

5.4 **Shoreland Overlay District (SLO)**

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

- B. **Boundaries and Definitions** – The Shoreland Overlay District are those sections of Auburn which are located within 250 feet of the normal high water mark of those areas noted on the Official Shoreland Zoning Map for the City. The perimeters of the Shoreland Overlay District shall be superimposed over underlying zoning districts. The provisions of the underlying zoning district shall be adhered to subject to compliance with the provisions of the Shoreland Overlay District.

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

C. **Non-conforming Structures**

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

Further Limitations:

- a. After January 1, 1989, if any portion of a structure is less than the required setback from the normal high-water line of a water body or upland edge of a wetland, that portion of the structure shall not be expanded in floor area or volume, by 30 percent or more, during the lifetime of the structure.

- b. Construction or enlargement of a foundation beneath the existing structure shall not be considered an expansion of the structure provided that the structure and new foundation are placed such that the setback requirement is met to the greatest practical extent as determined by the

Board of Appeals, basing its decision on the criteria specified in Subsection 2. Relocation, below: that the completed foundation does not extend beyond the exterior dimensions of the structure; and that the foundation does not cause the structure to be elevated by more than three (3) additional feet.

- c. No structure which is less than the required setback from the normal high-water line of a water body, tributary stream, or upland edge of a wetland shall be expanded toward the water body, tributary stream, or wetland.

2. **Relocation** – A non-conforming structure may be relocated within the boundaries of the parcel on which the structure is located provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the Board of Appeals and provided that the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of State Law and the State of Maine Subsurface Wastewater Disposal Rules or that a new system can be installed in compliance with the law and said Rules. In no case shall a structure be relocated in a manner that causes the structure to be more non-conforming.

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

D. **Principal and Accessory Structures**

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

In addition:

- a. The water body or wetland setback provision shall neither apply to structures which require direct access to the water as an operational necessity, such as piers, docks and retaining walls, nor to other functionally water-dependent uses.
2. The total area of all structures, parking lots and other non-vegetated surfaces within the Shoreland Zone shall not exceed twenty (20) percent of the lot or a portion thereof including land area previously developed and shall not exceed seventy (70) percent coverage in the Urban Built Up Area, as shown on the Shoreland Zoning Map.
3. Notwithstanding the requirements stated above, stairways or similar structures may be allowed with a permit from the Building Inspector and Code Enforcement Officer to provide shoreline access in areas of steep slopes or unstable soils provided that the structure is limited to a maximum of four (4) feet in width; that the structure does not extend below or over the normal high-water line of a water body or upland edge of a wetland, (unless permitted by the Department of Environmental Protection pursuant to the Natural Resources Protection Act, Title 38, Section 480-C); and that the applicant demonstrates that no reasonable access alternative exists on the property.

E. **Use and Environmental Regulations**

1. **Agricultural Uses** – All uses of land for chicken farms, cattle farms, horse farms, egg farms, piggeries, sheep farms, stables, crop farming and other agricultural purposes shall be subject to the approval of the municipal officer charged with enforcement. Such approval shall be granted upon a showing that such uses will not cause groundwater contamination or contaminate or disturb the normal course of surface runoff. In considering any such proposed agricultural uses, the municipal officer may consult or may require the proponent to supply certification by a soil scientist or other expert as to the effect on ground-water and water runoff, if any, which the proposed use is likely to cause.

Existing farm activities conducted in accordance with a Soil and Water Conservation Plan shall not be subject to the approval of

those activities by the municipal officer charged with enforcement. The municipal officer shall be provided with a copy of the Plan and subsequent amendments to such Plan.

2. **Agricultural Buffer Strip** – An untilled buffer strip at least fifteen (15) feet wide for agricultural fields existing on the date of adoption of this Ordinance and one hundred (100) feet for fields established after the date of the adoption of this Ordinance shall be retained between the normal high water mark and that portion of any lot within the Shoreland Overlay District which is used for agricultural purposes.
3. **Municipal and Manure Sludge Disposal** – All spreading and disposal of municipal sludge shall be accomplished in conformance with the “Rules for Municipal Sludge Utilization on Land” published by the Department of Environmental Protection in December, 1989. All spreading and disposal of manure shall be accomplished in conformance with “Maine Guidelines for Manure and Manure Sludge Disposal on Land”, published by the Life Sciences and Agriculture Experiment Station and the Cooperative Extension Service, University of Maine at Orono, and the Maine Soil and Water Conservation Commission in July, 1972.
4. **Erosion Control** – The following provisions shall be observed for the control of erosion in the Shoreland Overlay District:
 - a. Any earth cutting, moving or removal activities that will result in erosion or runoff which is likely to increase sedimentation of Taylor Pond, Taylor Brook and Little Androscoggin River or the Androscoggin River, as determined by the City Engineer with the advice, as needed, of appropriate State or Federal agencies, is prohibited.
 - b. The following Timber Harvesting Standards shall be complied with in the carrying out of any timber harvesting in the Shoreland Overlay District:
 - (1) No substantial accumulation of slash shall be left within fifty (50) feet of the traveled surface of public roads, property lines, or the normal high water mark of any pond, river or stream. At

distances greater than fifty (50) feet from the normal high water mark of such waters and extending to the limits of the area covered by this Section, all slash shall be disposed of in such a manner that it lies on the ground and no part thereof extends more than four (4) feet above ground.

- (2) Skid trails, log yards, and other sites where the operation of logging machinery results in the exposure of substantial areas of mineral soil, shall be located such that an unscarified filter strip is retained between the exposed mineral soil and the normal high water mark of pond, river or stream. The width of this strip shall vary according to the average slope of the land as follows:

| Average Slope of Land between Exposed Mineral Soil and Normal High Water Mark (percent) | Width of strip between Exposed Mineral Soil and Normal High Water Mark (Feet along Surface of Ground) |
|--|--|
| Slope | Buffer |
| ≤10% | 75' |
| ≤20% | 76' -95' |
| ≤30% | 96' -115' |
| ≤40% | 116' -135' |
| ≤50% | 136' -155' |

- (3) Harvesting operations shall be conducted in such a manner and at such a time that minimal soil disturbance results. Adequate provision shall be made to prevent soil erosion and sedimentation of surface waters.
- (4) Harvesting operations shall be conducted in such a manner that a well distributed stand of trees and other vegetation is retained.

- (5) Harvesting activities shall not create single openings greater than 7,500 square feet in the forest canopy.
- (6) In any stand, harvesting shall remove not more than 40 percent of the volume of trees in any ten year period. For the purpose of these standards, a stand means a contiguous group of trees, sufficiently uniform in species, arrangement of age classes, and conditions, to be identifiable as a homogenous and distinguishable unit.
- (7) Within one hundred (100) feet, horizontal distance of the normal high water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and within seventy-five (75) feet, horizontal distance, of the normal high water line of other water bodies, tributary streams, or the upland edge of a wetland, there shall be no clear-cut openings and a well-distributed stand of trees and other vegetation, including existing ground cover, shall be maintained.

5. **Private Sewage Disposal Systems**

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

F. **Clearing of Vegetation for Development**

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

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

2. Except in areas as described in Paragraph 1, above, and except to allow for the development of permitted uses, within a strip of land extending one hundred (100) feet, horizontal distance, inland from any water bodies identified on the Shoreland Zoning Map. A buffer strip of vegetation shall be preserved as follows:
 - a. There shall be no cleared opening greater than 250 square feet in the forest canopy as measured from the outer limits of the tree crown. However, a footpath not to exceed ten (10) feet in width, as measured between tree trunks, is permitted provided that a cleared line of sight to the water through the buffer strip is not created. Adjacent to a great pond classified GPA, or stream or river flowing to a great pond classified GPA, the width of the footpath shall be limited to six (6) feet.
 - b. Selective cutting of trees within the buffer strip is permitted provided that a well-distributed stand of trees and other vegetation is maintained. For the purposes of this Section a “well-distributed stand of trees and other vegetation” adjacent to a great pond classified GPA or a river or stream flowing to a great pond classified GPA, shall be defined as maintaining a rating score of 12 or more in any 25-foot by 25-foot square (625 square feet) area as determined by the following rating system:

| <u>Diameter of tree at 4 ½ feet above ground level (in inches)</u> | <u>Points</u> |
|---|----------------------|
| 2 – 4 inches | 1 |
| > 4 – 12 inches | 2 |
| > 12 inches | 4 |

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

Note: As an example, adjacent to a great pond, if a 25-foot x 25-foot plot contains three (3) trees between

2 and 4 inches in diameter, three trees between 4 and 12 inches in diameter and three trees over 12 inches in diameter, the rating score is:

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

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

Notwithstanding the above provisions, no more than 40 percent of the total volume of trees four (4) inches or more in diameter, measured at 4 ½ feet above ground level may be removed in any ten (10) year period.

- c. In order to protect water quality and wildlife habitat, adjacent to great ponds classified GPA, and streams and rivers which flow to great ponds classified GPA, existing vegetation under three (3) feet in height and other ground cover shall not be removed, except to provide for a footpath or other permitted uses as described in Paragraphs 2. and 2.a. above.
 - d. Pruning of tree branches on the bottom 1/3 of the tree is permitted.
 - e. In order to maintain a buffer strip of vegetation, when the removal of storm-damaged, diseased, unsafe, or dead trees results in the creation of cleared openings, these openings shall be replanted with native tree species unless existing new tree growth is present. The provisions contained in Paragraph 2. above shall not apply to those portions of public recreational facilities adjacent to public swimming areas. Cleared areas, however, shall be limited to the minimum area necessary.
3. At distances greater than one hundred (100) feet, horizontal distance, from a great pond classified GPA or a river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high water line of any other water body, tributary stream, or the upland edge of a wetland, except to allow for the development of permitted uses, there shall be

permitted on any lot, in any ten (10) year period, selective cutting of not more than forty (40) percent of the volume of trees four (4) inches or more in diameter, measured 4 ½ feet above ground level. Tree removal in conjunction with the development of permitted uses shall be included in the forty (40) percent calculation. For the purposes of these standards, volume may be considered to be equivalent to basal area.

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

4. Cleared openings legally in existence on the effective date of this Ordinance may be maintained, but shall not be enlarged, except as permitted by this Ordinance.
5. Fields which have reverted primarily to shrubs, trees, or other woody vegetation shall be regulated under the provisions of this Section. For the purpose of this Subsection, “primarily” shall be considered as 75 percent or more of the area of a field.

G. **Dimensional Regulations**

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

- H. **Conflicts** – In any case in which a provision of this Section conflicts with a provision of any other Section of this Chapter, the provision which establishes the more stringent standard shall apply.

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

