets the setback to the greatest practical extent, the Board of Appeals shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of the septic system and other on-site soils suitable for septic systems and the type and amount of vegetation to be removed to accomplish the relocation.

D. Principal and Accessory Structures

1. All new principal and accessory structures shall be set back at least one hundred (100) feet from the normal high water mark of those areas noted on the Official Shoreland Zoning Map for the City or 250 feet from the upland edge of a wetland as noted on or identified during field investigations.

In addition:

- a. The water body or wetland setback provision shall neither apply to structures which require direct access to the water as an operational necessity, such as piers, docks and retaining walls, nor to other functionally water-dependent uses.

2. The total area of all structures, parking lots and other non-vegetated surfaces, within the Shoreland Zone shall not exceed twenty (20) percent of the lot or a portion thereof, located within the Shoreland Zone, including land area previously developed.
3. Notwithstanding the requirements stated above, stairways or similar structures may be allowed with a permit from the Building Inspector and Code Enforcement Officer, to provide shoreline access in areas of steep slopes or unstable soils provided that the structure is limited to a maximum of four (4) feet, in width; that the structure does not extend below or over the normal high-water line of a water body or upland edge of a wetland, (unless permitted by the Department of Environmental Protection pursuant to the Natural Resources Protection Act, Title 38, Section 480-C); and that the applicant demonstrates that no reasonable access alternative exists on the property.

E. Use and Environmental Regulations

1. 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 municipal officer charged with enforcement. 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 runoff. In considering any such proposed agricultural uses, the municipal officer may consult or may require the proponent to supply certification by a soil scientist or other expert as to the effect on groundwater and water runoff, if any, which the proposed use is likely to cause.
2. Agricultural Buffer Strip - An untilled buffer strip at least fifteen (15) feet wide shall be retained between the normal high water mark and that portion of any lot within the Shoreland Overlay District which is used for agricultural purposes. Agricultural tilling may be permitted within 50 feet of the normal high water mark as a variance only after a finding by the Board of Appeals, after hearing and notice to abutting landowners in the manner provided in Article 6 of this Chapter, that such use would not adversely affect the water body in question. This subsection shall not be interpreted as permitting agricultural tillage in any zoning district in which it is not otherwise permitted.

3. Municipal and Manure Sludge Disposal - All spreading and disposal of municipal sludge shall be accomplished in conformance with the "Rules for 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 "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.
4. Erosion Control - The following provisions shall be observed for the control of erosion in the Shoreland Overlay District:
 - a. Any earth cutting, moving or removal activities that will result in erosion or runoff which is likely to increase sedimentation of Taylor Pond, Taylor Brook and Little Androscoggin River or the Androscoggin River, as determined by the City Engineer with the advice, as needed, of appropriate State or Federal agencies, is prohibited.
 - b. The following Timber Harvesting Standards shall be complied with in the carrying out of any timber harvesting in the Shoreland Overlay District:
 - (1) No substantial accumulation of slash shall be left within fifty (50) feet of the traveled surface of public roads, property lines, or the normal high water mark of any pond, river or stream. At distances greater than fifty (50) feet from the normal high water mark of such waters and extending to the limits of the area covered by this section, all slash shall be disposed of in such a manner that it lies on the ground and no part thereof extend more than four (4) feet above the ground.
 - (2) Skid trails, log yards, and other sites where the operation of logging machinery results in the exposure of substantial areas of mineral soil, shall be located such that an unscarified filter strip is retained between the exposed mineral soil and the normal high water mark of pond, river or stream. The width of this strip shall vary according to the average slope of the land as follows:

Average Slope of Land
between Exposed Mineral
Soil and Normal High
Water Mark (Percent)

Width of Strip
between Exposed
Mineral Soil and
Normal High Water
Mark (Feet along
Surface of Ground)

Slope

Buffer

≤ 10%

75'

≤ 20%

76'-95'

≤ 30%

96'-115'

≤ 40%

116'-135'

≤ 50%

136'-155'

- (3) Harvesting operations shall be conducted in such a manner and at such a time that minimal soil disturbance results. Adequate provision shall be made to prevent soil erosion and sedimentation of surface waters.
 - (4) Harvesting operations shall be conducted in such a manner that a well distributed stand of trees and other vegetation is retained.
 - (5) Harvesting activities shall not create single openings greater than 7,500 square feet in the forest canopy.
 - (6) In any stand, harvesting shall remove not more than 40 percent of the volume of trees in any ten year period. For the purpose of these standards, a stand means a contiguous group of trees, sufficiently uniform in species, arrangement of age classes, and conditions, to be identifiable as a homogeneous and distinguishable unit.
- c. Within one hundred (100) feet, horizontal distance of the normal high water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and within seventy-five (75) feet, horizontal distance, of the normal high water line of other water bodies, tributary streams, or the upland edge of a wetland, there shall be no clearcut openings and a well-distributed stand of trees and other vegetation, including existing ground cover, shall be maintained.

5. Private Sewage Disposal Systems

- a. The Health Officer, Housing Inspector or Plumbing Inspector shall have the right to inspect any system within any Shoreland Overlay District during its construction and operation and shall require the abatement of any defects, improper construction or operation.
- b. Replacement or reconstruction of private residential sewage disposal systems in existence and in use on December 17, 1983 shall be required to comply with the current State Plumbing Code.

F. Clearing of Vegetation for Development

1. Within a shoreland area abutting those water bodies identified on the Shoreland Zoning Map. There shall be no cutting of vegetation within the strip of land extending seventy-five (75) feet, horizontal distance, inland from the normal high water line, except to remove safety hazards.

Elsewhere, the clearing of vegetation shall be limited to that which is necessary for uses expressly authorized in that district.

2. Except in areas as described in Paragraph 1, above, and except to allow for the development of permitted uses, within a strip of land extending one hundred (100) feet, horizontal distance, inland from any water bodies identified on the Shoreland Zoning Map. A buffer strip of vegetation shall be preserved as follows:
 - a. There shall be no cleared opening greater than 250 square feet in the forest canopy as measured from the outer limits of the tree crown. However, a footpath not to exceed then (10) feet in width as measured between tree trunks is permitted provided that a cleared line of sight to the water through the buffer strip is not created. Adjacent to a great pond classified GPA, or stream or river flowing to a great pond classified GPA, the width of the footpath shall be limited to six (6) feet.
 - b. Selective cutting of trees within the buffer strip is permitted provided that a well-distributed stand of trees and other vegetation is maintained. For the purposes of this section a "well-distributed stand of trees and other vegetation" adjacent to a great pond classified GPA or a river or stream flowing to a great pond classified GPA, shall be defined as

maintaining a rating score of 12 or more in any 25-foot by 25-foot square (625 square feet) area as determined by the following rating system:

<u>Diameter of Tree at 4-1/2 feet Above Ground Level (inches)</u>	<u>Points</u>
2 - 4 inches	1
>4 - 12 inches	2
>12 inches	4

Adjacent to other water bodies, tributary streams and wetlands, a "well-distributed stand of trees and other vegetation" is defined as maintaining a minimum rating score of 8 per 25-foot square area.

Note: As an example, adjacent to a great pond, if a 25-foot x 25-foot plot contains three (3) trees between 2 and 4 inches in diameter, three trees between 4 and 12 inches in diameter and three trees over 12 inches in diameter, the rating score is:

$$(3 \times 1) + (3 \times 2) + (3 \times 4) = 21 \text{ points}$$

Thus, the 25-foot x 25-foot plot contains trees worth 21 points. Trees totaling 9 points (21 - 12 = 9) may be removed from the plot provided that no cleared openings are created.

Notwithstanding the above provisions, no more than 40% of the total volume of trees four (4) inches or more in diameter, measured at 4-1/2 feet above ground level may be removed in any ten (10) year period.

- c. In order to protect water quality and wildlife habitat, adjacent to great ponds classified GPA, and streams and rivers which flow to great ponds classified GPA, existing vegetation under three (3) feet in height and other ground cover shall not be removed, except to provide for a footpath or other permitted uses as described in paragraphs 2 and 2a above.
- d. Pruning of tree branches, on the bottom 1/3 of the tree is permitted.
- e. In order to maintain a buffer strip of vegetation, when the removal of storm-damaged, diseased, unsafe, or dead trees results in the creation of cleared openings, these openings shall be replanted with native tree species unless existing new tree growth is present.

The provisions contained in paragraph 2 above shall not apply to those portions of public recreational facilities adjacent to public swimming areas. Cleared areas, however, shall be limited to the minimum area necessary.

3. At distances greater than one hundred (100) feet, horizontal distance, from a great pond classified GPA or a river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high water line of any other water body, tributary stream, or the upland edge of a wetland, except to allow for the development of permitted uses, there shall be permitted on any lot, in any ten (10) year period, selective cutting of not more than forty (40) percent of the volume of trees four (4) inches or more in diameter, measured 4-1/2 feet above ground level. Tree removal in conjunction with the development of permitted uses shall be included in the forty (40) percent calculation. For the purposes of these standards volume may be considered to be equivalent to basal area.

In no event shall cleared openings for development, including but not limited to, principal and accessory structures, driveways and sewage disposal areas, exceed in the aggregate, 25% of the lot area or ten thousand (10,000) square feet, whichever is greater, including land previously developed

4. Cleared openings legally in existence on the effective date of this Ordinance may be maintained, but shall not be enlarged, except as permitted by this Ordinance.
5. Fields which have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions of this section.

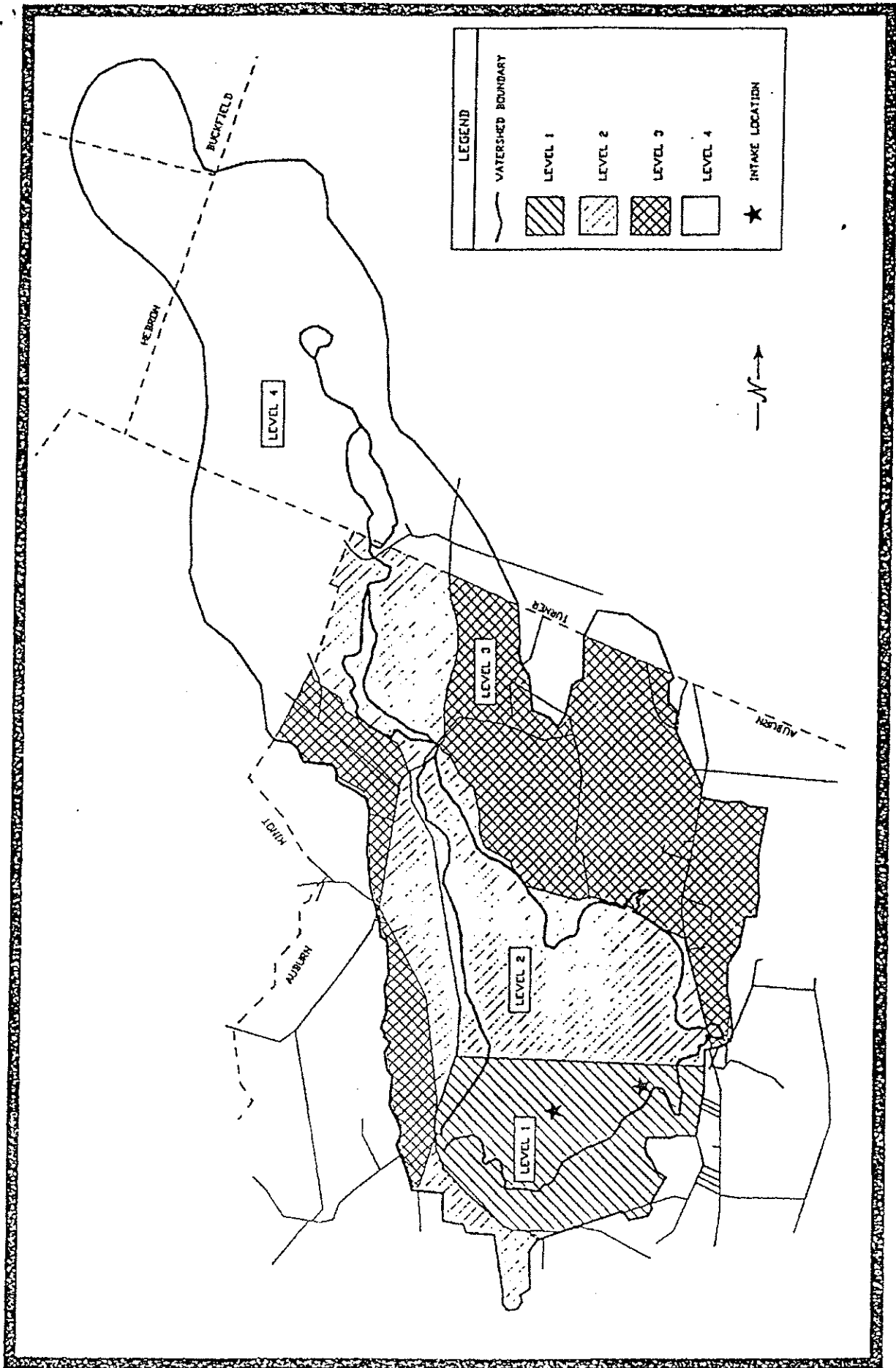
G. Dimensional Regulations

1. Building Setbacks - All new buildings and structures, except those requiring direct access as an operational necessity, shall be constructed not less than one hundred (100) feet inland from the normal high water mark. Operational necessity shall include docks and marinas. Buildings in existence before December 17, 1973 may be replaced if destroyed as defined by Subsection 3.2.E of this Chapter. Lots less than 120 feet deep measured at right angles to the shoreline which were in existence on or before December 17, 1973 shall have a shoreline setback requirement of 50 percent of the lot depth. Non-conforming setbacks from the high water mark may be extended but in no case shall the setback distance be reduced. Nothing in this section shall permit any structure to be constructed in a location where it is not otherwise permitted.

H. 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.

I. The Official Shoreland Zoning Map as adopted, along with these regulations, may be amended for wetland areas.

J. Retroactive



AGREEMENT

Agreement made this 30th day of October, 1989, by and between LEROY A. SENNETT and MARTHA B. SENNETT, both of Auburn, Androscoggin County, Maine, ("Seller"), and AUBURN WATER DISTRICT, a Maine water district of Auburn, Androscoggin County, Maine ("Buyer").

W I T N E S S E T H:

1. PURCHASE AND SALE. Seller agrees to sell and Buyer agrees to buy, on the terms and conditions contained herein:

A parcel of land with any improvements thereon situated in Auburn, Maine, being lots 55 and 56 on the plan of Lake Shore Morrell Farm, Auburn, Maine, described in the warranty deed recorded in Book 974, Page 642. Said conveyance is made subject to a life estate in the grantors in the form of Exhibit A.

2. PURCHASE PRICE. Subject to any adjustments and prorations hereinafter described, Buyer agrees to pay and seller agrees to accept for the Premises the sum of Thirty-three Thousand Dollars (\$40,000) payable as follows:

The sum of Forty Thousand Dollars' (\$40,000) shall be paid to Seller as follows:

(a) \$10,000 at the closing

(b) The balance of \$30,000 by the delivery of Buyer's promissory note payable in principal installments of Ten Thousand Dollars plus interest at the annual rate of 8% on the first, second and third anniversary dates of the Closing.

3. TITLE. Seller shall convey the Premises at the closing to Buyer by warranty deed in fee simple with good and marketable title, free and clear of all liens and encumbrances (except for the life estate) in accordance with the standards adopted by the Maine State Bar Association.

4. CLOSING. The closing shall take place on or before November 15, 1989, at the offices of Skelton, Taintor & Abbott or at a location to be agreed upon by Buyer and Seller. At the closing, Seller shall execute and deliver to Buyer, against payment of the purchase price, a Warranty Deed to the Premises.

5. RISK OF LOSS, DAMAGE AND INSURANCE. All risk of loss to the Premises prior to the closing shall be borne by the Seller. If the Premises are for any reason damaged by fire or other casualty, the Buyer shall have the right either to terminate this Agreement or to close the transaction and receive any insurance proceeds available as a result of the casualty.

6. **DEFAULT AND REMEDIES.** In the event that either party fails to close hereunder for a reason other than the default of the other party, the non-defaulting party shall have all available remedies at law or in equity.

7. **OTHER AGREEMENTS OF THE PARTIES.**

(a) Buyer agrees to pay real estate taxes on the Premises during the life estate of Seller.

(b) Seller agrees to maintain at their own expense hazard and liability insurance on the Premises during the life estate naming the Buyer as an additional insured and Buyer agrees to maintain liability insurance for its own benefit on the Premises during the life estate. Sellers agree to deliver a certificate evidencing said insurance at the Closing.

The agreements set forth in this paragraph 7 shall survive the closing.

8. **CONDITIONS PRECEDENT TO BUYER'S OBLIGATION TO CLOSE.**

The obligations of Buyer to close is subject to the satisfaction at or before the closing of all of the following conditions:

a. The Premises are in the same condition at the time of closing as they are as of the date of this Agreement, normal wear and tear excepted.

b. The title to the real estate is certified to be good and marketable, free and clear of all encumbrances in accordance with the standards adopted by the Maine State Bar Association.

c. The Board of Trustees of the Buyer shall have approved of this transaction.

In the event that any of the foregoing conditions are not satisfied, Buyer shall have the right, but not the obligation, to terminate this Agreement.

9. **ADJUSTMENTS, PRORATIONS AND CLOSING COSTS.**

a. Real estate taxes, and any applicable assessments, shall be prorated as of the closing.

b. Seller and Buyer shall pay their respective share of the Maine Real Estate Transfer Tax in accordance with Maine law.

10. **GENERAL PROVISIONS.** This instrument, executed in duplicate originals and to be construed under the laws of Maine, sets forth the entire agreement of the parties, and may only be amended by written instrument signed by both parties. The use of

the masculine gender shall include the feminine and neuter where appropriate. Time is of the essence of this Agreement. This Agreement is binding upon and inures to the benefit of the parties hereto, their respective heirs, successors and assigns, and may be cancelled, modified or amended only by a writing executed by the parties hereto or their legal representatives. All notices, demands and other communications hereunder shall be in writing and shall be deemed to have been duly given on the date of service if served personally on the party to whom notice is to be given or on the date of mailing. If mailed, all notices are to be sent by first class mail, postage prepaid, addressed as follows:

TO SELLER:

Leroy A. Sennett and
Martha B. Sennett
19 Cottage Road
Auburn, ME 04210

TO BUYER:

Auburn Water District
268 Court Street
Auburn, Maine 04210

Either party may change his address for purposes of this paragraph by giving the other party notice of the new address in the manner described herein. If any provision of this Agreement is determined to be invalid or unenforceable, it shall not affect the validity and enforcement of the remaining provisions hereof.

IN WITNESS WHEREOF, Seller and Buyer have signed and sealed this Agreement as of the date first above written.

WITNESS:

[Signature]

to

all

3

[Signature]
Leroy A. Sennett

[Signature]
Martha B. Sennett

AUBURN WATER DISTRICT

[Signature]
Normand R. Lamie,
Superintendent

NJR/sgl:aubwater.AA5

MAINE SHORT FORM WARRANTY DEED

We, LEROY A. SENNETT and MARTHA B. SENNETT, being married, of Auburn in the County of Androscoggin and State of Maine, for consideration paid, grant to AUBURN WATER DISTRICT, a Maine water district of Auburn in the County of Androscoggin and State of Maine, with WARRANTY COVENANTS, two certain lots or parcels of land with any buildings thereon situated in Auburn, in the County of Androscoggin and State of Maine, and all rights appurtenant thereto as more particularly described in the attached Exhibit A, which is a copy of the first page of the deed of Leroy A. Sennett and Martha B. Sennett, dated June 7, 1967, and recorded in the Androscoggin County Registry of Deeds in Book 974, Page 642.

Grantors hereby reserve for themselves for their respective natural lives, unless earlier terminated as provided herein, the right to use and occupy all of the premises hereby conveyed as their personal residence. The life estate reserved hereby is not assignable in whole or in part.

This life estate shall terminate when both of the grantors shall have died or when neither of the grantors continue personally to occupy the premises for a continuous period of six months, excepting from the period any temporary absences for sickness or vacation. An affidavit, recorded in this Registry of Deeds, made by the grantee, its successors or assigns, stating that the period of vacancy has occurred, incorporating therein proof of delivery of notice of the statement of vacancy to the grantors, shall be conclusive proof of the termination of the estate, unless the grantors file an affidavit refuting the claim of vacancy with said Registry within fourteen (14) days that notice was delivered to them or either of them.

The grantors agree to maintain the premises in as good condition as they presently exist at their own expense, and shall remove no wood, timber or other products of the land except with the permission of the grantee.

In accepting this deed, grantee agrees to pay real estate taxes on the premises during the term of the life estate reserved hereby.

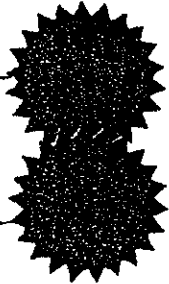
WITNESS our hands and seals this 30 day of October, 1989.

[Handwritten Signature]

Leroy A. Sennett
Leroy A. Sennett

to John

Martha B. Sennett
Martha B. Sennett



STATE OF MAINE
ANDROSCOGGIN, SS.

30 The foregoing instrument was acknowledged before me this day of October, 1989, by Leroy A. Sennett

[Handwritten Signature]
~~Notary Public/Attorney-at-Law~~

Norman J. Ratteny
Type or print name

NJR/sgl:aubwater.AA6

APPENDIX D

SAMPLE CONSERVATION EASEMENT

The preamble of the Surface Water Treatment Rule states that "The water system must demonstrate through ownership or written agreements with land owners in the watershed, or a combination of both, that it controls all human activities that may have an adverse effect on the microbiological quality of the source water" (FR27507).

The Rule states, in Criteria for Avoiding Filtration, Section 141.71, b.(2) "The public water supplier must maintain a watershed control program that minimizes the potential for contamination by Giardia lamblia cysts and viruses in the source water. The state must determine whether the watershed control program is adequate to meet this goal.

The adequacy of a program to limit potential contamination by Giardia and viruses must be based on the comprehensiveness of the watershed review; the effectiveness of the water system's program to control detrimental activities occurring in the watershed; the extent to which a water system has maximized land ownership and/or controlled land use within the watershed."

The rule goes on to state that "The public water system must demonstrate through ownership and/or written agreements with land owners within the watershed that it can control all human activities which may have an adverse impact on the microbiological quality of the source water." However, the Surface Water Treatment Rule does not give any more specific direction as to what written agreements must contain.

The Final Guidance Manual released October, 1989 states that "Limiting human activity in the watershed may reduce the transmission of pathogens by wildlife. Preventing animal activity near the source water intake prior to disinfection may also reduce the likelihood of pathogen occurrence at the intake" (Section 3.3.1 Watershed Control Program, page 3-36).

The Guidance also describes "activities detrimental to water quality as being point sources (e.g. septic systems, other wastewaters, barnyards, feedlots), and non-point sources (e.g. road construction and use, pesticide use, logging, grazing animals, discharges to groundwater, recreation activities, and unauthorized activities).

It suggests that grazing and sewage discharges only be allowed where there is ". . . a long detention time and a high degree of dilution between the point of activity and the water intake." Since this is not the case in near shoreline areas, it appears these should not be allowed.

The Final Guidance states under Agreements/Land Ownership, item 2. "Where ownership of land is not possible, written agreements should be obtained recognizing the watershed as part of a public water supply. Maximum flexibility should be given to the utility to control land uses which could have adverse effect on the water quality. Describe such agreements." Item 3. states "Describe how the utility ensures that the landowner complies with these agreements."

1. Any activities that may have an adverse effect on the quality of Lake Auburn, or on surface or groundwaters discharging to Lake Auburn or its tributaries, shall be prohibited.
2. The site shall be retained in a natural state without construction including development of any kind, clearcutting of timber, roadway construction, or excavation for gravel mining or other, except as provided for in item 3. No storage or use of any wastes, including animal manure, shall be allowed. No storage or use of any chemicals or petroleum products shall be allowed.
3. The Auburn Water District shall have the authority to enter the property to locate, survey, construct, inspect and maintain infiltration trenches, sedimentation basins or catchments, or other structures or excavations designed to control site runoff and prevent water quality impacts on Lake Auburn or its tributaries. The Auburn Water District shall also have the authority to enter the property and remedy any situation or circumstance that might have a detrimental effect on water quality.
4. Any abandoned cesspools, septic system, or other waste area shall be removed and backfilled to prevent water quality impacts.
5. Any wastes, chemicals, or other materials that might be detrimental to water quality shall be removed from the property.
6. No clearcutting or other large scale timber removal shall be allowed on the property. Any cutting or removal of timber or forestry products from the property shall be done in accordance with a Forestry Management Plan which must be approved in advance of the work by the Auburn Water District. The Forest Management Plan shall specify the reasons for timber removal, the timber to be removed, method and route of access, equipment to be used, erosion control measures, and ensuring cleanup of the work area. No roadway construction for heavy equipment shall be allowed. All such work must be done with the knowledge and approval of the District. The District shall also have the right to inspect any such work and may require that corrective measures be taken by the owner.

7. No recreation shall be allowed except passive activities such as hiking, birdwatching, aesthetic enjoyment, and picnicking. Recreational activities not allowed include but are not limited to any water contact sports on Lake Auburn or near the shoreline; dirtbike or ATV riding or other similar activities; horseback riding; and any other recreational activity that may have adverse effects on water quality by themselves or by encouraging human use of the property.
8. No livestock grazing or other domestic animal use shall be allowed.

