



Map & Ordinance Text Amendments Related to Lake Auburn Watershed Chapter 60, Article XII, Division 4

Planning Board Workshop 09/10/2024
Farming & Agriculture

Agenda

- 1.) Why more changes?
- 2.) Definitions for Agricultural and Forestry Uses (Text Changes/Additions)
- 3.) Fertilizers and Pesticides (Text Additions)
- 4.) Erosion Control, Tree Clearing and Forestry (Text Changes/Additions)
- 5.) Map of 250' Setback to lake, pond, stream, brook, or NWI wetland.

Why More Changes?

- January 2024; CC, Order 04-01022024 City Manager to direct staff to work with the Lake Auburn Stakeholders Group. (AG working group, Sustainability, and Natural Resources Board, LAWPC, PB members, and public stakeholders) met in a public setting over 10 times from Jan-July to discuss and identify continued concerns and processes related to ordinances that protect Lake Auburn and its watershed.
- September 2024; CC, Order XX-09032024: Initiating ordinance amendments process to Division 4 Lake Auburn Watershed District focus on agriculture and forestry.
- Update definitions: to agricultural use, animal units, clearcutting, invasive species, livestock, NRCS, NWI, fertilizer, pest, pesticides, poultry, soil test, summer dormancy, tillage, Total N.
- Allows farming in the watershed with defined safe boards for water quality protections. (waste and nutrient management plans with required buffers)
- Requires existing farms to comply with obtaining waste or nutrient management plan that raise livestock or poultry by June 30, 2027 regardless of size.
- Set limits on animal and poultry animal units.
- Tillage setbacks from 100' to 250' (Map Developed)
- Manure spreading prohibited, language for manure storage BMPs
- Guideline for fertilizer and pesticide use and applications.
- Clearcutting limited to 2 acres on a 20-acre tract.
- Clearcutting is limited 25% of the lot on 20-acres or less.
- Added state forestry BMP language for tree clearing and state requirements for harvesting in the SLZ.
- Adopted "Rule 20" by the MFS policy under the Maine Forest Practices Act legislation.

Source Water Protection for the Auburn and Lewiston Community.
That's our drinking water!

Right to food. All individuals have a natural, inherent and unalienable right to save and exchange seeds and the right to grow, raise, harvest, produce and consume the food of their own choosing for their own nourishment, sustenance, bodily health and well-being, as long as an individual does not commit trespassing, theft, poaching or other abuses of private property rights, public lands or natural resources in the harvesting, production or acquisition of food.



Division 4. Definitions

- **Update definitions: to agricultural use, animal units, clearcutting, invasive species, livestock, NRCS, NWI, fertilizer, pest, pesticides, poultry, soil test, summer dormancy, tillage, Total N.**

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.¶

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

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

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

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

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

Wetland, see NWI Wetland.¶

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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 Town 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.¶



Farming in the Lake Auburn Watershed

- (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.~~¶

- **Allows farming in the watershed with defined safe boards for water quality protection. (waste and nutrient management plans by NRCS with required buffers-250 Feet)**
- **Requires existing farms to comply with obtaining waste or nutrient management plan that raise livestock or poultry by June 30, 2027 regardless of size and crop farms over 1,000 SF.**
- **Removes hobby farms.**
- **Approvals are required by LAWPC, City Staff, and NRCS input.**

Set Limits on Animal Units In the Watershed

~~(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. ¶~~

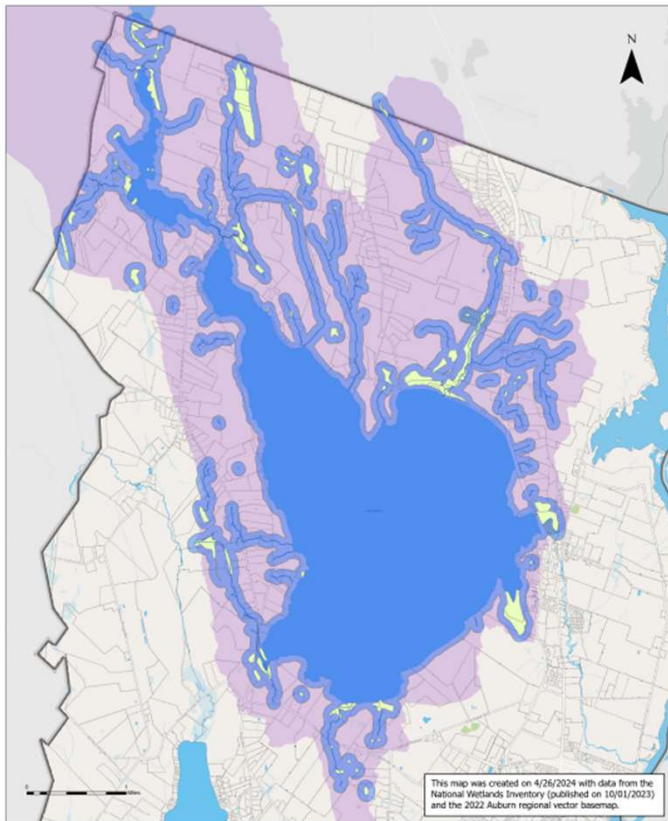
(60-2) *Farm, livestock*, means any parcel of land that contains at least the following land area used for the keeping of horses, mules, donkeys, cattle, goats, sheep, swine and similar-sized animals for the agricultural use of the residents of the lot, provided that there is a minimum of 1 acre of land as required by [Chapter 8](#) Animals and adequate land area is provided for each animal unit, excluding water bodies of one-quarter acre surface area or larger:

1. Cattle: One bovine animal unit per acre of cleared hay-pasture land.
2. Horse: 1.5 animal units per acre of cleared hay/pasture land.
3. Sheep: Three animal units per acre of cleared hay/pasture land.
4. Swine: Two animal units per acre of cleared land.

Other livestock farms: The required lot size shall be determined by municipal officer charged with enforcement and shall conform to the lot size for similar sized animals.

Division 4 Buffers

Lake Auburn Watershed Overlay Agricultural Buffer Setbacks



— Streams
■ NWI Wetlands
■ Lake Auburn Watershed
■ Lake Auburn Streams Wetlands Buffer 250 ft

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Tillage setback of 250' from Natural Resources.

(cd) → Agricultural Vegetated buffer strip. Where land adjoining Lake Auburn or its perennial tributaries (as depicted on a 7.5-minute series USGS topographic map, dated 1981) is tilled for agricultural purposes, an untilled buffer strip 100 feet wide shall be retained between the tilled area and the normal high water mark. This subsection (c) shall not be interpreted as permitting agricultural tillage in any zoning district in which it is not otherwise permitted. Where soil is tilled for agricultural purposes, or livestock or poultry is kept, an

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

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

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

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Division 4. Lake Auburn Watershed Overlay District Cont.

Manure storage requirements.

~~(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. ¶~~



Division 4. Lake Auburn Watershed Overlay District Cont.

Guideline for fertilizer and pesticide use and applications.

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. ¶

(f) → Fertilizer use and application. The following provisions shall apply to the use, application, or storage of fertilizer in the Lake Auburn Watershed Overlay District. ¶

(1) → The following uses and applications of fertilizer are permitted. ¶

a. → Organic fertilizer if a soil test is conducted annually; and ¶

b. → The fertilizer that is used or applied does not contain nutrients in excess of the amount recommended by the completed soil test; and ¶

c. → No more than two fertilizer applications are made in one calendar year; and ¶

d. → For each application, total nitrogen may not exceed 1 lb. per 1,000 square feet. ¶

(2) → The following uses and applications of fertilizer are prohibited. ¶

a. → Fertilizer containing phosphorus, unless a waiver for the use of fertilizer containing phosphorus is issued by the city planning, permitting, and code department. ¶

b. → Synthetic fertilizers. ¶

c. → Fertilizer used within 100 feet of the normal high-water mark of a lake, pond, stream, brook, or NWI Wetland. ¶

d. → Fertilizer used when a rain event producing 0.5 inch or more of precipitation in a one-hour period is forecast or is occurring. ¶

e. → Fertilizer used on saturated surfaces. ¶

f. → Fertilizer used on partially or wholly frozen ground. ¶

g. → Fertilizer used on impervious surfaces, if spills occur on impervious surfaces they must be removed immediately. ¶

h. → Fertilizer used during the summer dormancy period. ¶

(3) → Waivers may be issued by the director of the city planning, permitting, and code department, or their designee, after consultation with the LAWPC watershed manager. ¶

a. → upon a showing by the applicant that the use of synthetic fertilizer, or the use of fertilizer containing phosphorus, is necessary because a suitable organic fertilizer product that meets the nutrient needs of the soil as specified in the soil test is unavailable. The waiver may contain additional conditions on the use or application of the waived fertilizer product to minimize the risk to any lake, pond, stream, brook or NWI Wetland. ¶



Division 4. Lake Auburn Watershed Overlay District Cont.

- Clearcutting limited to 2 acres on a 20-acre tract.
- Clearcutting is limited 25% of the lot or 2 acres, whichever is less on lots less than 20-acres.
- Added state forestry BMP language for tree clearing and state requirements for harvesting in the SLZ.
 - Adopted "Rule 20" by the MFS policy under the Maine Forest Practices Act Legislation.

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.

