



**City Council Workshop & Meeting
Agenda
September 3, 2024
Auburn Hall, Council Chambers**

5:30 PM Workshop

- Review of Updates to Chapter 12 Article IV. Property Maintenance and Housing Code
- Blasting Ordinance Review
- Washington Street Safety Measure Options

7:00 PM Meeting

Pledge of Allegiance & Roll Call - *Roll call votes will begin with Councilor Gerry*

- 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 so requests, in which event, the item will be removed from the Consent Agenda and considered in its normal sequence on the agenda. Passage of items on the Consent Calendar require majority vote.*

1. ORDER 107-09032024* – Confirming Chief Moen’s appointments of Constable without firearms/arrest powers for the Auburn Police Department and Constable with firearm/arrest powers within the City of Auburn.

- II. **Minutes** – August 19, 2024 Regular Council Meeting

- III. **Communications, Presentations and Recognitions**

- Proclamation recognizing International Paper on their 50th anniversary
- Presentation regarding recent tax bills

- 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 108-09032024** – Initiating Planning Board review of proposed zoning amendments to the Lake Auburn Watershed Overlay District related to Agriculture and Forestry. *Passage requires majority vote.*
2. **ORDER 109-09032024** – Authorizing the City Manager to execute a lease of City owned Property to Auburn Riverwalk, LLC. *Passage requires majority vote.*

VII. Reports

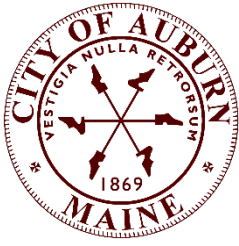
- a. Mayor's Report
- b. City Councilors' Reports
- c. Student Representative Report
- d. City Manager Report

VIII. 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.*

IX. Executive Session – *Requires 3/5 majority vote to enter executive session.*

1. Executive Session pursuant to 1 M.R.S.A. Section 405(6) (C) for an economic development matter. *No action to follow.*
2. Executive Session pursuant to 1 M.R.S.A. Section 405(6) (A) for City Manager's Annual Evaluation. *Possible action to follow.*

X. Adjournment



**City of Auburn
City Council Information Sheet**

Council Workshop or Meeting Date: September 3, 2024

Author: Kris Beaudoin, Code Compliance Team Leader

Subject: Chapter 12 Article IV.- Housing Code, ordinance update

Information: Updates to Chapter 12 Article IV. Housing Code to clarify it's applicability to all building types and address challenges with vacant buildings. The proposed amendments include the addition of a definition for vacant buildings, requirements specific to vacant buildings, and the addition of language in Division 2 expanding inspection areas to vacant buildings and structures utilized for the purpose of conducting business. The proposed changes to the ordinance will clarify the applicability of standards to vacant and non-residential buildings and expand the enforcement ability of staff on vacant buildings.

City Budgetary Impacts: None-easier enforcement

Staff Recommended Action: Consider the recommended text changes and direct staff to schedule it for initiation at an upcoming council meeting. If initiated by the Council, it would return to the Council for the mandatory two readings with one as a public hearing.

Previous Meetings and History: None

City Manager Comments:

Signature: *Phillip Crowell Jr.*

Attachments: Draft Chapter 12 Article IV. document outlining changes.

ARTICLE IV. PROPERTY MAINTENANCE AND HOUSING CODE

DIVISION 1. GENERALLY

Sec. 12-145. Purpose.

The purpose of this article is to establish minimum standards for all ~~dwelling buildings~~ and ~~property~~ incident thereto in the city to ~~insure~~ ensure safety, health, and public welfare through the proper construction, maintenance, and use thereof.

(Code 1967, § 20-A(1.1); Ord. of 3-26-1990; Ord. No. 02-04012013, att. B, 4-16-2013)

Sec. 12-146. Definitions and rules of construction.

- (a) The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Basement means that portion of a building below the first floor joists having at least one-half of its clear ceiling height above the main level of the adjacent ground.

Chief of police means the legally designated head of the police department of the city or his authorized representative.

Dwelling or dwelling unit means a building or portion thereof arranged or designed to provide living facilities for one or more families.

Dwelling unit means a room or group of rooms located within a building and forming a single habitable unit, physically separated from any other rooms or dwelling units which may be in the same structure, with facilities which are used or intended to be used for independent living, sleeping, cooking and eating purposes. Dwelling units available for rental or occupancy for periods of less than one week shall be considered boarding/lodging units.

Extermination means the control and elimination of insects, rodents, or other pests by eliminating their harborage places; by removing or making inaccessible materials that may serve as their food; by poisoning, spraying, fumigating, trapping; or by any other recognized and legal pest elimination methods approved by the health officer.

Fire chief means the legally designated head of the fire department of the city or his authorized representative.

Garbage means the animal and vegetable waste resulting from the handling, preparation, cooking, and consumption of food.

Habitable room means a room or enclosed floor space used or intended to be used for living, sleeping, cooking or eating purposes excluding bathrooms, water closet compartments, laundries, pantries, game rooms, foyers or communicating corridors and permanent built-in closets and storage spaces.

Health officer means the legally designated health authority of the city or his authorized representative.

Infestation means the presence or evidence of the presence within or around a dwelling, of any insects, rodents, or other pests.

Manufactured housing means a structural unit or units designed for occupancy, and constructed in a manufacturing facility and then transported by the use of its own chassis, or placed on an independent chassis, to a building site, the term includes any type of building which is constructed at a manufacturing facility and then transported to a building site where it is utilized for housing and may be purchased or sold by a dealer in the interim. Manufactured housing shall include newer mobile homes and modular homes as defined in city zoning regulations.

Mobile homes, older, means any factory-built home that fails to meet the definition of manufactured housing and more specifically, any mobile home constructed prior to June 15, 1976. These units shall be restrict to location in approved mobile home parks.

Mobile home park means a parcel of land under single ownership in rural residence, suburban residence and cluster development districts that has been planned and improved for the placement of not less than three mobile homes for non-transient use.

Multiple dwelling means any dwelling containing more than three dwelling units.

Occupant means any person over one year of age, living, sleeping, cooking, or eating in, or having actual possession of, a dwelling unit or rooming unit.

Operator means any person, who has charge, care or control of a building or part thereof, in which dwelling units or rooming units are rented or let or of an area where spaces are rented or let for mobile homes.

Owner means any person who, alone or jointly or severally with others, has legal title to any dwelling or dwelling unit, with or without accompanying actual possession thereof, or has charge, care or control of any dwelling or dwelling unit, as owner or agent of the owner, or an executor, executrix, administrator, administratrix, trustee, or guardian of the estate of owner. Any such person thus representing the actual owner shall be bound to comply with the provisions of this chapter to the same extent as if he were the owner.

Paint stabilization means repairing any physical defect in the substrate of a painted surface that is causing paint deterioration, removing loose paint and other material from the surface to be treated, and applying a new protective coating or paint to the affected areas.

Plumbing means all of the following supplied facilities and equipment: gas pipes, gas-burning equipment, water pipes, garbage disposal units, waste pipes, water closets, sinks, installed dishwasher, lavatories, bathtubs, shower baths, installed clothes washing machines, catch basins, drains, vents , and any other similar supplied fixtures, together with all connections to water, sewer or gas lines.

Rooming house means any dwelling, or that part of any dwelling, containing one or more rooming units, in which space is let by the owner or operator to four or more persons who are not husband or wife, son or daughter, mother or father, or sister or brother of the owner or operator.

Rooming unit means any room or group of rooms forming a single habitable unit used or intended to be used for living, and sleeping, but not for cooking or eating purposes.

Rubbish means combustible and non-combustible waste materials except garbage, including, without limitation, residue from the burning of wood, coal, coke, or other combustible material, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery, dust and others.

Structural elements means all of the following components of a structure, including but not limited to: foundation, framing, sheathing, siding, roofing material, windows, doors, trim, eaves, porches, stairs, railings, guards; and interior surfaces such as sheetrock, plaster, ceiling tiles, countertops, and floors.

Summer camps means seasonal dwelling units intended for and actually used for single-family dwellings only during the months of May, June, July, August, September and October or weekends or other periods of vacations but not to exceed 30 days.

Supplied means paid for, furnished, installed or provided by or under the control of the owner or operator.

Temporary housing means any tent, trailer, or other structure used for human shelter that is designed to be transportable and which is not attached to the ground, to another structure, or to any utilities system on the same premises for more than 30 consecutive days.

Vacant building means any building that is unoccupied, unattended, and is not actively used as a place of residence or business or is frequently open or unsecured so that unauthorized entrance may be gained.

(b) Whenever the words "dwelling," "dwelling unit," "lodging house," "rooming unit," or "premises" are used in this article, they shall be construed as though they were followed by the words "or any part thereof."

(Code 1967, § 20-A(art. V); Ord. of 3-26-1990; Ord. No. 02-04012013, att. B, 4-16-2013; Ord. No. 02-02222016, 3-7-2016; Ord. No. 10-11022020, 11-16-2020)

Sec. 12-147. Compliance required.

- (a) No dwelling or dwelling unit shall be deemed to conform with the requirements of this article until it meets all of the minimum standards of this article as specified herein.
- (b) It is unlawful to construct, alter, maintain, occupy, let for occupancy, or use a building or structure, or part thereof, in violation of the provisions of this article.

(Code 1967, §§ 20-A(1.2), 20A(1.3); Ord. of 3-26-1990; Ord. No. 02-04012013, att. B, 4-16-2013)

Sec. 12-148. Validity of other laws.

Nothing in this article shall be construed to prevent the enforcement of other laws that prescribe more restrictive limitations.

(Code 1967, § 20-A(1.4); Ord. of 3-26-1990; Ord. No. 02-04012013, att. B, 4-16-2013)

Sec. 12-149. Exceptions permitted.

In seasonal dwellings, mobile homes, buildings erected prior to the original adoption of this article, or in agriculture and resource protection district as defined by the zoning provisions of the city, or in areas where public water or sewerage systems are not available, the code compliance officer shall upon application grant an exception for the use of buildings for dwelling purposes that do not meet the minimum standards set forth in this article when he determines that:

- (1) It is not feasible or practicable to comply with such minimum standards;
- (2) The safety, health, or general welfare of the occupants and the public will not be adversely affected; and

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- (3) The effect of the granting of the exception will not adversely affect adequate light, air, overcrowding, of persons or property, the provision for public utilities, the character of the neighborhood, or traffic conditions as applied to the welfare of the occupants or the general public.

(Code 1967, § 20-A(1.6); Ord Ord. of 3-26-1990; Ord. No. 02-04012013, att. B, 4-16-2013; Ord. No. 02-02222016, 3-7-2016)

Sec. 12-150. Procedure for granting exceptions.

- (a) The code compliance officer shall issue such exception in writing setting forth the date of granting, the reasons for granting the same, the date it shall expire, and the location of the premises.
- (b) No such exceptions shall be granted for a period of more than five years. Any exception may be renewed one or more times, upon application to the board of appeals. Each renewal shall not exceed additional periods of five years for such renewal. Each renewal shall contain the requirements of the original exception and in addition thereto the date of issuance of the original exception and the statement that it is a renewal.

(Code 1967, § 20-A(1.7); Ord Ord. of 3-26-1990; Ord. No. 02-04012013, att. B, 4-16-2013; Ord. No. 02-02222016, 3-7-2016)

Secs. 12-151—12-169. Reserved.

DIVISION 2. INSPECTIONS

Sec. 12-170. Authority of code compliance officer.

The code compliance officer is hereby authorized to make inspections to determine the condition of vacant buildings, structures used for the purpose of conducting business, dwellings, dwelling units, rooming houses, rooming units and premises located within this city in order that ~~he the code compliance officer~~ may perform ~~his~~ their duties of safeguarding the health and safety of the occupants of dwellings and of the general public.

(Code 1967, § 20-A(2.1); Ord. of 3-26-1990; Ord. No. 02-04012013, att. B, 4-16-2013; Ord. No. 02-02222016, 3-7-2016)

Sec. 12-171. Right of entry for inspection.

For the purpose of making such inspections, the code compliance officer is hereby authorized to enter, examine, and survey any or all vacant buildings, buildings and structures used for the purpose of conducting business, dwelling units, rooming houses, rooming units, and premises at any mutually agreeable time but in any case within 20 days of notice to the owners or occupant of the intention to make such an inspection.

(Code 1967, § 20-A(2.2); Ord. of 3-26-1990; Ord. No. 02-04012013, att. B, 4-16-2013; Ord. No. 02-02222016, 3-7-2016)

Sec. 12-172. Owner and occupant to give free access.

- (a) *Access of code compliance officer.* The owner and occupant of every dwelling, dwelling unit, lodging house and rooming unit or the person in charge thereof, shall give the code compliance officer free access to such dwellings, dwelling unit, lodging house or rooming unit and premises at any mutually agreeable time for the

purpose of such inspection, examination, or survey, but in any case within 20 days of notice to the owner or occupant of the intention to make such an inspection, examination, or survey.

- (b) *Access of owner.* Every occupant of a dwelling, dwelling unit, lodging house and rooming unit shall give the owner, and his agent or employee, access at all reasonable times to any part of the dwelling, dwelling unit, lodging house, rooming unit or premises for the purpose of compliance with the provisions of this article or any lawful order issued pursuant to this article.

(Code 1967, §§ 20-A(2.3), 20-A(2.4); Ord. of 3-26-1990; Ord. No. 02-04012013, att. B, 4-16-2013; Ord. No. 02-02222016, 3-7-2016)

Secs. 12-173—12-194. Reserved.

DIVISION 3. ENFORCEMENT

Sec. 12-195. Procedure generally.

- (a) If the code compliance officer determines that there are reasonable grounds to believe that there has been a violation of any provisions of this chapter, he shall initiate enforcement proceedings in accordance with the citation system established in this Code. Alternatively, he may initiate a land use complaint pursuant to state law, in which case the penalties therein provided shall apply.
- (b) Any notice issued pursuant to this article shall:
- (1) Be in writing;
 - (2) Include a statement of the reasons why it is being issued;
 - (3) Set a reasonable time for the performance of any act it requires;
 - (4) Be served upon the owner or his agent, or the occupant, as the case may require; provided, however, that:
 - a. Complaints under this article be deemed properly served upon such owner or agent or upon such occupant if a copy thereof is served upon him personally or by leaving a copy thereof at his dwelling house or usual place of abode with some person of suitable age and discretion then residing therein; or
 - b. If a copy thereof is sent by registered or certified mail to his last known address or the address as shown on the records in the tax assessor's office of the city of auburn; and
 - c. If service is made personally or by leaving at his dwelling house or usual place of abode a statement signed by the person so serving stating the date of service shall be filed in the office of planning and development.
 - (5) May contain an outline of remedial action that, if taken, will effect compliance with the provision of this article.
- (c) After service of such notice, the owner or occupant to whom it is directed shall correct the condition constituting the violation within the time specified and promptly give notice to the code compliance officer that such corrective action has been taken.

(Code 1967, § 20-A(3.1); Ord. of 3-26-1990; Ord. No. 02-04012013, att. B, 4-16-2013; Ord. No. 02-02222016, 3-7-2016)

Sec. 12-196. Method of petitioning for hearing.

- (a) Any person affected by any notice issued in connection with the enforcement of any provision of this article, may request and shall be granted a hearing on the matter before the board of appeals; provided that such person shall file in the office of the board of appeals a written petition requesting such hearing and setting forth a brief statement of the grounds therefor within ten days after the day the notice was served.
- (b) Upon receipt of such petition, the board of appeals shall set a time and place for such hearing and shall give the petitioner notice thereof in person or by mail.
- (c) At such hearing, the board of appeals shall take evidence to determine whether such notice should be sustained, modified, or withdrawn.
- (d) The hearing shall be commenced not later than 30 days after the day on which the petition was filed; provided that upon application of the petitioner the board of appeals may postpone the date of the hearing for a reasonable time beyond such 30 day period, if in its judgment the petitioner has submitted a good and sufficient reason for such postponement.

(Code 1967, § 20-A(3.2); Ord. of 3-26-1990; Ord. No. 02-04012013, att. B, 4-16-2013)

Sec. 12-197. Power of board of appeals to alter notice.

After such hearing, the board of appeals shall sustain, modify, or withdraw the notice, depending upon its findings as to the compliance with the provisions of this chapter. If the board of appeals sustains or modifies such notice, it shall be deemed to be an order. Any notice served pursuant to this article shall automatically become an order if a written petition for a hearing is not filed in the office of the board of appeals within ten days after such notice is served. There shall be an appeal from the board of appeals to the superior court in the manner provided by state law.

(Code 1967, § 20-A(3.3); Ord. of 3-26-1990; Ord. No. 02-04012013, att. B, 4-16-2013)

Sec. 12-198. Recording of public hearing.

The proceedings at such hearing, including the findings and decision of the board of appeals, shall be summarized, reduced to writing, and entered as a matter of public record in the office of the board of appeals. Such record shall also include a copy of every notice or order issued in connection with the matter.

(Code 1967, § 20-A(3.4); Ord. of 3-26-1990; Ord. No. 02-04012013, att. B, 4-16-2013)

Sec. 12-199. Notice of intent to sell, transfer or rent property subject to order.

- (a) *When required.* Any person who proposes to sell, transfer or otherwise dispose of lease or sublet any dwelling unit, lodging house, rooming unit, or other premises against which there is any existing lawful order of the code compliance officer, the board of appeals or any court of competent jurisdiction shall furnish the proposed grantee or transferee a true copy of such order and shall notify the office of planning and development in writing of the intent to so sell, transfer, or otherwise dispose of lease or sublet in writing giving the name and address of the person to whom such transfer is proposed within three days of the proposed transfer.
- (b) *Penalty.* Any person who violates the terms of this section shall be in violation of this chapter and shall be subject to a penalty or fine of not less than \$50 and not more than \$100 to be enforced by complaint in a court of competent jurisdiction.

(Code 1967, § 20-A(3.5); Ord. of 3-26-1990; Ord. No. 02-04012013, att. B, 4-16-2013; Ord. No. 02-02222016, 3-7-2016)

Sec. 12-200. Placarding of buildings unfit for human habitation.

- (a) *Authority of code compliance officer.* If the person so affected fails to appeal to the board of appeals or if after an appeal, the board of appeals sustains the decision of the code compliance officer, the dwelling, dwelling unit, lodging house, or rooming unit so affected may be declared unfit for human habitation and placarded by the code compliance officer.
- (b) *Procedure.* To placard, the code compliance officer shall issue to the occupants and the owner or operator a written notice to vacate the premises within such time as the code compliance officer may deem reasonable, but not less than seven days, and a placard prohibiting continued occupancy or re-occupancy may be conspicuously posted on the premises, and a copy of such notice may be filed with the police department.
- (c) *Use of placarded buildings prohibited.* No dwelling or dwelling units, lodging house, or rooming unit which has been placarded as unfit for human habitation shall again be used for human habitation until written approval is secured from, and such placard is removed by, the code compliance officer. The code compliance officer shall remove such placard whenever the defect or defects upon which the placarding action is based have been eliminated.
- (d) *Defacement and removal of placard prohibited.* No person shall deface or remove the placard from any dwelling or dwelling unit, lodging house or rooming unit, which has been declared unfit for human habitation and placarded as such.

(Code 1967, § 20-A(3.6); Ord. of 3-26-1990; Ord. No. 02-04012013, att. B, 4-16-2013; Ord. No. 02-02222016, 3-7-2016)

Sec. 12-201. Order to vacate dangerous premises.

In instances where the health officer, fire chief, and chief of police, or their duly qualified deputies, determine in writing that extreme danger or menace to the occupants or the public health exists, the code compliance officer, health officer, fire chief, and chief of police, or their duly qualified deputies may order immediate correction to be made or, if the circumstances warrant, may order that the occupants vacate the premises as provided in this article.

(Code 1967, § 20-A(3.7); Ord. of 3-26-1990; Ord. No. 02-04012013, att. B, 4-16-2013; Ord. No. 02-02222016, 3-7-2016)

Secs. 12-202—12-224. Reserved.

DIVISION 4. MINIMUM STANDARDS

Sec. 12-225. Compliance with city codes and state law required.

All structures and structural elements of buildings and the construction, use and occupancy thereof shall be in accordance with the requirements of this Code, including the building and technical codes adopted by the city, and with state law and regulations.

(Code 1967, §§ 20-A(6.1), 20-A(12.1); Ord. of 3-26-1990; Ord. No. 02-04012013, att. B, 4-16-2013)

Sec. 12-226. Maintenance.

- (a) All structures and structural elements shall be maintained structurally sound, in good repair, hazard free and suitable for the intended use.
- (b) All painted exterior surface areas of pre 1978 properties must be maintained in a manner to not cause a public nuisance or affect the health and safety of the occupants of the property where the condition exists or of surrounding properties. Paint stabilization must occur if the potential for such a condition exists.

(Code 1967, § 20-A(6.2); Ord. of 3-26-1990; Ord. No. 02-04012013, att. B, 4-16-2013; Ord. No. 10-11022020, 11-16-2020)

Sec. 12-227. Plumbing.

Every dwelling unit shall contain a kitchen sink and a bathtub or shower. In addition, every dwelling unit shall contain, within a room which affords privacy, a flush water closet and a lavatory basin. All plumbing facilities required by this Code shall be in accordance with the requirements of the plumbing code adopted by the city as of date of installation and maintained in good sanitary working condition; water-related plumbing facilities required by this Code shall be connected to adequate supply of water.

(Code 1967, § 20-A(art. 7); Ord. of 3-26-1990; Ord. No. 02-04012013, att. B, 4-16-2013; Ord. No. 02-02222016, 3-7-2016)

Sec. 12-228. Heating and ventilation.

- (a) *Maintenance.* All heating and ventilating facilities shall be maintained in safe operating condition for use without danger of asphyxiation or of overheating combustible material.
- (b) *Requirements when central heating plant not available.* When heat is not furnished by a central heating plant, each dwelling unit or rooming unit shall be provided with one or more masonry flues and smoke or vent pipe connections, or equal arrangement, in accordance with the provisions of the basic building code to permit the use of heating equipment capable of providing heat as required by this section.
- (c) *Heating facilities required in rented or leased premises.* Every habitable room, let for occupancy, shall be served by heating facilities capable of providing a minimum temperature of at least 68 degrees Fahrenheit, at a distance of three feet from the exterior walls, five feet above floor level, as required by prevailing weather conditions. In addition, the heating facilities must be operated to protect the building equipment and systems from freezing.
- (d) *Window specifications.* Every habitable room shall have a window or windows with a total sash area equal to at least eight percent of its floor area opening on a street, alley, yard, or court open to the sky and constructed and maintained so that at least one-half of the sash area can be opened, except that an approved method of mechanical ventilation may be substituted for such window or windows

(Code 1967, § 20-A(art. 8); Ord. of 3-26-1990; Ord. No. 02-04012013, att. B, 4-16-2013; Ord. No. 02-02222016, 3-7-2016)

Sec. 12-229. Electrical and lighting.

All lighting and other electrical facilities shall be in accordance with the requirements of the electrical code adopted by the city and shall be maintained in good, safe and suitable electrical order.

(Code 1967, §§ 20-A(9.1), 20-A(9.2); Ord. of 3-26-1990; Ord. No. 02-04012013, att. B, 4-16-2013)

Sec. 12-230. Passageways, stairways and exits.

- (a) *Exits.* Every dwelling unit and every rooming unit shall have safe, continuous and unobstructed means of egress leading from the interior of the building to safe and open spaces at ground level in accordance with applicable statutes and ordinances.
- (b) *Lighting.* Every passageway and stairway shall have at least one ceiling-type or wall-type electric light fixture adequate to provide safe passage.
- (c) *Obstructions.* Every hallway, stairway, corridor, exit, fire escape door or other means of egress shall be kept clear of obstructions at all times.

(Code 1967, §§ 20-A(9.3), 20-A(12.3), 20-A(12.4); Ord. of 3-26-1990; Ord. No. 02-04012013, att. B, 4-16-2013)

Sec. 12-231. Garbage and rubbish.

- (a) *Method of disposal.* Every responsible occupant of a dwelling or dwelling unit shall dispose of all his garbage and rubbish in a clean and sanitary manner. Every owner of rental property shall provide his tenants with suitable waste containers as required by city ordinance.
- (b) *Accumulations prohibited.* Every dwelling shall be clean and free from garbage or rubbish. When a dwelling or dwelling unit is not reasonably clean or free from garbage or rubbish, the code compliance officer may cause the responsible person to put the dwelling or dwelling unit in a clean and sanitary condition.

(Code 1967, § 20-A(10.1); Ord. of 3-26-1990; Ord. No. 02-04012013, att. B, 4-16-2013; Ord. No. 02-02222016, 3-7-2016)

Sec. 12-232. Insect and rodent control.

- (a) *Owner responsible for extermination in multiple dwellings.* If infestation exists in two or more of the dwelling units in any dwelling, or in the shared or public parts of any dwelling containing two or more dwelling units, extermination thereof shall be the responsibility of the owner.
- (b) *Occupant responsible for extermination.* Every occupant of a dwelling containing a single dwelling unit shall be responsible for the extermination of any insects, rodents, or other pests therein or on the premises.

(Code 1967, § 20-A(10.2); Ord. of 3-26-1990; Ord. No. 02-04012013, att. B, 4-16-2013)

Sec. 12-233. Space and occupancy.

- (a) *Floor space requirements.* The total area of every dwelling unit shall contain at least 250 square feet of floor area, with an additional 125 square feet for each occupant over two.
- (b) *Ceiling height.* At least one half of the floor area of every habitable room shall have a room ceiling height of at least 7 feet; and the floor area of that part of any room where the ceiling height is less than five feet shall not be considered as part of the floor area in computing the total floor area of the room for the purpose of determining the maximum permissible occupancy thereof.
- (c) *Use of basement.* No basement space shall be used as a habitable room or dwelling unit unless it conforms to the minimum requirements of this article.

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(Supp. No. 29)

(Code 1967, § 20-A(art. 11); Ord. of 3-26-1990; Ord. No. 02-04012013, att. B, 4-16-2013)

Sec. 12-234. Dwelling occupancies prohibited adjacent to hazardous establishments.

No dwelling unit or rooming unit shall be located within a building containing any establishment handling, dispensing or storing flammable liquids or producing toxic gases or vapors in any quantity that may endanger the lives or safety of the occupants.

(Code 1967, § 20-A(12.2); Ord. of 3-26-1990; Ord. No. 02-04012013, att. B, 4-16-2013)

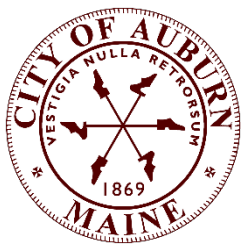
Sec. 12-235. Vacant Buildings.

~~(a)~~ All vacant buildings shall be weather- protected from the elements to prevent deterioration of the interior and exterior of the building.

(b) All vacant buildings shall be secured to prevent rodent infestation and entry by unauthorized individuals.

(c) Sprinkler systems located in vacant buildings must be maintained and remain operational unless a removal request is approved in writing by the Authority Having Jurisdiction (AHJ).

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**City of Auburn
City Council Information Sheet**

Council Workshop or Meeting Date: September 3, 2024

Author: Robert Chase, Fire Chief

Subject: Blasting Ordinance Review

Information:

There is currently no ordinance regulating blasting operations in the City of Auburn. The Fire Department does require a blasting permit to ensure blasting is conducted by licensed professionals who have liability insurance and who have also conducted a “dig safe” survey of the blast site.

This draft ordinance would establish a new, more complete and robust permitting process, administered by the Planning and Permitting department:

- Permits would be required for all blasting
 - Requires notifications to properties within 500-900 feet of the blast site (based on size of blast)
 - Certified mail 10-14 days prior to initiating blasting
 - Require pre-blast surveys by a third party, offered to all properties within 100-300 feet (based on size of blast)
 - Require 24-hour notice prior to blast, to all property owners within 300 feet (2000 feet for quarries) as well as notification to the 911 dispatch center
 - Require well water testing within a defined perimeter (based on size of blast)
 - Require seismological measurements of all blast with ground performance standards based on NFPA 495 “Explosive Materials Code”
-

City Budgetary Impacts: N/A

Staff Recommended Action: No action recommended at this time. Requesting further guidance on ordinance development

Previous Meetings and History: N/A

City Manager Comments:

I concur with the recommendation. Signature: 

Attachments:

Draft Ordinance

NFPA 495 Chapter 11: Ground Vibration, Air Overpressure, Flyrock, and Gases

Ground Vibration, Air Overpressure, Flyrock, and Gases

11.1* Basic Requirements.

11.1.1*

This chapter shall apply to buildings and other structures.

11.1.2

This chapter shall not apply to buildings or other structures owned, leased, or contracted by the blasting company or on property for which the owner has provided a written waiver to the blasting company.

11.1.3*

Blasting seismographs used to monitor ground vibrations and air overpressure shall comply with the ISEE document, "Performance Specifications for Blasting Seismographs."

11.1.4*

Where used, blasting seismographs shall be deployed in the field according to the ISEE document, "Field Practice Guidelines for Blasting Seismographs."

11.2* Ground Vibration.

11.2.1

At all blasting operations, the ground vibration on any axis (particle velocity) shall not exceed the limitations specified in **Figure 11.2.1** at the location of any building or structure.

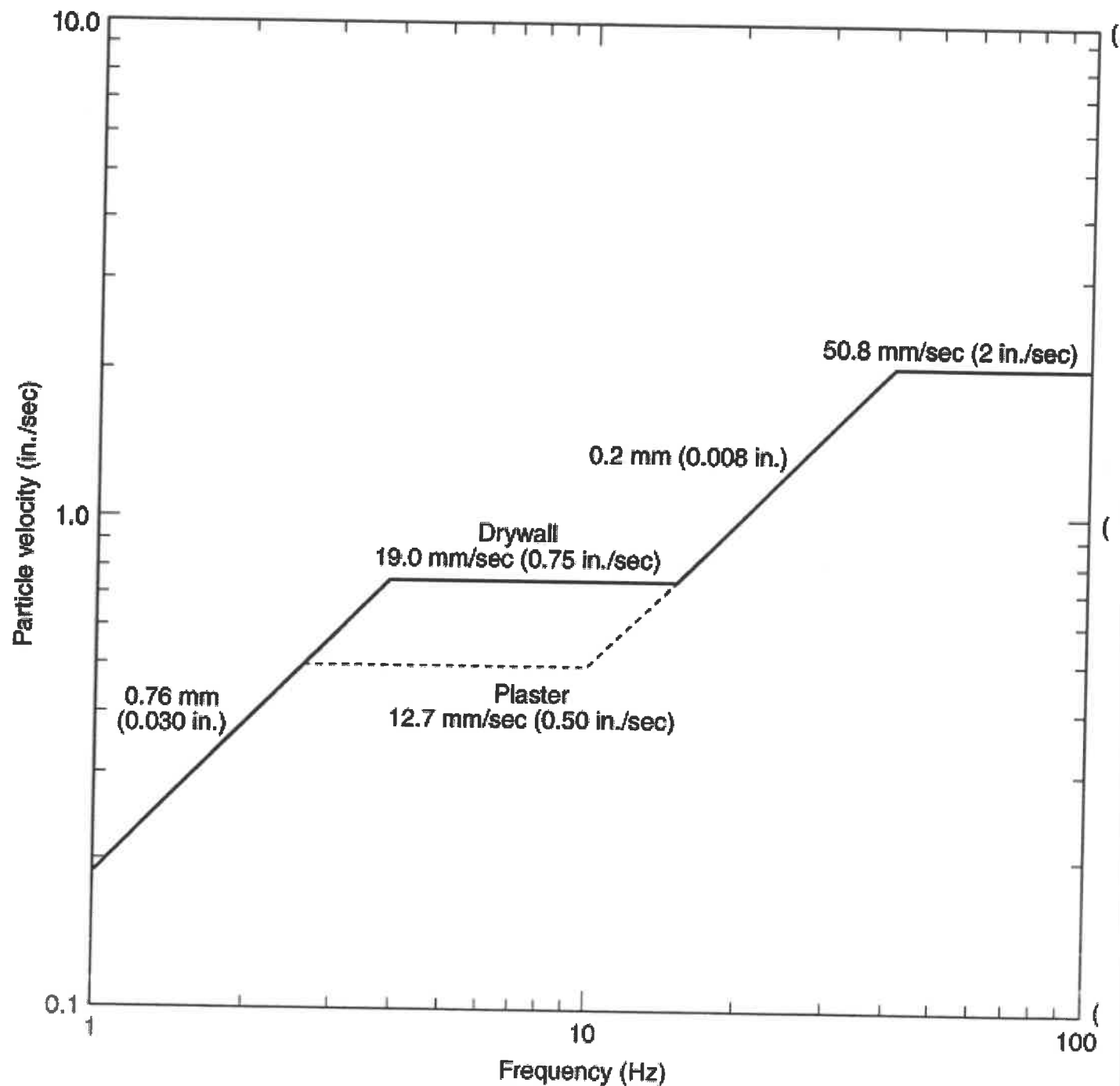


Figure 11.2.1 Frequency vs. Particle Velocity Graph.

11.2.2*

When blasting is not monitored with a blasting seismograph, the operation shall comply with the scaled distance factors at the nearest building or structure as shown in **Table**

11.2.2.

Table 11.2.2 Scaled Distance Equations

Distance from Blasting Site		Scaled I
ft	m	lb
0-300	0-91.4	$W (lb) = [D (ft)/50]^2$
301-1000	91.7-304.8	$W (lb) = [D (ft)/55]^2$
≥1001	≥305.1	$W (lb) = [D (ft)/65]^2$

(1) W equals the maximum weight of explosives in pounds (or kilograms) that can be detonated per

(2) D equals the distance in feet (or meters) from the blast to the nearest building, not owned, leased or property for which the owner has not provided a written waiver to the blasting operation.

*To convert U.S. units of scaled distances (ft/lb^{1/2}) to metric units (m/kg^{1/2}), divide by a factor of 2.2

11.2.3

Ground vibration limits for buildings and other structures or for structures not defined in 11.1.1, such as public utilities, shall be permitted to be independently established based on technical justifications by engineers or qualified personnel familiar with blasting-related projects, subject to the approval of the AHJ.

11.3* Air Overpressure.

11.3.1*

Air overpressure due to blasting operations shall not exceed the maximum limit of 133 dB(L) (0.013 psi) at the location of any building or structure.

11.3.2

Air overpressure limits for buildings and other structures or for structures not defined in 11.1.1, such as public utilities, shall be permitted to be independently established based on technical justifications by engineers or qualified personnel familiar with blasting related projects, subject to the approval of the AHJ.

11.4 Flyrock.

11.4.1

Flyrock traveling in the air or along the ground shall not be cast from the blast site in an uncontrolled manner that could result in personal injury or property damage.

11.4.2

Flyrock shall not be propelled from the blast site onto property not contracted by the blasting operation or onto property for which the owner has not provided a written waiver to the blasting operation.

11.4.3

Where blasting operations do not conform to 11.4.1 and 11.4.2, the AHJ shall require that special precautions be employed to reduce or control flyrock.

11.5 Gases.

11.5.1

Gases traveling in the air or through the ground shall be controlled in a manner to prevent injury to persons or damage to property outside the blast area.

11.5.2

To minimize hazardous carbon monoxide exposure produced by blasting, blasters shall be responsible for the following:

- (1)

Being aware that lack of ground displacement can prevent venting of the blasted material and result in the entrapment of gases

- (2)*

Excavating blasted material as soon as practical after blasting

- (3)

Being aware of and look for geologic pathways for gases such as old trenches, horizontal partings, faults, joints, hillseams, unconsolidated material, water, and voids that would allow movement of gas towards underground enclosed spaces

- (4)

Being aware that when blasting very close to underground enclosed spaces, fractures caused by the detonation can create a pathway for the gases to enter the enclosed space

- (5)

Conducting a preblast survey to determine any possible problem areas when blasting near inhabited buildings or underground facilities (tunnels, manholes, etc.)

- (6)

Monitoring possible problem areas to determine if any gases have migrated from the blasting operation

- (7)

If gases are detected, using positive ventilation (open windows and exhaust fans) to limit the accumulation of gases at inhabited buildings or other facilities from the blasting operation until the gas is removed from the ground



See A.11.1.3.

A.11.2

The ground vibration requirements of this chapter are based upon scientific visual observations of cosmetic cracking as documented in U.S. Bureau of Mines RI 8507 and 8896, and any change requires similar documented technical justification.

A.11.2.2

Scaled distance is defined as the distance to the building or structure in feet divided by the square root of the maximum charge weight in pounds detonated within any 8 millisecond interval. The use of the scaled distance factors provides a high level of confidence for the prevention of damage. However, seismograph monitoring provides the best data for gauging the effect of vibrations. Thus, monitoring with a blasting seismograph supersedes the necessity of designing blasts with the ultraconservative scaled distance factors.

A.11.3

The air overpressure requirements of this chapter are based upon scientific visual observations of window damage as documented in U.S. Bureau of Mines RI 8485, and any change requires similar documented technical justification.

Chapter 14

BUSINESS LICENSES AND PERMITS

Article XIX

BLASTING

Sec. 14-700. - Purpose; statutory authority; enforcement.

- A. Blasting is an activity essential to the economic viability of Auburn. Unregulated blasting and/or irresponsible blasting may cause undue damage to the people, property and environment of the City.
- B. This chapter establishes specific standards for blasting operations, notice requirements, instrument monitoring requirements of blasting operations, a permit process for blasting and other associated standards and requirements.
- C. It is intended to minimize the effects of airblast overpressure, ground vibration, dust, and noise associated with blasting which may be detrimental to the enjoyment of life, property and the conduct of business for those individuals affected.
- D. It is also intended to provide standards that will prevent permanent damage to the geologic, hydrogeologic and wildlife resources and ecological balance in the region outside the immediate blast area. The chapter is intended to protect the quality of life and the homes of residents, neighborhoods, property, groundwater, wildlife resources, scenic beauty and/or businesses, all lying outside the approved work area and potentially affected by the blasting.
- E. It is intended to be effectively and efficiently administered without causing undue financial and administrative hardship to blasting operators.
- F. This chapter is enacted pursuant to 30-A M.R.S.A. § 3001, Ordinance power, as well as the City's Home Rule authority under the Maine Constitution, and shall be administered by the Planning, Permitting, and Code Department.
- G. The city planning, permitting, and code department shall have authority to enforce all requirements of this Chapter in accordance with section 60-1403.

Sec. 14-701. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Airblast means an airborne shock wave resulting from detonation of explosives. Airblast may be caused by burden movement or the release of expanding gas into the air. Airblast may or may not be audible.

Applicant means the owner or other individual, corporation or other business entity who or which applies for the legal right to conduct blasting at real property which it has the legal right to use.

Blast site means the area where explosive material is handled during the loading of drilled blastholes, including the perimeter formed by the loaded blastholes and 50 feet in all directions from loaded blastholes.

Blast size means, for a

- A. Small blast: trench blast or under 50 cubic yards of rock removed.
- B. Medium blast: removal of 50 to 300 cubic yards of rock material.
- C. Large blast: removal of over 300 cubic yards of rock material.

Blaster means an applicant who has been awarded a permit to conduct blasting.

Blasting means the use of explosives to break up or otherwise aid in the extraction or removal of rock or other consolidated material.

Blasting operations means all processes conducted in association with site or other preparation for blasting, and the detonation of explosives.

Decibel means the unit of sound pressure commonly used to measure airblast from explosives. The decibel scale is logarithmic.

Explosives means any substance, chemical compound or mechanical mixture that is used for the purpose of producing an explosion to fragment rock for mining, quarrying, excavation and construction. Initiating devices (detonators, detonating cords, etc.) are also included under this definition.

Extractive industry means any operation engaged in the removal of more than 20 cubic yards, in a twelve-month period, of topsoil, sand, gravel, clay, rock, peat or other like material from its natural location and for transportation off lot within any twelve-month period, except as may be exempted within the extractive industry performance standards in this chapter.

Flyrock means rock that is propelled through the air or along the ground, which leaves the secured blast area as a result of the detonation of explosives.

Ground vibrations means shaking of the ground caused by blasting. Ground vibrations are to be measured along three principal axes (x, y, z); namely, transverse, vertical, and longitudinal, all of which are subject to the performance standards herein.

Groundwater means water beneath the earth's surface often between saturated soil and rock that supplies wells and streams.

Hertz means a term used, in the case of blasting, to express the frequency of ground vibrations and airblast. One hertz is one cycle per second.

Particle velocity means a measure of ground vibration in the case of blasting. Particle velocity describes the velocity at which a particle of ground vibrates when excited by a seismic wave. It is measured in inches per second.

Pre-blast Survey means an inspection of the dwellings, water supplies, and other structures within the blasting notice area for the purpose of documenting the physical conditions prior to the commencement of blasting.

Quarry means the property designated in the application and permit where rock is excavated in an extractive industry operation.

Secured blast area means the area that may be affected by flyrock, dust, or fumes from an explosion that may cause personal injuries, damages to property, or losses in the process. The minimum distance for personnel is 500 feet. Safe distances will be determined based on conditions for each blast by the blasting foreman or designee.

Seismograph means an instrument that measures and has the capability to provide a permanent

record of hertz and decibel readings concerning ground vibrations caused by blasting.

Source water means bodies of water (such as rivers, streams, lakes, reservoirs, springs, and ground water) that provide water to public drinking-water supplies and private wells.

Sec. 14-702. - Blasting permit required; effect on other regulations.

- A. No blasting within the City of Auburn shall be allowed unless a permit has been obtained from the city planning, permitting, and code department, except as otherwise exempted per this chapter.
- B. The requirements of this chapter are in addition to any other applicable ordinances, regulations, and statutes. This includes adherence to the standards set forth in NFPA 495. Where different standards are contained within these documents or any other relevant regulations, the more restrictive standards shall apply.
- C. This chapter does not replace or negate federal and/or state requirements pertaining to explosives including OSHA CFR 1923.900 and 1910.109.

Sec. 14-703. - Permit requirements.

- A. Blasting permit required.
 - (1) The following shall require a permit:
 - (a) Site plan/subdivisions. If the Planning Board determines that a project involves or may require blasting, it shall expressly state and set out in its conditions of approval for such project that the applicant/developer secure from the director of the city planning, permitting, and code department, or their designee, a proper blasting permit in advanced of blasting, and as required herein.
 - (b) General construction. For any specific construction project, whether reviewed or not reviewed by the Planning Board as part of site plan or subdivision, that is found to need blasting at any time, the owner/developer, or responsible general contractor, shall secure a blasting permit, as described herein, from the director of the city planning, permitting, and code department, or their designee, prior to any blasting.
 - (c) Extractive industry and gravel pits. Any party who operates a gravel pit or who otherwise engages in extractive industry or earth removal operations shall secure from the director of the city planning, permitting, and code department, or their designee, a blasting permit, as described herein, prior to any blasting.
 - (d) All other blasting locations. Any other person or party, regardless of prior review, and regardless of purposes, that may need to conduct blasting shall be required to obtain a blasting permit, as described herein, from the city planning, permitting, and code department.
 - (2) No person or party may conduct any blasting within the boundaries of the City of Auburn without first having obtained review and approval from the director of the city planning, permitting, and code department, or their designee.
- B. Notice required. All proposed blasting activities in the City of Auburn shall require notice of blasting to be given to the city planning, permitting, and code department, in writing, at least 10 business days prior to the proposed start of blasting. This notice is in addition to and not in lieu of the fourteen-day review notice detailed in Subsection C below. Notice of the blasting shall be made public in at least one newspaper of general circulation in the area at least 10 days

before such blasting is scheduled to take place.

C. Blasting application information. All applications for permits to conduct blasting shall contain the following information, referred to as the "blast plan." All blast plan applications shall be submitted at least 14 calendar days prior to the proposed start of any drilling or blasting operation:

- (1) Applicant: the applicant's name, address, daytime telephone number, fax number, and e-mail address.
- (2) Owner's name, address, daytime telephone number, fax number, and e-mail address.
- (3) Blasting contractor: the blasting contractor's name, address, daytime telephone number, fax number, and e-mail address (if other than the blaster). Contractor shall submit written evidence of license(s) held, experience and qualifications of the individual who will be responsible for loading and firing each shot.
- (4) General contractor: the general contractor's name, address, daytime telephone number, fax number, and e-mail address.
- (5) Work site: the street address and Tax Assessor's map and lot number for the proposed blasting activity. If the blast plan is for a property shown on a plan reviewed by the Planning Board, the blast area for which the permit is requested shall be included on the plan.
- (6) Information about the blast plan to include the following:
 - (a) Purpose of blast: a brief description of the work for which the blasting activity is requested.
 - (b) Volume of material: the estimated number of cubic yards (measured in place) of material to be loosened or fragmented by blasting.
 - (c) Number of blasts: the estimated number of blasts required to loosen or fragment the specified amount of material.
 - (d) Blast period: the planned starting and ending dates of the blasting activity.
 - (e) Site diagram: a sketch or diagram showing the property where blasting will be conducted, including: the location of adjacent structures and distance to those structures; description and location of blasting signs.
 - (f) Description of test blast drill pattern.
 - (g) Explosives to be used during both wet and dry conditions.
 - (h) Description of matting that will be used to prevent flyrock.
 - (i) Type, number, and planned locations of seismograph, and any other instrumentation proposed for use to monitor vibrations and airblast overpressures.
 - (j) Description of proposed transport and storage of explosives.
 - (k) Description of safety procedures, security measures, and warning procedures to be employed before, during and after the blast period.
 - (l) Signature of blasting contractor testifying to the accuracy of the blast plan.
 - (m) Dig safe number

- D. Liability insurance. Blasting contractors and/or applicants shall carry general liability insurance in accordance with the following:
- (1) The amount insured must be a minimum amount of \$2,000,000 combined single limit per occurrence.
 - (2) The insurance policy must contain specific reference to blasting as an activity covered by the insurance.
 - (3) The policy shall indemnify and hold harmless the City, its agents and/or representatives, employees, and residents from and against any or all claims, damages, losses and expenses including legal fees arising out of or resulting from performance of the work, provided that such claim, damage, loss or expense is attributable to bodily injury or death, or to injury to or destruction to tangible personal or real property, including the loss of use, resulting in whole or in part from the blasting activity by any negligent act or omission of the contractor or any of its officers, agents, employees, representatives, subcontractors, and/or anyone directly or indirectly employed by any of them or anyone for whose acts any of them would be liable regardless of whether it is caused in part by a party indemnified hereunder and the contractor shall, at its own expense, defend and protect said indemnified parties against all such claims and demands.
 - (4) The City shall be named as a certificate holder to ensure the liability insurance is maintained throughout the duration of the blasting operation. The certificate must provide that the City of Auburn shall be notified at least 10 days prior to any cancellation
- E. Public hearing. A public hearing is not required prior to the issuance of a blasting permit by the director of the city planning, permitting, and code department, or their designee.
- F. Fees. Fees for blasting permits shall be as determined, and amended from time to time, by City Council order.
- G. Permit duration.
- (1) Permits shall be valid for a period of 90 days. No blasting after 90 days shall occur except as permitted herein.
 - (2) Lapse and extension. Any party that does not complete its blasting within the ninety-day time period may apply to the director of the city planning, permitting, and code department, or their designee, for a reasonable extension, not to exceed 60 days. The director shall have full discretion as to the length and condition of any extension. If the ninety-day period lapses prior to a request for extension, the director may require that the party reapply for a new blasting permit.
 - (3) In consideration of the safety hazards and community concerns associated with adverse weather conditions, this ordinance permits the adjustment of blasting operations in response to lightning-related disruptions, wind-related community concerns, and atmospheric conditions, including pressure variations. When such conditions are present, operators are authorized to modify the timing and duration of blasting activities as necessary to ensure the safety of all personnel, minimize impacts on the surrounding community, and maintain compliance with regulatory requirements. Any adjustments made must be promptly communicated to the appropriate authorities and property owners.
- H. Notice and pre-blast survey.

- (1) The following notification and pre-blast survey requirements shall be required for all blasting permits prior to commencing blasting:

	Small blast (feet)	Medium blast (feet)	Large blast (feet)
Notice required	500	700	900
Pre-blast survey to be offered	100	300	500

- (2) The blasting contractor will hire an independent qualified seismologist, blasting consultant or engineer to perform pre-blast surveys on all structures and wells in the areas outlined in Subsection H(1) above, contingent upon property owner agreement. The independent seismologist or blasting consultant shall not be an employee of the contractor, subcontractor, explosives manufacturer, or explosives distributor.
- (3) Pre-blast survey offer notice: Prior to commencement of the pre-blast surveys, the blasting contractor shall provide the following documentation to the city planning, permitting, and code department:
- (a) A list of property owners to be contacted (in accordance with the distances listed in the table, above).
 - (b) Verification that the subject property owners were notified of the pre-blast survey work.
 - (c) A copy of the pre-blast survey offer notice.
 - (d) Whether each offer to conduct a pre-blast survey was either accepted, rejected, or there was no response. The blasting contractor shall retain a copy of each pre-blast survey offer notice for their records until the development project receives a final certificate of occupancy or is otherwise deemed complete by the City. Nothing herein shall be construed to discourage repeated efforts by the blasting contractor to contact eligible property owners via phone, hand delivery, or other method in addition to provision of the required offer notice letter.
- (4) Pre-blast survey documentation. All pre-blast surveys shall include documentation of interior subgrade and above-grade accessible unobscured walls, ceilings, floors, roof and visible exterior as viewed from the grade level. Where significant cracks or damage exist, or for more complex structural defects, photographs or video shall be taken. A high-quality digital video or videotape survey with appropriate audio description of the locations, conditions, and defects may substitute for a written pre-blast survey. Where necessary, notes and sketches may also be used as part of a video pre-blast survey in order to highlight or elaborate on certain aspects of the video documentation.
- (5) Pre-blast survey conditions report. All pre-blast surveys shall include an existing conditions report for each property. The conditions report may be presented as narrative, photographs, video or a combination thereof. Conditions reports shall summarize the condition of each building and define areas of concern, including deteriorated structures or utilities, structures housing sensitive equipment, and/or manufacturing processes that are sensitive to vibrations.
- (6) Verification that all pre-blast surveys and conditions reports have been completed shall be submitted to the city planning, permitting, and code department at least two weeks

prior to commencing any drilling and/or blasting operations.

- (7) The blasting contractor shall maintain a copy of the pre blast survey conditions report for a minimum of six years after the conclusion of blasting.
- (8) The blasting contractor shall make a copy of the pre-blast survey conditions report available to the property owner.

Sec. 14-704. - Performance standards.

All blasters shall comply with the following performance standards:

A. Hours of detonation.

- (1) Extractive industry blasting. Hours of detonation are limited to between 11:00 a.m. and 3:00 p.m., Monday through Friday inclusive, excluding the following legal holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving and Christmas
- (2) All other blasting. Hours of detonation are limited to between sunrise and sunset but no earlier than 7:00 a.m. and no later than 7:00 p.m., Monday through Friday inclusive, excluding the following legal holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving and Christmas, unless otherwise more restrictive hours of detonation are specified by the Planning Board.
- (3) Emergency situations. Blasting of any type may occur at any time in situations deemed to be emergencies by the director of the city planning, permitting, and code department, or their designee, after consultation with other City staff as may be determined to be necessary by the director. Emergency situations may include, but are not limited to, blasting to install utilities damaged by weather events, unanticipated needs for blasting to complete City infrastructure project when the delay would significantly affect project timelines or City services, or blasting to correct a misfire of explosives in an otherwise permitted blast event.

B. Water quality protection. Water is a precious resource, and the applicant must take measures to assure that the quality of source water is protected. Prior to the initial blast, the applicant must conduct water quality tests on all non-applicant-owned wells within distances outlined in Sec. 14-703(H) above. Water quality testing must also be done post-blast if requested by the property owner because of evidence of a substantive change in water quality. Turbidity in wells tested shall be no greater than that which existed prior to the blasting as established in the pre-blast survey.

C. Ground vibration, Air Overpressure, Flyrock and Gases

- (1) Ground vibration, Air Overpressure, Flyrock and gases shall be controlled and shall not exceed the limits defined in NFPA 495.
- (2) Measurements shall be required for all blasts. Ground vibration shall be measured as particle velocity. Particle velocity shall be recorded in three mutually perpendicular directions (x, y, z). The maximum allowable peak particle velocity shall apply to each of the three measurements.
- (3) Seismographic record. A seismographic record for all blasts shall be retained by the applicant and provided to the city planning, permitting, and code department or the Planning Board, if requested. The applicant is responsible for such record and for providing

proper instrumentation as specified in this chapter. Personnel conducting such monitoring shall be properly trained in the operation of the equipment being used.

- (4) Measurements. The requirements established herein shall be measured at the closest building(s) on abutting properties as determined by the director of the city planning, permitting, and code department, or their designee,
- D. Other permits. The applicant must also comply with all standards and conditions contained in other permits issued for such projects and local, state and federal statutes and regulations.

Sec. 14-705. - Notices.

- A. Required notification of blasting. The following notice requirements for any blast requiring a blasting permit shall be adhered to by the blaster.
 - (1) Initial notice. The blaster must send initial notice by first-class mail an advisory notice to all property owners within the distances outlined in Sec. 14-703H(1) of the secured blasting area. Notification shall be mailed no later than 10 calendar days and no earlier than 14 calendar days prior to the initiation of blasting. A certificate of mailing shall be submitted to the city planning, permitting, and code department as verification that said mailings were done. Said notice must include the description of the blasting signals to be utilized during the operation. The blaster of either an earth removal operation or other project must provide notice to a property owner who has made a written request to the blaster.
 - (2) Twenty-four-hour notice. Prior to every blast, the blaster shall notify all property owners within 300 feet of the secured blasting area for project blasting and 2,000 feet for production quarries. This will be done whether or not the property owners requested to be notified. The blaster shall also notify all others who have requested in writing to be so notified. Such notification shall be given by telephone, or by door hangers on the door of the residence or business, between 24 hours and 48 hours prior to the blast. The notification shall state the time the blast is proposed to occur, and the blast may occur as early as one hour prior to the noticed time and as late as one hour after the noticed time. The burden of proof of notification is the responsibility of the blaster.
 - (3) Emergency Services Notification: The Lewiston/Auburn 911 dispatch center must be notified at least 24 hours prior to any explosive detonation. The notification shall include the address for the blast site as well as the anticipated start time for blasting and anticipated time that blasting will conclude for the day.

Sec. 14-706. - Inspection, monitoring, and recordkeeping.

- A. Entry . The director of the city planning, permitting, and code department, or their designee, may enter the secured blasting area or adjacent area to conduct site evaluations and observe any authorized blasting operations and may order that additional ground vibration and airblast overpressure measurements using approved instrumentation be made by persons responsible for blasting operations to ensure that the limits specified in this chapter are not exceeded, if excess readings are indicated.
- B. Additional monitoring. The blaster shall maintain a record of each blast. All records shall be retained at least three years following cessation of the blasting operation, and shall be available for inspection by the director of the city planning, permitting, and code department, or their designee, or any property owner within the distances outlined in Sec. 14-703H(1) of the secured blasting area, and shall contain the following minimum data for traceability purposes:

- (1) Name and contact information of responsible party: the name and contact information of the person(s) responsible for the blasting operation.
- (2) Location, date, time, number and pattern/spacing of blast holes, total charge weight, charge weight per delay, date and time of each blast.
- (3) Blaster: the name(s) of blaster in charge.
- (4) Weather: the weather conditions (including such factors as wind direction, cloud cover, etc.).
- (5) Data: seismograph and airblast readings, including date, time, and location of instrument.
- (6) Notice: name, addresses, date and time of all persons who were notified prior to every blast.

Sec. 14-707. - Compliance schedule.

- A. Applicability. Upon adoption of this chapter, all existing and new blasting operations are subject to the terms herein and must obtain a permit to conduct any further blasting.
- B. Review. A complete review of all activities under this chapter shall be undertaken by the director of the city planning, permitting, and code department 12 months after adoption of this chapter to determine if the levels are adequate and reasonable to achieve the purpose for which this chapter is intended. The results of this review shall be reported to the City Manager, who will report to the City Council with recommendations of the review.

Sec. 14-708. - Exceptions for undue hardship.

- A. Application. Applications for a permit for exception from the performance standards designated in this chapter may, on the basis of hardship, be made to the director of the city planning, permitting, and code department, or their designee. Any permit granted hereunder shall contain all conditions upon which said permit has been granted and shall specify a reasonable time that the permit shall be effective.
- B. Standards. The director of the city planning, permitting, and code department, or their designee, may grant the exception as applied for only if:
 - (1) Limited in scope: the activity or operation will be of a temporary duration, i.e., a limited number of blasts at a specific site, and cannot be done in a manner that would comply with this chapter;
 - (2) Reasonable alternative: no other reasonable alternative is available to the applicants; and
 - (3) Safety: the applicants represent, and the director of the city planning, permitting, and code department, or their designee, finds, that blasting as permitted will not violate recognized safety standards.
- C. Conditions. Upon the issuance of any exception permit, the director of the city planning, permitting, and code department, or their designee, may limit the scope of the exception and prescribe any reasonable conditions or requirements he deems necessary to minimize adverse effects.

Sec. 14-709. - Violations and penalties.

- A. Penalties. The submission of false information required by this chapter, or the violation of this chapter or the violation of any condition attached to a permit granted under this chapter shall

constitute a land use violation for which an enforcement action may be commenced by the City in accordance with 30-A M.R.S.A. § 4452.

- B. Reporting. A copy of the violation report and consent agreement reached between the City and the person or entity found in violation of any portion of this chapter will be filed in the permit or license file.

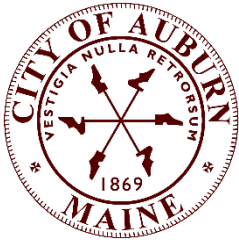
Sec. 14-710. - Conflict.

Blasting in Auburn shall be conducted in compliance with all pertinent section of the City Code of Ordinances, and, except as superseded by the provision of this article, the NFPA 1 Fire Prevention Code, and NFPA 495 Explosive Materials Code as adopted by the State of Maine. In any particular instance where these regulations are in conflict with any other rules, regulations or ordinances of the City, the more restrictive regulation or provision shall prevail.

Sec. 14-711. - Appeal of denial of a blasting permit.

If the city planning, permitting, and code department has denied a blasting permit under this article, the applicant may appeal the denial to the Zoning Board of Appeals within 30 days of the decision by filing a written notice of appeal.

Sec. 14-712 to 725 Reserved.



City of Auburn City Council Information Sheet

Council Workshop or Meeting Date: September 3, 2024

Author: Phillip Crowell, Jr., City Manager

Subject: Washington Street Safety Options

Information: At the August 19th, 2024 workshop, Jonathan LaBonte, Transportation Systems Director shared information about a Washington Street Safety Demonstration Project. The demonstration safety project would include entering into an agreement with MaineDOT to install temporary closures on Washington Street to restrict any left turns from Beech Hill, Danville Corner Road, and East Hardscrabble.

As a follow-up to the workshop, the costs for the demonstration project will be funded in the following accounts:

- Washington Street Corridor Study (Exit 75 to Brickyard) - \$175,000 (FHWA and Local Match from ATRC)
- Washington Street North Land Use Plan - \$83,300 (ARPA Funds Allocated by Auburn City Council)
- Safety Project Design and Traffic Review - \$30,100 (ARPA Funds Allocated by Auburn City Council)
- Implementation of Safety Project– FY2024 Traffic Safety Account: ~\$50,000

Staff has identified three options for the city council to consider:

1. Implement the MaineDOT agreement for the Safety Demonstration Project.
2. Amend the agreement with MaineDOT to implement the demonstration project at East Hardscrabble and request MaineDOT to expediate the implementation of a traffic signal at Beech Hill and Danville Corner Road.
3. Notify MaineDOT to not move forward with the agreement and to expediate the traffic signal at Beech Hill and Danville Corner Road and East Hardscrabble Road.

City Budgetary Impacts: No current impact other than already authorized funds

Washington Street Corridor Study (Exit 75 to Brickyard) - \$175,000 (FHWA and Local Match from ATRC)

Washington Street North Land Use Plan - \$83,300 (ARPA Funds Allocated by Auburn City Council)

Safety Project Design and Traffic Review - \$30,100 (ARPA Funds Allocated by Auburn City Council)

Implementation of Safety Project– FY2024 Traffic Safety Account: ~\$50,000

Staff Recommended Action: Discuss and determine which options should be considered.

Previous Meetings and History:

June 6, 2022 – City Council ARPA Funds; July 28, 2022 - ATRC Vote on Corridor Concept; August 15, 2022 – City Council Transportation Safety Initiatives; September 6, 2022 – City Council Approves Safe Streets/Vision Zero; August 24, 2023 – ATRC Votes on Funding Corridor Study; November 15, 2023 – ATRC issues Corridor RFP

City Manager Comments:

I concur with the recommendation. Signature:

Attachments: July 2022 City Manager Memo to ATRC, September 2024 Transportation Director Memo



City of Auburn, Maine

Transportation Systems

Department

Jonathan P. LaBonté, Director

60 Court Street | Auburn, Maine 04210

www.auburnmaine.gov | 207.333.6601

TO: Mayor Harmon and the Auburn City Council

FROM: Jonathan P. LaBonte, Transportation Systems Director

CC: Phil Crowell, Auburn City Manager

DATE: September 3rd, 2024

RE: Washington Street Safety Demonstration Project – Beech Hill and East Hardscrabble Roads

This memo serves as a summary of the city plans for a safety demonstration project on Washington Street (U.S. Route 202/Maine Route 4) at its intersections with East Hardscrabble Road and Beech Hill/Danville Corner Roads, with additional context for the overall corridor planning underway.

Comprehensive Plans have regularly referenced a policy to improve Washington Street as a gateway. The most recent Plan laid out a specific recommendation that related to the original plans for Washington Street in the 1950's but were never fully implemented. Washington Street South, a controlled access highway from Brickyard Circle to approximately Beech Hill Road was to become a two-way highway with no curb openings, and Washington Street North was to return to a two-way local street. Given the critical importance of Washington Street (Routes 202/4) for statewide and regional mobility (75% of all traffic destined for downtown Lewiston-Auburn utilizes Washington Street), stakeholder engagement and endorsement of City concepts has taken place since the summer of 2022. This includes the Federal Highway Administration (FHWA), MaineDOT, Maine Turnpike Authority, AVCOG/ATRC, and the City of Lewiston.

In parallel to the corridor planning, the City worked with ATRC/AVCOG and Lewiston to secure FHWA funding under the Safe Streets and Roads for All program. The goal of the action plan under development is to eliminate all serious injuries and fatalities from Auburn streets. Because Washington Street is home to several High Crash Locations, including some with very high rates of serious injuries and fatalities, we have worked with MaineDOT to test one approach to improving safety; the elimination of left-turns at the intersections of Beech Hill /Danville Corner Roads and East Hardscrabble with Washington Street. The demonstration safety project would see the installation of concrete barriers and safety barrels to continue to allow right in and right out traffic movements, but no traffic crossing Washington Street.

The Washington Street study will evaluate alternative intersection designs, including retaining the closure, and following the demonstration project and completion of the study, public input and City Council direction will determine next steps for capital improvements.

The details that follow below mirror the MaineDOT guidance document on requesting demonstration projects and have been reviewed and approved by MaineDOT.

With appreciation to MaineDOT's safety office, which evaluated the High Crash Location (HCL) at Beech Hill and Danville Corner Roads, the graphic below is based on a scenario of a right-in right-out approach to restricting movements at this intersection during the demonstration project. While curb work would not be done, signage and barricades preventing other movements would be installed.

4. Close Median – Right In & Right Out



Figure 1. Graphic showing median closure at Beech Hill and Danville Corner Roads, taken from MaineDOT Safety Office presentation on HCL

While we do not have a similar graphic, the city would implement a similar restriction at the intersection of East Hardscrabble Road, allowing only right in and right out traffic entering Washington Street South.



Figure 2. Graphic showing where a second median closure would occur at East Hardscrabble Road and Washington Street.

The materials to be utilized include temporary concrete barriers and sand-filled barrels. Access to materials during the term of the demonstration project is being negotiated, and the city's public works department would complete the installation.

Each intersection's installation would be completed in accordance with AASHTO guidance, and the city has Gorrill-Palmer, the lead engineering firm on the larger Washington Street Corridor Study, creating the stamped plans for the project and assisting in data review during the trial period.

Given the nature of the Washington Street corridor in this section, installation timing and protection for installers and the public would mirror that utilized during the mill and fill on this section of the corridor during 2022. Due to the proposal to close full access at the subject intersections, conflict points during installation will be reduced as traffic will not be allowed to cross Washington Street.

The city partnered with ATRC/AVCOG to collect traffic counts at intersections likely to see detoured traffic, this will allow us to gather additional counts during the trial period to further assess how traffic was rerouted to find access to Washington Street or their intended destinations.

Though this area is outside of the urban compact zone, the Public Works Department does handle maintenance activities in this area and would have primary responsibility for monitoring the installation, as they do other infrastructure in the city. Any impacts from crashes would trigger an evaluation of the installation as well as reviews post winter storm events that could influence the retroreflective elements of the installation.

Public Works does run multiple shifts and has a work order system that would allow not only for prioritizing response to this installation, but to allow for inclusion of work order evaluations in the one-year review process we note below.

As the Auburn City Council endorsed a Vision Zero policy in the fall of 2022, and we advance the Safe Streets and Roads for All (SS4A) action plan process, we are targeting eliminate crashes that lead to serious injury and fatalities at these two intersections. Year over year net crash reductions would also be a goal.

Given that we project traffic to find alternative routes, we would also monitor year over year crash number changes at key detour-related intersections, those include Moose Brook Road/Washington Street, Station Road/Kittyhawk Ave/Washington Street, Kittyhawk Ave/Hotel Road, Chasse Street/Washington Street, Allied Road and Washington Street, Exit 75 Ramps and Washington Street, and Hackett Road and Washington.

We would also be monitoring traffic counts at key detour intersections/road segments, given early feedback from the community and the City Council. Those intersections include Hackett Road/Washington Street, Woodbury Road/Danville Corner Road, Old Danville Road/Danville Corner Road

Through advance discussion with our public safety agencies (Auburn Fire/Rescue and Auburn Police), we would monitor calls, response times, and routes that may have otherwise traversed these turn movements proposed to be eliminated. Neither agency saw a concern given existing routing from Auburn Hall (PD headquarters) or our respective Auburn Fire stations.

The city intends to host an in-person and a virtual neighborhood meeting to discuss the who, what, why, and when associated with this project if MaineDOT supports it advancing. Given that a 2015 neighborhood engagement effort led to their request to close the Beech Hill/Danville Corner Road intersection, we expect a predominantly positive response from those living in these areas, though recognize for some residents there will be an inconvenience to reducing full access at these intersections.

The city's Transportation Systems Director would be available to respond to comments, and the city has online contact forms that would be a means to aggregate feedback from the public. In addition, the city will conduct a follow-up neighborhood meeting after the one-year anniversary of the closure to provide a report out on the impact of the closure (based on performance measures noted above) and potential next steps if support remains to make these closures permanent.

An item related to public awareness involves updated GIS databases associated with highway and street layouts. Given the use of mapping software in smart phones and vehicles, the city recognizes we need to communicate to these platforms the closure of particular legs of these intersections, beyond the signage that would be installed during the demonstration project period. MaineDOT has agreed to assist with its relationships with those routing systems.

The city would sign detour routes and would like to coordinate a review of detour mapping with MaineDOT's internal system for review of detours. The city's public works department does have some fabrication capabilities but would welcome MaineDOT detour signage loans if needed. City of Auburn variable message boards could also be deployed in the early stages of the project.

There have been numerous meetings of city staff, organizational partners, and briefings to the Auburn City Council. This latest briefing will initiate our implementation efforts, starting with public awareness and engagement through public meetings in the month of September and the establishment of feedback processes for residents during the demonstration period.



City of Auburn, Maine

Office of the City Manager

www.auburnmaine.gov | 60 Court Street

Auburn, Maine 04210

207.333.6601

TO: Jennifer Williams, ATRC Director

FROM: Phil Crowell, City Manager

RE: Exit 75 and Washington Street Corridor Evaluation Request for Support

DATE: July 25, 2022

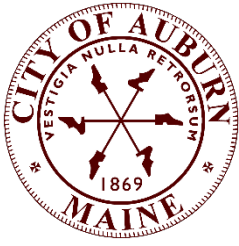
This memo represents the City of Auburn's request that ATRC support the effort to convert the flow of traffic Washington Street (Route 202/4) from Exit 75 to downtown Auburn. This conversion, with Washington Street North becoming two-way local traffic and Washington Street South becoming two-way through traffic, will improve safety, maintain regional mobility, and align with Auburn's Comprehensive Plan goals for pedestrian scale development and environmental improvements in the area between Washington Street and the Little Androscoggin River. The evaluation would also include the configuration of Exit 75 of the Maine Turnpike and its ability to serve the industrial airport area and regional mobility.

This section of highway is a critical corridor connecting the Maine Turnpike's Exit 75 with not only downtown Auburn and Lewiston but also western Maine. Existing inbound land uses already conflict with the traffic volumes and speeds in the northbound segment, and changes in Auburn's zoning to pursue more mixed-use development and improve stewardship of the Little Androscoggin River watershed further enhance this conflict. Shifting this high volume of thru traffic (approaching 20,000 AADT) to a controlled access highway presents an historic opportunity to restore a major Maine riverfront (Little Androscoggin) and convert a corridor with existing utilities and impervious area to mixed uses with new housing to serve the region and southern Maine.

The 2019 ATRC Metropolitan Transportation Plan projects growth of traffic into our region from the south at 52%. In fact, the most recent Maine Turnpike Origin and Destination Study (2010) noted that over 50% of the traffic at Exit 75 was destined for the Portland region.

Growing traffic volumes are also likely to exacerbate the safety challenges that extend from Exit 75 into downtown Auburn. There are currently three high crash location intersections and two high crash location road sections on this corridor. Since 2020, there have been over 80 crashes along this corridor from Kittyhawk to the rotary, including Exit 75.

Auburn staff have already met with MaineDOT and Maine Turnpike officials to review this proposal and request their involvement in the evaluation. As the regional transportation agency in our community, we request ATRC's support and involvement. Staff will be available to provide a similar briefing for the ATRC Committees on Thursday.



**City of Auburn
City Council Information Sheet**

Council Workshop or Meeting Date: September 3rd, 2024

Order: 107-09032024

Author: Jason D. Moen, Chief of Police

Subject: Confirming Chief Moen's appointments of Constable without firearms/arrest powers for the Auburn Police Department and Constable with firearm/arrest powers within the City of Auburn.

Information: Chief of Police Moen requests that the Auburn City Council appoint Constables without Firearms/Arrest Powers on behalf of the Auburn Police Department and Constable with firearm/arrest powers to serve documents within the City of Auburn for 2024.

City Budgetary Impacts: N/A

Staff Recommended Action: Vote to confirm Chief Moen's appointment of Abigail Bowie as Constable without firearms/arrest powers on behalf of the Auburn Police Department within the City of Auburn for 2024 and to confirm Chief Moen's appointment of Alexander Gallo as Constable with a firearms/arrest powers on behalf of the Auburn Police Department within the City of Auburn for 2024.

Previous Meetings and History: None

City Manager Comments:

I concur with the recommendation. Signature: *Philip Crowell Jr.*

Attachments:



ORDER 107-09032024

City Council Order

IN CITY COUNCIL

ORDERED, that the City Council hereby appoint the following named persons to serve documents as Constable Process Servers without firearm/arrest powers on behalf of Auburn Police Department within the City of Auburn for 2024.

Abigail Bowie	Employee	Constable	Without Firearm	New Appointment
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BE IT FURTHER ORDERED, that the City Council hereby appoint the following named persons to serve documents as Constable Process Servers with firearm/arrest powers on behalf of Auburn Police Department within the City of Auburn for 2024.

Alexandra Gallo	Employee	Constable	With Firearm	New Appointment
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Richard S. Whiting, Ward One
Benjamin J. Weisner, Ward Four
Belinda A. Gerry, At Large

Timothy M. Cowan, Ward Two
Leroy G. Walker, Sr., Ward Five
Jeffrey D. Harmon, Mayor

Stephen G. Milks, Ward Three
Adam R. Platz, At Large
Phillip L. Crowell, Jr., City Manager

IN COUNCIL WORKSHOP & MEETING AUGUST 19, 2024 VOL 37 PAGE 185

Mayor Harmon called the meeting to order at 7:00P.M. in the Council Chambers of Auburn Hall and led the assembly in the salute to the flag. All Councilors were present. Student Representative Egge was absent.

I. Consent Items

1. ORDER 99-08192024* – Appointing Edward Little High School Junior, Mubarik Abdulahi, to serve as City Council Student Representative with a term expiration of 6/30/2026, as nominated by the Appointment Committee.
2. ORDER 100-08192024* - Appointing Whitney Poulin to serve on the Auburn-Lewiston Municipal Airport Board of Directors for the unexpired term ending 1/1/2026, as nominated by the Appointment Committee.
3. ORDER 101-08192024* - Appointing Dana Staples to serve on the Zoning Board of Appeals for a term that expires 5/1/2027, as nominated by the Appointment Committee.
4. ORDER 102-08192024* - Appointing Robert Hayes to serve on the Planning Board for the unexpired term ending 1/1/2027, as nominated by the Appointment Committee.

Councilor Walker moved for passage of all Consent Items, seconded by Councilor Cowan. Motion passed 7-0.

II. Minutes – August 1, 2024 Regular Council Meeting

Councilor Walker moved for passage, seconded by Councilor Whiting. Motion passed 7-0.

III. Communications, Presentations and Recognitions

Ralph Harder of the Sustainability and Natural Resource Management Board presented the Solid Waste & Recycling Plan

IV. Open Session

Bonnie Lounsbury, Auburn

V. Unfinished Business

VI. New Business

1. ORDER 103-08192024 – Accepting the Solid Waste & Recycling Plan as presented by the Sustainability and Natural Resource Management Board. Passage requires majority vote.

Councilor Walker moved for passage, seconded by Councilor Cowan. Motion passed 7-0.

2. ORDER 104-08192024 – Property donation acceptance of Carrier Court (Parcel ID 184-032-000-000). Passage requires majority vote.

Councilor Walker moved for passage, seconded by Councilor Weisner. Motion passed 7-0.

3. ORDER 105-08192024 – Reallocating Capital Improvement Plan (CIP) funds for Airport projects. Passage requires majority vote.

Councilor Walker moved for passage, seconded by Councilor Gerry. Motion passed 7-0.

4. ORDER 106-08192024 – Adopting the process for appointments to the Comprehensive Plan Committee. Passage requires majority vote.

Councilor Walker moved for passage, seconded by Councilor Whiting. Motion passed 7-0.

5. PUBLIC HEARING - CDBG Action Plan Amendment for Program Year 2024. *No action.*

Mayor Harmon opened the item up for public comment. There was no comment from the public. Mayor Harmon closed the public hearing.

VII. Reports

a. Mayor's Report – Thanked city staff for a successful National Night Out event; attended the recent opening of Preble Street program serving Lewiston & Auburn.

b. City Councilors' Reports – Councilor Gerry thanked all involved with the backpack giveaway at the PAL center and Blackie's vegetables for providing food. Councilor Whiting thanked city staff for paving Boothby St. Councilor Cowan thanked all involved with organizing the many events around the city recently. Councilors Weisner and Walker thanked all involved with organizing the balloon festival. Councilor Platz gave an update on the School Committee and a grant awarded as part of the "Full Plates, Full Potential" program.

c. Student Representative Report – Representative Egge was absent.

d. City Manager Report – Addressed tax bill delay, bills will be going out this week. Addressed that brush drop off location at Gracelawn is now closed and residents are invited to drop off their brush for free at the drop off site in Poland. Thanked staff involved in organizing the many events.

VIII. Open Session

John Ruccolo, Shepley St

IX. Executive Session

Councilor Platz moved to enter executive session pursuant to 1 M.R.S.A. Section 405(6) (A) to discuss City Manager's annual review. No action to follow. Motion seconded by Councilor Cowan. Motion passed 7-0. Council entered executive session at 8:04pm.

Councilor declared out of executive session at 8:31pm.

X. Adjournment

Motion to adjourn by Councilor Whiting, seconded by Councilor Milks. Motion passed 7-0. Council adjourned at 8:32pm.

A TRUE COPY ATTEST

Emily F. Carrington, City Clerk



PROCLAMATION | **INTERNATIONAL PAPER'S 50TH ANNIVERSARY**

WHEREAS, on January 31, 1898, seventeen pulp and paper mills joined to form International Paper Company; and

WHEREAS, International Paper has been a catalyst in the global economy as the world's leading producer of renewable packaging, pulp, and other fiber-based products essential to everyday life; and

WHEREAS, International Paper opened in Auburn in 1974, first as Allied Container, then Union Camp in 1985, and became part of International Paper in 1999, has been a valued partner in our community with more than 135 employees; and


WHEREAS, International Paper's Auburn Box Plant customers produce food, beverages, healthcare products, electronics, and many essential items and depend on International Paper's corrugated boxes to transport their products to retailers and consumers in Maine and throughout New England; and

WHEREAS, throughout its history, International Paper has been actively engaged in the Auburn community through food drives, tree plantings and volunteer hours, Wreaths Across America, butterfly kits and environmental educational programs, as well as locally supporting the Toys for Tots Program in partnership with local veterans, Lions Club, community United Way organizations and events; and

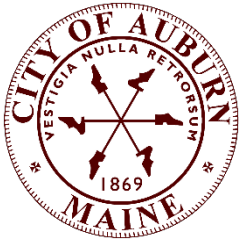
WHEREAS, this year, International Paper Auburn Box Plant celebrates its 50th anniversary of sustainable manufacturing;

NOW THEREFORE, I Jeffrey Harmon, Mayor of the City of Auburn, by virtue of the authority vested in me, do hereby recognize, and congratulate International Paper on reaching its 50th milestone anniversary in the City of Auburn.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City of Auburn, Maine to be fixed this 3rd day of September, 2024.



Mayor Jeffrey D. Harmon



**City of Auburn
City Council Information Sheet**

Council Workshop or Meeting Date: September 3rd, 2024

Order: 108-09032024

Author: Planning & Permitting Staff

Subject: Order initiating Planning Board to review draft ordinance text and map changes by the Lake Auburn Stakeholders Group.

Information: In January of 2024, City Council ordered (04-01022024) the City Manager to direct staff to work with city wide interest groups (AG Working Group, Sustainability and Natural Resources Board, LAWPC, Planning Board and public stakeholders) to create the make-up of Lake Auburn Stakeholders Group. Since that time the group (s) have met on numerous occasions to address continued concerns with protecting Lake Auburn utilizing the ordinance to drive that discussion on what is best for the two communities public water supply while putting into action items that will impact Sec. 60-952 (2) agricultural, forestry and erosion control with further considerations amending text amendments that will strengthen the ordinance for protections to the Lake Auburn Watershed and the source water protection for the communities of Auburn and Lewiston which serves clean drinking water to 39,000 residents from Lake Auburn. The proposed changes are detailed in the attached order and proposed text and maps. The overlay maps will follow existing watershed/overlay boundaries that will assist in the agricultural and forestry 250' buffers and further define natural resource features for buffers for a Planning Board Public hearing will be completed based on this directive.

City Budgetary Impacts: Staff Time

Staff Recommended Action: Staff recommends that the Council initiate the process for the proposed text change and map changes and send it to the Planning Board for a public hearing and council recommendation to City Council.

Previous Meetings and History: Order 04-01022024 on January 2nd, 2024, initiated this discussion and created a working group. Between January and May 1st of 2024 the created Lake Auburn Stakeholders Group have met on numerous occasions (9 times) to address continued concerns with protecting Lake Auburn.

City Manager Comments:

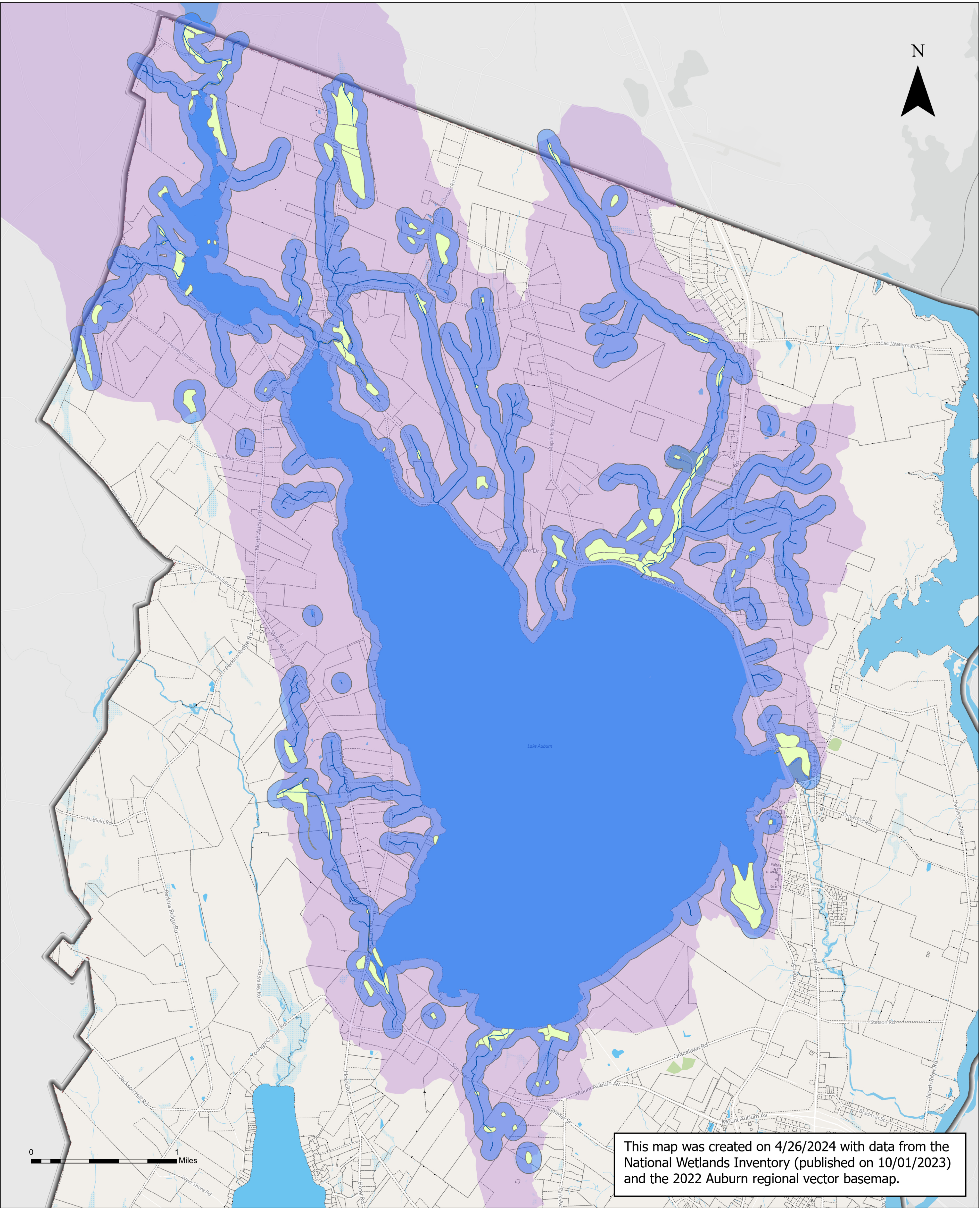
I concur with the recommendation. Signature: *Phillip Crowell Jr.*

Attachments:

Order, Proposed Text Amendments, Official Lake Auburn Watershed Land Use Map with 250' Setback to Lake, Stream and wetlands

Lake Auburn Watershed Overlay

Agricultural Buffer Setbacks



- Streams
- NWI Wetlands
- Lake Auburn Watershed
- Lake Auburn Streams Wetlands Buffer 250 ft

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

DIVISION 4. LAKE AUBURN WATERSHED OVERLAY DISTRICT

Sec. 60-950. Purpose.

The Lake Auburn Watershed Overlay District is intended to maintain safe and healthful environmental conditions; prevent and control water pollution; protect spawning ground for fish, aquatic life, bird and other wildlife habitats; control building sites; provide visual and physical points of access to waters and natural beauty; and protect and maintain the present quality and volume of potable water supplied from the Lake Auburn Watershed to the population of the Auburn-Lewiston area.

(Ord. of 9-21-2009, § 5.3A; Ord. No. 28-11202023, 12-4-2023)

Sec. 60-951. Boundaries and definitions.

(a) *Boundaries.* The Lake Auburn Watershed Overlay District is that section of the city in which surface and subsurface waters ultimately flow or drain into Lake Auburn as such section is delineated on a watershed map and survey by the Auburn Water District on file in the office of the Auburn Water District, the city department of planning and permitting services and the city clerk. The Lake Auburn Watershed Overlay District shall be superimposed over underlying districts within such section. Permitted uses in the underlying districts shall continue subject to compliance with the provisions of the Lake Auburn Watershed Overlay District.

(b) *Definitions.* For purposes of this division, the following words and terms as used herein shall have the meanings or limitations of meaning hereby defined, explained or assigned.

Agricultural use means the production, growing, cultivation, or harvesting of any agricultural commodity or product or the raising, shearing, feeding, caring for, training, and management of livestock or poultry for commercial or personal use.

Animal unit has the same meaning as in section 60-2.

Clearcutting means any cutting of any trees or timber on a forested site that results in a residual basal area of trees over 4 1/2 inches in diameter measured at 4 1/2 feet above the ground of less than 30 square feet per acre, unless, after harvesting, the site has a well-distributed stand of acceptable growing stock, as defined by rule, of at least 3 feet in height for softwood trees and 5 feet in height for hardwood trees that meets the regeneration standards defined under Section 8869, subsection 1 of the Maine Forest Practices Act.

Curtain drain means a trench to intercept laterally moving ground water and divert it away from a septic system disposal field.

~~*Hobby agricultural use* means uses of land for chicken farms, cattle farms, horse farms, egg farms, piggeries, sheep farms, stables, crop farming and other agricultural purposes where:~~

~~(1) The products produced through such use of the land is for personal consumption, pleasure or sustenance by those occupying the land and does not involve the sale of the products produced through such use of the land for profit; and~~

~~(2) The allowances set forth in section 60-2 regarding "farm, livestock" of this chapter and the allowances set forth in article VII, division 4 of chapter 8 of this Code are not exceeded.~~

Invasive Species. Means a plant or insect that is not native to a particular ecosystem, and whose introduction does or is likely to cause economic or environmental harm or harm to human health. Invasive species include those plants listed under the Maine Department of Agriculture, Conservation and Forestry's Natural Areas Program as currently invasive, potentially or probably invasive, and highly likely but not currently invasive, as well as those insects listed by the Maine Forest Service as threats to Maine's forests and trees.

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

Lake Auburn Watershed Protection Commission or *LAWPC* means the commission formed through an interlocal cooperation agreement between and among the City of Lewiston, three commissioners appointed by the Auburn Water District, one commissioner appointed by the Town of Turner, one commissioner appointed by the Towns of Hebron, Minot and Buckfield, and one commissioner appointed by the Androscoggin Valley Council of Governments.

Natural Resource Conservation Service or NRCS means the U.S. Department of Agriculture, Natural Resources Conservation Service or, in those instances where the NRCS is prohibited by federal law from providing services to the property owner or lessee, an alternative service provider approved by the director of the city planning, permitting, and code department, or their designee.

Non-hobby agricultural use means uses of land for chicken farms, cattle farms, horse farms, egg farms, piggeries, sheep farms, stables, crop farming and other agricultural purposes where the products produced through such use of the land are sold for profit.

NWI Wetland means any waterbody shown on the U.S. Fish & Wildlife Service National Wetlands Inventory.

Organic fertilizer means fertilizer derived from either plant or animal products that contain nutrients for plant growth. It is acceptable for the materials in these fertilizers to have been subjected to biological degradation processes under normal conditions of aging, rainfall, sun curing, air drying, composting, rotting, enzymatic, or anaerobic/aerobic bacterial action, or any combination of these. In order to qualify as organic fertilizer, the materials in these fertilizers may not be mixed with synthetic materials or changed in any physical or chemical manner from their initial state except by processing such as drying, cooking, chopping, grinding, shredding, hydrolysis, or pelleting in order to qualify as organic fertilizer. Organic fertilizers are broken down by and feed the microbial life in the soil.

Pest shall have the same meaning as the term set forth in 40 C.F.R. § 152.5, as the same may be amended from time to time.

Pesticide means any substance, or mixture, or combination of substances intended for preventing, destroying, repelling or mitigating any pest; any substance or mixture of substances intended for use as a plant regulator, defoliant or desiccant. It does not include multicellular biological controls such as mites, nematodes, parasitic wasps, snails or other biological agents not regulated as pesticides by the U.S. Environmental Protection Agency. Herbicides, fungicides, insecticides and rodenticides are considered pesticides.

Pests of significant public health importance means pests listed by the U.S. Environmental Protection Agency, in conjunction with the U.S. Department of Health and Human Services and the U.S. Department of Agriculture, as pests of significant public health importance.

Poultry means domesticated birds.

Soil horizon means a layer within a soil profile differing from the soil above or below it in one or more soil morphological characteristics. The characteristics of the layer include the color, texture, rock-fragment content, and consistence of each parent soil material.

Soil horizon, limiting or *limiting soil horizon* means any soil horizon or combination of soil horizons, within the soil profile or any parent material below the soil profile, that limits the ability of the soil to provide treatment or disposal of septic tank effluent. Limiting horizons include bedrock, hydraulically restrictive soil horizons and parent

material excessively coarse soil horizons and parent material, and the seasonal groundwater table. Also sometimes referred to as a "limiting factor."

Soil profile means a vertical cross section of the undisturbed soil showing the characteristic soil horizontal layers or soil horizons that have formed as a result of the combined effects of parent material, topography, climate, biological activity, and time.

Soil filter media means a soil mixture that consists of a loamy sand lower fill layer meeting the following lower fill layer specifications, plus a minimum of six inches of upper fill layer meeting the following upper fill layer specifications.

Soil Filter Media Specifications

Upper fill layer	
Sieve #	% passing by weight
No. 4	75—95
No. 10	60—90
No. 40	35—85
No. 200	20—40
200 (clay size)	< 2.0

Lower fill layer	
Sieve #	% passing by weight
No. 10	85—100
No. 20	70—100
No. 60	15—400
No. 200	6—8
200 (clay size)	< 2.0

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

Summer dormancy means the period during mid-summer most commonly observed in unirrigated grasses when growth ceases. Dormancy is characterized by brittle texture and a loss of green color.

Synthetic fertilizer means any fertilizer manufactured from one or more synthetic materials containing no animal parts, animal byproducts, manures or renderings.

Tillage or tilled means the reconfiguration of the soil into a desired condition by mechanical means.

Total nitrogen means the sum of all nitrogen forms contained within fertilizer, including water soluble nitrogen forms, slow-release nitrogen forms, and water insoluble nitrogen forms. The percentage of total nitrogen appears as the leftmost number of the grade on fertilizer labels or containers.

Wetland, see NWI Wetland.

(Ord. of 9-21-2009, § 5.3B; Ord. No. 28-11202023, 12-4-2023)

Sec. 60-952. Use and environmental regulations.

2. Agricultural, Forestry, and Erosion Control.

-
- (a) ~~*Agricultural uses.* Non-hobby agricultural uses not in existence as of January 1, 2024 are prohibited, and expansions of non-hobby agricultural uses in existence as of December 31, 2023 are prohibited. As of January 1, 2024, new hobby agricultural uses or expansions of hobby agricultural uses in existence as of December 31, 2023 are prohibited.~~ Use of land for agricultural use within the Lake Auburn Watershed Overlay District is only allowed-permitted if:
- (1) ~~The property owner or operator-lessee shows, and the director of the city planning, permitting, and code department, or their designee, finds, after consultation with the LAWPC watershed manager, first demonstrates to LAWPC's watershed manager that~~
 - a. ~~Such use, or expansion of such use, will not cause groundwater contamination and, will not contaminate or disturb the normal course of surface water runoff, and will not contaminate any lake, pond, stream, brook, or NWI wetland; and~~
 - b. ~~The property owner or lessee has a waste and nutrient management plan developed in compliance with the Natural Resource Conservation Service's standards for waste and nutrient management.~~
 - (2) ~~LAWPC's watershed manager approves such use or expansion in writing and so notifies the code enforcement officer.~~The director of the city planning, permitting, and code department, or their designee, has provided their written finding of conformity with the requirements of this Sec. 952(2)(a) to the property owner or lessee.
 - (3) ~~The provisions of this Subsection 2(a) shall apply to all new or expanded agricultural uses of land within the Lake Auburn Watershed Overlay District. For those agricultural uses that exist on July 1, 2024, the property owner or lessee shall comply with the requirements of this Subsection 2(a)(1)(b) no later than June 30, 2027.~~
 - (4) ~~The provisions of this Subsection 2(a) requiring a showing to the director of the planning, permitting, and code department, or their designee, and the requirement to have a waste and nutrient management plan, shall not apply if the agricultural use of the land is for the production, growing, cultivation, or harvesting of any agricultural commodity or product, (but not for or the raising, shearing, feeding, caring for, training, and management of livestock or poultry), whether for commercial or personal use, if the agricultural use of the land encompasses no more than 1,000 square feet in total on any lot. This provision shall not be construed to exempt the property owner or lessee from any other provision of this Division.~~
- (b) *Residential dwellings in the agriculture and resource protection zoning district.* Notwithstanding the provisions of subsections 60-145(a)(1), 60-145(b)(18) and 60-146(1)c., new dwelling units are prohibited in the Lake Auburn Watershed Overlay District. Pursuant to 30-A M.R.S.A. 4364(9), 4364-A(1-A), and 4364-B(1-A), each as may be amended from time to time, the affordable housing density, residential density and accessory dwelling unit provisions of P.L. 2021, ch. 672, "An Act to Implement the Recommendations of the Commission to Increase Housing Opportunities in Maine by Studying Zoning and Land Use Restrictions" and any related state regulations do not apply in the Lake Auburn Watershed Overlay District.
- (c) *Number of animal units permitted.* The number of animal units of livestock permitted in the Lake Auburn Watershed Overlay District shall be calculated utilizing the formula shown in the definition of Farm, Livestock as shown in section 60-2. The number of animal units of poultry permitted in the district shall be calculated as 15 animal units per acre of cleared land not to exceed a total of 150 animal units per lot.
- (ed) *Agricultural-Vegetated buffer strip.* ~~Where land adjoining Lake Auburn or its perennial tributaries (as depicted on a 7.5 minute series USGS topographic map, dated 1981) is tilled for agricultural purposes, an untilled buffer strip 100 feet wide shall be retained between the tilled area and the normal high-water mark. This subsection (c) shall not be interpreted as permitting agricultural tillage in any zoning district in which it is not otherwise permitted.~~Where soil is tilled for agricultural purposes, or livestock or poultry is kept, an

untilled, vegetated buffer strip at least 250 feet wide shall be retained between the tilled area and the normal high-water mark of any lake, pond, stream, brook, or NWI Wetland.

Vegetated buffer strips shall be constructed and maintained as specified in the latest version of the Maine Department of Environmental Protection, Maine Stormwater Management Design Manual, Phosphorous Control Manual, Volume II & Technical Design Manual Volume III, March 2016.

This subsection shall not be interpreted as permitting agricultural tillage in any zoning district in which it is not otherwise permitted.

- ~~(de)~~ Manure and sludge spreading, storage, and disposal. The spreading and or disposal of manure or sludge within the Lake Auburn Watershed Overlay District is prohibited. Manure shall be stored on an impervious surface which has a roof or cover. All spreading and disposal of manure shall be accomplished in conformance with the then-current edition of the Maine Department of Agriculture, Conservation and Forestry's rules, regulations and guidelines for manure spreading and disposal.
- (f) Fertilizer use and application. The following provisions shall apply to the use, application, or storage of fertilizer in the Lake Auburn Watershed Overlay District.
- (1) The following uses and applications of fertilizer are permitted.
- a. Organic fertilizer if a soil test is conducted annually; and
 - b. The fertilizer that is used or applied does not contain nutrients in excess of the amount recommended by the completed soil test; and
 - c. No more than two fertilizer applications are made in one calendar year; and
 - d. For each application, total nitrogen may not exceed 1 lb. per 1,000 square feet.
- (2) The following uses and applications of fertilizer are prohibited.
- a. Fertilizer containing phosphorus, unless a waiver for the use of fertilizer containing phosphorus is issued by the city planning, permitting, and code department.
 - b. Synthetic fertilizers.
 - c. Fertilizer used within 100 feet of the normal high-water mark of a lake, pond, steam, brook, or NWI Wetland.
 - d. Fertilizer used when a rain event producing 0.5 inch or more of precipitation in a one-hour period is forecast or is occurring.
 - e. Fertilizer used on saturated surfaces.
 - f. Fertilizer used on partially or wholly frozen ground.
 - g. Fertilizer used on impervious surfaces, if spills occur on impervious surfaces they must be removed immediately.
 - h. Fertilizer used during the summer dormancy period.
- (3) Waivers may be issued by the director of the city planning, permitting, and code department, or their designee, after consultation with the LAWPC watershed manager:
- a. upon a showing by the applicant that the use of synthetic fertilizer, or the use of fertilizer containing phosphorus, is necessary because a suitable organic fertilizer product that meets the nutrient needs of the soil as specified in the soil test is unavailable. The waiver may contain additional conditions on the use or application of the waived fertilizer product to minimize the risk to any lake, pond, stream, brook or NWI Wetland.

b. upon a showing by the applicant that a nutrient management plan prepared by the Natural Resources Conservation Service for a specific agricultural use requires a frequency of application greater than that specified in subsection 2(f)(1)(c) of this section and/or a total nitrogen application greater than that specified in subsection 2(f)(1)(d) of this section.

(4) Fertilizers shall be stored, mixed, and loaded:

- a. pursuant to the specific manufacturer's storage instructions on the fertilizer label; and
- b. must be stored in an impervious container on an impervious surface; and
- c. must be mixed and loaded on an impervious surface; and
- d. no more than two times the volume needed for a single application may be stored at any one time.

(g) Allowed and prohibited pesticides. For outdoor pest management activities in the Lake Auburn Watershed Overlay District, the following shall apply:

(1) Synthetic substances are prohibited unless specifically listed as "allowed" on the U.S. Department of Agriculture's National List of Allowed and Prohibited Substances (the "National List");

(2) Non-synthetic substances are allowed unless specifically listed as "prohibited" on the National List;

(3) Pesticides determined to be "minimum risk pesticides" pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) 4 and listed in 40 C.F.R. § 152.25(f)(1) or (2), as may be amended from time to time, are allowed; and

(4) The use or application of pesticides (whether natural, organic, "non-synthetic," synthetic or otherwise) within 250 feet of the normal high-water mark of a lake, pond, stream, brook, or NWI Wetland is prohibited.

(5) The following materials, applications, or activities are exempt from the provisions of this subsection (g) (and are so allowed).

- a. Pet supplies, such as shampoos and tick and flea treatments, when used in the manner specified by the manufacturer;
- b. Disinfectants, germicides, bactericides, miticides and virucides, when used in the manner specified by the manufacturer;
- c. Insect repellents when used in the manner specified by the manufacturer;
- d. Rat and rodent control supplies when used in the manner specified by the manufacturer;
- e. Swimming pool supplies when used in the manner specified by the manufacturer.

(6) The following uses of prohibited pesticides are exempt from the provisions of this subsection (and are so allowed) when the use of the material, application, or activity is more than 250 feet from the normal high-water mark of a lake, pond, stream, brook, or NWI Wetland or when a waiver has been granted by the director of the city planning, permitting, and code department or their designee.

a. Prohibited pesticides may be used to control plants that are poisonous to the touch, such as poison ivy; pests of significant health importance, such as ticks and mosquitoes; animals or insects that may cause damage to a structure, such as carpenter ants or termites; invasive species; or when used by a public utility for maintenance of a right-of-way through the Lake Auburn Watershed Overlay District.

b. The director of the city planning, permitting, and code department, or their designee, after consultation with the LAWPC watershed manager, may grant a waiver to use a prohibited pesticide within 250 feet of the high-water mark of a lake, pond, stream, brook, or NWI Wetland when such use is necessary to protect public health or safety.

(7) Pesticides shall be stored, mixed, loaded, and applied:

- a. pursuant to the specific manufacturer's storage instructions on the pesticide label or container; and
- b. must be stored in an impervious container on an impervious surface; and
- c. must be mixed and loaded on an impervious surface; and
- d. no more than two times the volume needed for a single application may be stored at any one time; and
- e. shall not be applied by aerial spraying.

(eh) *Erosion control.* ~~The following provisions shall be observed for the control of erosion in the Lake Auburn Watershed:~~

~~(1) Any exposing, moving, removal, or stockpiling of soil, or the removal of vegetative cover, earth-cutting, moving or removal activities that will result in erosion or runoff which increases sedimentation of Lake Auburn, or any tributaries or other water bodies in the watershed, any lake, pond, stream, brook, or NWI Wetland in the Lake Auburn Watershed Overlay District are is prohibited.~~

~~(2) Vegetative cover shall not be removed except in a manner which will minimize erosion. Harvesting of trees shall be permitted only after a plan prepared by a qualified forester is submitted to and approved by the Auburn Water District. Such plan will be approved or disapproved on the basis of its conformance with good watershed management practice for domestic water supplies.~~

~~(3i) Trees may be cleared, provided the cleared areas are covered with other vegetation, for approved construction and landscaping. Where such clearing is extended to the shoreline, a cleared opening or openings not greater than 30 feet in width for every 100 feet of shoreline (measured along the high water mark) may be created in the strip extending 50 feet inland from the normal high-water mark. For purposes of this section, clearing is the removal of adjacent dominant trees which extend into the canopy and shrubs within ten feet of the shoreline. Where natural vegetation is removed, it shall be replaced with other vegetation which is equally effective in retarding erosion and preserving natural beauty. When the vegetative cover is changed in areas greater than three acres, a plan shall be filed with the Auburn Water District indicating the changes so that a record can be maintained of watershed water yields to the system.~~

~~*Tree clearing and forestry.* Clearcutting is limited to 25% of the total area of a lot or two acres, whichever is less; provided that on lots of 20 acres or more, one clearcut of not more than two acres in every 20 contiguous acres may be made. Any discrete tree or timber cutting operation on a lot of any size over two acres shall be permitted only pursuant to a harvest plan prepared by a Maine licensed forester meeting the standards in the latest versions of Rule 20 of the rules adopted under the Maine Forest Practices Act, the Maine Department of Agriculture, Bureau of Forestry's manual on Best Management Practices for Forestry: Protecting Maine's Water Quality and, where applicable, the requirements of Chapter 21 of Maine Forest Service's Statewide Standards for Timber Harvesting in Shoreland Areas. All harvest plans must be approved by the director of the city planning, permitting, and code department, or their designee, after consultation with the LAWPC watershed manager. Such harvest plan will be approved or disapproved based on its conformance with this Division, with a focus on its ability to ensure protection of the water quality of Lake Auburn. From time to time, the director, or their designee, may require the approved harvest plan to be amended to ensure preventive and corrective actions which may become necessary to protect the water quality of Lake Auburn.~~

1. Subsurface Wastewater Disposal Systems.

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

-
- (1) Disposal fields are prohibited on sites with less than 12 inches to the limiting soil horizon. In addition to having at least 12 inches to the limiting soil horizon, disposal fields shall have at least 24 inches of suitable natural soil or soil filler media below the bottom of the disposal field, such that there is at least a 36-inch separation between the bottom of the disposal field and the limiting soil horizon. The local plumbing inspector shall require that a state licensed site evaluator affirm that these design criteria are met before the LPI finds the design or installation of the system to comply with this section.
 - (2) No new disposal field shall be installed closer than 400 feet to the normal high-water mark of any lake, pond, or year-round or intermittent stream (as depicted on a 7.5 minute series USGS topographic map, dated 1981). Where the daily wastewater flow is or is reasonably likely to be in excess of 2,000 gallons, the system shall be located at least 1,000 feet from the normal high-water mark of any lake, pond or year-round or intermittent stream.
 - (3) All disposal fields, replacement or new, shall meet the design criteria set forth in subsection (f)(1) above, except that if a replacement system disposal field cannot meet the design criteria set forth in subsection (f)(1) above, the local plumbing inspector must, in consultation with and the concurrence of the Auburn Water District, or its designee, evaluate the design and then require the disposal field to meet as much of the design criteria as is physically possible under the site-specific circumstances.
 - (4) All private subsurface wastewater disposal systems, replacement or new, shall either have:
 - a. A curtain drain installed per Section 11(H) of the Maine Subsurface Wastewater Disposal Rules, 10-144 C.M.R. ch. 241 (2015), as may be amended from time to time; or
 - b. A diversion ditch, upslope of the disposal field, installed for the disposal field's entire length (including fill extensions), whichever installation is determined to be the most appropriate based on the evaluation of groundwater conditions on the site by a state licensed site evaluator.

The local plumbing inspector shall require that a state licensed site evaluator affirm that one of these two types of installation is part of the design of the system before the LPI finds the design or installation of the system to comply with this section.

- (5) All private subsurface wastewater disposal systems, replacement or new, shall be installed on the same lot as the dwelling unit being served by the system, unless the system can be developed outside of the Lake Auburn Watershed Overlay District or, in the case of a replacement system, the property owner can demonstrate to the local plumbing inspector that it is physically impossible for the replacement system to be located on the same lot, in which case the local plumbing inspector may approve all or a portion of the replacement system's location on adjacent lots.
- (6) Commencing July 1, 2024, LAWPC or its designee shall have the right to inspect all private subsurface wastewater disposal systems in the Lake Auburn Watershed Overlay District every five years and/or at the time that a property sold, whichever time frame is deemed most appropriate by LAWPC or its designee.
- (7) The Auburn Water District or its designee shall have the right to inspect any subsurface wastewater disposal system within the Lake Auburn Watershed Overlay District during its construction and operation and may notify the health officer, police chief, local plumbing inspector or housing inspector of any observed defects or malfunction that require abatement action by the property owner or operator.
- (8) The local plumbing inspector shall furnish a copy of all site evaluation reports in the Lake Auburn Watershed Overlay District to the Auburn Water District or its designee.

(Ord. of 9-21-2009, § 5.3C; Ord. No. 19-12022019, 12-9-2019; Ord. No. 10-06202023, 7-10-2023; Ord. No. 28-11202023, 12-4-2023)

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

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

(Ord. of 9-21-2009, § 5.3D)

Sec. 60-954. Conflicts.

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

(Ord. of 9-21-2009, § 5.3E)

Secs. 60-955—60-981. Reserved.



ORDER 108-09032024

City Council Order

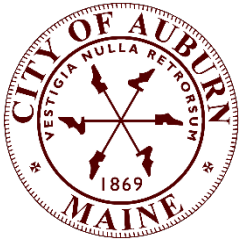
IN CITY COUNCIL

Ordered, That the Auburn City Council Initiates consideration of an amendment from the Lake Auburn Stakeholders Group and refers the attached text and maps to the Auburn Planning Board for Public Hearing and a Recommendation pursuant to Chapter 60, Article XVII. Amendment include Chapter 60, Article II, Chapter 60, Chapter 60, Article XII, Division 4, Lake Auburn Watershed Overlay District and amendments to the Zoning Map. The intent is to consider text amendments that will strengthen the ordinance for protections to the Lake Auburn Watershed and the source water protection for the communities of Auburn and Lewiston which serves clean drinking water to 39,000 residents from Lake Auburn. The overlay maps will follow existing watershed/overlay boundaries that will assist in the agricultural and forestry uses and further define natural resource features for 250' buffers. Materials for a Planning Board Public hearing has been completed based on the directive in Order 04-01022024.

Richard S. Whiting, Ward One
Benjamin J. Weisner, Ward Four
Belinda A. Gerry, At Large

Timothy M. Cowan, Ward Two
Leroy G. Walker, Sr., Ward Five
Jeffrey D. Harmon, Mayor

Stephen G. Milks, Ward Three
Adam R. Platz, At Large
Phillip L. Crowell, Jr., City Manager



**City of Auburn
City Council Information Sheet**

Council Workshop or Meeting Date: September 3, 2024,

Order: 109-09032024

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

Subject: Lease City owned Property to Auburn Riverwalk, LLC

Information:

The Owners of Auburn Riverwalk, LLC expressed interest in leasing a small section of city owned property to use in conjunction with their tenant (Gritty's). They are willing to maintain the proposed area and keep it well landscaped and in good repair. Staff discussed the possibility internally and saw no negative outcomes as the property is along the Riverwalk and has good potential to allow the business to provide additional amenities to residents and guests. The lease will allow them to use the space and require them to continue maintenance and either party can terminate with in a short time period.

City Budgetary Impacts: NONE

Staff Recommended Action:

Approve order as presented.

Previous Meetings and History:

NONE

City Manager Comments:

I concur with the recommendation. Signature: *Phillip Crowell Jr.*

Attachments:

Draft Lease



Land Lease Agreement

This Land Lease Agreement ("Lease") is made and entered into this ____ day of _____, 2024, by and between the **City of Auburn**, a municipal corporation organized under the laws of the State of Maine with a mailing address of 60 Court Street, Auburn ME 04210 ("Lessor"), and **Auburn Riverwalk, LLC**, a limited liability company organized under the laws of the State of Maine with a mailing address of 155 Center Street, Auburn ME 04210 ("Lessee").

1. Leased Premises.

Lessor hereby leases to Lessee, and Lessee hereby leases from Lessor, approximately 2,000 square feet of land as delineated in attached Exhibit A, which is adjacent to the property located on Main Street described as Parcel 241-017, such land being a portion of Parcel 241-021, , hereinafter referred to as the "Leased Premises," in common with Lessor, its tenants, agents, employees, and invitees.

2. Term.

The term of this Lease shall be for a period of ten (10) years commencing on the ____ day of _____, 2024, and ending on the ____ day of _____, 2034, or such earlier date as Gritty McDuff's Brew Pub discontinues as a tenant of Lessee at the above Main Street location, unless sooner terminated in accordance with the provisions of this Lease.

3. Rent.

Lessee shall pay to Lessor an annual rent of One Dollar (\$1.00), payable in advance on the first day of each lease year.

4. Use of Premises.

The Leased Premises may be used by Lessee solely for any allowed business use associated with their current tenant, Gritty McDuff's Brew Pub. The Leased Premises shall not be sublet in whole or in part nor shall this Lease be assigned or transferred, without the prior express written consent of Lessor.

5. Maintenance and Care.

Lessee accepts the Leased Premises in "as-is" condition as of the commencement date of this Lease. No modifications to the Leased Premises by Lessee or its tenant shall be permitted without the express written permission of Lessor. Lessee shall, at its sole cost and expense, maintain the Leased Premises in good order, condition, and repair, including but not limited to, all necessary landscaping, mowing, snow removal, and trash removal. Lessee shall not commit or allow any waste on the Leased Premises. All property belonging to Lessee, its tenant, or either party's employees, agents, or invitees shall be present on the Lease Premises at their own risk and that of such other persons only, and Lessor shall not be liable to damage thereto or theft or misappropriation thereof.

6. Insurance.

Lessee shall maintain comprehensive general liability insurance in an amount not less than \$1,000,000 per occurrence and \$2,000,000 aggregate, naming the City of Auburn as an additional insured. Proof of such insurance shall be provided to Lessor upon request.

7. Termination.

Lessor reserves the right to terminate this Lease upon ninety (90) days' written notice to Lessee if it determines for any reason in its sole discretion that the Leased Premises are needed for municipal use. In addition, if Lessee fails to comply with any of the terms and conditions of this Lease, Lessor shall notify Lessee of such default.

Lessee shall have thirty (30) days from receipt of such notice to cure the default. Should Lessee fail to cure the default, Lessor shall have the right to immediately terminate this Lease. Upon any termination of the Lease, Lessee shall vacate the Leased Premises and remove all personal property therefrom at its own expense, and is responsible for ensuring that at the end of the Lease term, the Leased Premises are in the same condition as they were prior to the commencement of the Lease, reasonable wear and tear excepted. Any property required to be removed by Lessor shall become the sole and personal property of Lessor, and Lessor may dispose of it at its discretion. Lessee shall promptly pay Lessor for all costs incurred in any such removal and/or disposal.

8. Compliance with Laws.

Lessee shall comply with, and shall be responsible for its tenant's compliance with, all local, state, and federal laws, ordinances, regulations, and requirements now in force or which may hereafter be in force pertaining to the use of the Leased Premises. Lessee and its tenant shall secure, at its sole cost and expense, all licenses and/or permits necessary for it to conduct any activities on the Leased Premises.

9. Indemnification.

Lessee shall assume all risks incident to the use of the Leased Premises by Lessee and its tenant, and shall indemnify and hold harmless Lessor from and against any and all claims, demands, actions, or causes of action, losses, liabilities, damages, or expenses arising out of or in connection with Lessee's or its tenant's, or their employees', agents', or invitees' use of the Leased Premises.

10. Notices.

Any notice required or permitted under this Lease shall be in writing and delivered in person or deposited in the United States mail, postage prepaid, addressed as follows:

If to Lessor:

City of Auburn

60 Court Street

Auburn, ME 04210

Attn: Director of Business and Community Development

If to Lessee:

Riverwalk LLC

[Address]

[City, State, ZIP]

Attn: [Name]

Such notices shall be deemed effective upon receipt or refusal of receipt. A party may change their above address at any time by the giving of written notice as provided.

11. Binding Effect; Entire Agreement.

This Lease shall be binding upon the parties hereto, their heirs, successors, and assigns. This Lease contains the entire agreement between the parties and shall not be modified except by a written agreement signed by both parties.

IN WITNESS WHEREOF, the parties hereto have executed this Lease as of the day and year first above written.

City of Auburn

By: _____

Name: Phillip L. Crowell, Jr

Title: City Manager

Auburn Riverwalk, LLC

By: _____

Name: _____

Title: _____



ORDER 109-09032024

City Council Order

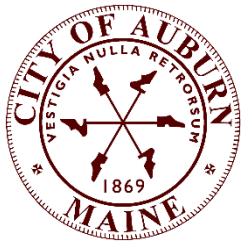
IN CITY COUNCIL

Ordered, that the City Manager Execute a lease with Auburn Riverwalk, LLC for a portion of Auburn Tax Parcel 241-017 to be used for the benefit of their tenant Gritty McDuff's Brew Pub.

Richard S. Whiting, Ward One
Benjamin J. Weisner, Ward Four
Belinda A. Gerry, At Large

Timothy M. Cowan, Ward Two
Leroy G. Walker, Sr., Ward Five
Jeffrey D. Harmon, Mayor

Stephen G. Milks, Ward Three
Adam R. Platz, At Large
Phillip L. Crowell, Jr., City Manager



City of Auburn City Council Information Sheet

Council Workshop or Meeting Date: September 3, 2024

Subject: Executive Session

Information: Executive Session pursuant to 1 M.R.S.A. Section 405(6) (C) for an economic development matter.

Executive Session: On occasion, the City Council discusses matters which are required or allowed by State law to be considered in executive session. Executive sessions are not open to the public. The matters that are discussed in executive session are required to be kept confidential until they become a matter of public discussion. In order to go into executive session, a Councilor must make a motion in public. The motion must be recorded, and 3/5 of the members of the Council must vote to go into executive session. An executive session is not required to be scheduled in advance as an agenda item, although when it is known at the time that the agenda is finalized, it will be listed on the agenda. The only topics which may be discussed in executive session are those that fall within one of the categories set forth in Title 1 M.R.S.A. Section 405(6). Those applicable to municipal government are:

A. Discussion or consideration of the employment, appointment, assignment, duties, promotion, demotion, compensation, evaluation, disciplining, resignation or dismissal of an individual or group of public officials, appointees or employees of the body or agency or the investigation or hearing of charges or complaints against a person or persons subject to the following conditions:

- (1) An executive session may be held only if public discussion could be reasonably expected to cause damage to the individual's reputation or the individual's right to privacy would be violated;
- (2) Any person charged or investigated must be permitted to be present at an executive session if that person so desires;
- (3) Any person charged or investigated may request in writing that the investigation or hearing of charges or complaints against that person be conducted in open session. A request, if made to the agency, must be honored; and
- (4) Any person bringing charges, complaints or allegations of misconduct against the individual under discussion must be permitted to be present. This paragraph does not apply to discussion of a budget or budget proposal;

B. Discussion or consideration by a school board of suspension or expulsion of a public school student or a student at a private school, the cost of whose education is paid from public funds, as long as:

- (1) The student and legal counsel and, if the student is a minor, the student's parents or legal guardians are permitted to be present at an executive session if the student, parents or guardians so desire;

C. Discussion or consideration of the condition, acquisition or the use of real or personal property permanently attached to real property or interests therein or disposition of publicly held property or economic development only if premature disclosures of the information would prejudice the competitive or bargaining position of the body or agency;

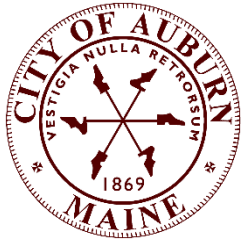
D. Discussion of labor contracts and proposals and meetings between a public agency and its negotiators. The parties must be named before the body or agency may go into executive session. Negotiations between the representatives of a public employer and public employees may be open to the public if both parties agree to conduct negotiations in open sessions;

E. Consultations between a body or agency and its attorney concerning the legal rights and duties of the body or agency, pending or contemplated litigation, settlement offers and matters where the duties of the public body's or agency's counsel to the attorney's client pursuant to the code of professional responsibility clearly conflict with this subchapter or where premature general public knowledge would clearly place the State, municipality or other public agency or person at a substantial disadvantage;

F. Discussions of information contained in records made, maintained or received by a body or agency when access by the general public to those records is prohibited by statute;

G. Discussion or approval of the content of examinations administered by a body or agency for licensing, permitting or employment purposes; consultation between a body or agency and any entity that provides examination services to that body or agency regarding the content of an examination; and review of examinations with the person examined; and

H. Consultations between municipal officers and a code enforcement officer representing the municipality pursuant to Title 30-A, section 4452, subsection 1, paragraph C in the prosecution of an enforcement matter pending in District Court when the consultation relates to that pending enforcement matter.



City of Auburn City Council Information Sheet

Council Workshop or Meeting Date: September 3, 2024

Subject: Executive Session

Information: Executive Session pursuant to 1 M.R.S.A. Section 405(6) (A) for City Manager's Annual Evaluation..

Executive Session: On occasion, the City Council discusses matters which are required or allowed by State law to be considered in executive session. Executive sessions are not open to the public. The matters that are discussed in executive session are required to be kept confidential until they become a matter of public discussion. In order to go into executive session, a Councilor must make a motion in public. The motion must be recorded, and 3/5 of the members of the Council must vote to go into executive session. An executive session is not required to be scheduled in advance as an agenda item, although when it is known at the time that the agenda is finalized, it will be listed on the agenda. The only topics which may be discussed in executive session are those that fall within one of the categories set forth in Title 1 M.R.S.A. Section 405(6). Those applicable to municipal government are:

A. Discussion or consideration of the employment, appointment, assignment, duties, promotion, demotion, compensation, evaluation, disciplining, resignation or dismissal of an individual or group of public officials, appointees or employees of the body or agency or the investigation or hearing of charges or complaints against a person or persons subject to the following conditions:

- (1) An executive session may be held only if public discussion could be reasonably expected to cause damage to the individual's reputation or the individual's right to privacy would be violated;
- (2) Any person charged or investigated must be permitted to be present at an executive session if that person so desires;
- (3) Any person charged or investigated may request in writing that the investigation or hearing of charges or complaints against that person be conducted in open session. A request, if made to the agency, must be honored; and
- (4) Any person bringing charges, complaints or allegations of misconduct against the individual under discussion must be permitted to be present. This paragraph does not apply to discussion of a budget or budget proposal;

B. Discussion or consideration by a school board of suspension or expulsion of a public school student or a student at a private school, the cost of whose education is paid from public funds, as long as:

- (1) The student and legal counsel and, if the student is a minor, the student's parents or legal guardians are permitted to be present at an executive session if the student, parents or guardians so desire;

C. Discussion or consideration of the condition, acquisition or the use of real or personal property permanently attached to real property or interests therein or disposition of publicly held property or economic development only if premature disclosures of the information would prejudice the competitive or bargaining position of the body or agency;

D. Discussion of labor contracts and proposals and meetings between a public agency and its negotiators. The parties must be named before the body or agency may go into executive session. Negotiations between the representatives of a public employer and public employees may be open to the public if both parties agree to conduct negotiations in open sessions;

E. Consultations between a body or agency and its attorney concerning the legal rights and duties of the body or agency, pending or contemplated litigation, settlement offers and matters where the duties of the public body's or agency's counsel to the attorney's client pursuant to the code of professional responsibility clearly conflict with this subchapter or where premature general public knowledge would clearly place the State, municipality or other public agency or person at a substantial disadvantage;

F. Discussions of information contained in records made, maintained or received by a body or agency when access by the general public to those records is prohibited by statute;

G. Discussion or approval of the content of examinations administered by a body or agency for licensing, permitting or employment purposes; consultation between a body or agency and any entity that provides examination services to that body or agency regarding the content of an examination; and review of examinations with the person examined; and

H. Consultations between municipal officers and a code enforcement officer representing the municipality pursuant to Title 30-A, section 4452, subsection 1, paragraph C in the prosecution of an enforcement matter pending in District Court when the consultation relates to that pending enforcement matter.