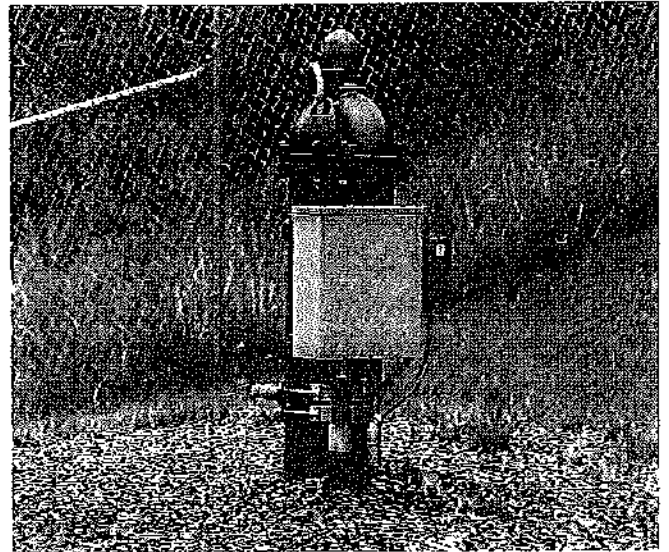
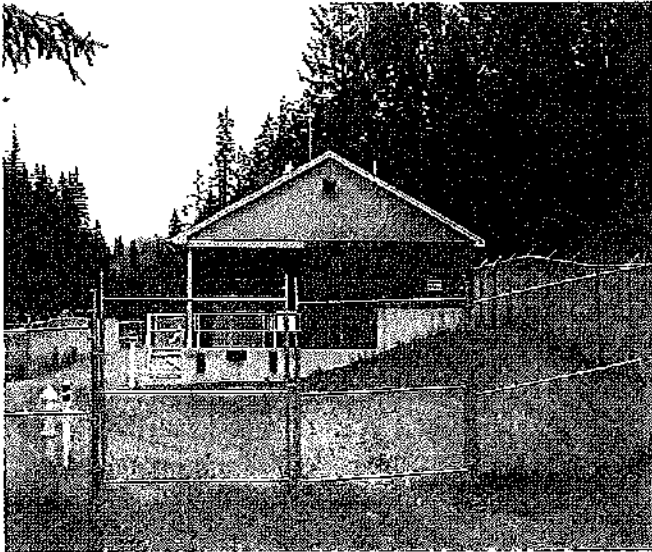


TOWN OF MADAWASKA  
WELLHEAD PROTECTION  
ORDINANCE



Enacted: June 19, 2007

ATRUE ATTESTED COPY

*Rinette B. Madore*

RINETTE B MADORE, NOTARY PUBLIC

Rinette B. Madore  
My Commission Expires: March 23, 2011

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# Town of Madawaska Public Wellhead Protection Ordinance

## ARTICLE I. GENERAL PROVISIONS

### SECTION 1. TITLE

This Ordinance shall be known and cited as the "Public Wellhead Protection Ordinance" of the Town of Madawaska, Maine.

### SECTION 2. AUTHORITY

This Ordinance is adopted pursuant to the enabling provisions of Article VIII-A of the Maine Constitution, Title 30-A MRSA Section 3001 (Home Rule), Title 30-A MRSA Section 4311 (Growth Management), and Title 22 MRSA 2642 (Protection of Drinking Water Supplies).

### SECTION 3. PURPOSE

The purpose of this ordinance is to protect the public water supply in Madawaska from land uses which pose a threat to the quality and/or quantity of the ground water being extracted from the wells which serve the public water system.

### SECTION 4. EFFECTIVE DATE

This ordinance shall take effect upon its enactment by the Town. **Enacted: June 19, 2007**

### SECTION 5. APPLICABILITY

This ordinance applies to all land uses located or proposed within the area delineated as Wellhead Protection Zones on the official Town of Madawaska Zoning Map or official Wellhead Protection Area Map.

### SECTION 6. RELATIONSHIP WITH OTHER ORDINANCES

Whenever a provision of this ordinance with or is inconsistent with another provision of this ordinance of any other ordinance, regulation, or statute, the more restrictive provision shall control.

### SECTION 7. VALIDITY AND SEVERABILITY

Should any section or provision of this ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of this ordinance.

## SECTION 8. AMENDMENTS

### A. Initiation and Procedure

A proposal for an amendment to this ordinance may be initiated by: (1) The Planning Board; (2) the Selectmen; or (3) an individual, through the petition process for placing articles on the warrant for town meeting or (4) Madawaska Water District Board of Trustees.

Amendments proposed by the Planning Board and Water District Trustees shall be forwarded to the Selectmen to be included in a future town meeting warrant. Amendments proposed by the Selectmen shall be forwarded to the Planning Board and Water District Trustees for advisory review and comment prior to being placed on a town meeting warrant. In both cases, the Selectmen shall have final authority to determine whether to present the amendment to the town meeting for approval.

### B. Public Hearing and Water District Notification

The Planning board shall hold a Public Hearing on any proposed amendment, including amendments proposed by petition, at least fourteen (14) days prior to the Town Meeting vote. The Planning Board's hearing on proposed amendments shall be informational and advisory only. Notification of the public hearing and Water District notification shall follow the requirements pursuant to Title 30-A MSRA Section 4352. The applicant will pay all applicable fees for the holding of a public hearing.

### C. Enactment

A proposed amendment to this ordinance must be approved by a majority vote of the Town Meeting.

## **Article II. Administration, Enforcement, Appeals, and Penalties**

### SECTION 1. ADMINISTERING BODIES AND AGENTS

#### A. Code Enforcement Officer

The Code Enforcement Officer (CEO) of the Town of Madawaska shall administer and enforce this ordinance. The CEO shall forward all permit applications to the Planning Board and Water District Board as required by this ordinance.

### SECTION 2. PERMITS REQUIRED

After the effective date of this ordinance, no person shall engage in any land use activity identified in the Land Use Table listed in Article III, Section 2 without a permit under this ordinance.

### SECTION 3. NON-CONFORMANCE

It is the intent of this Ordinance that land use activities conform to the standards of this ordinance. However, land use activities or uses that existed before the effective date of this Ordinance shall be allowed to continue, subject to the requirements set forth in this section. This ordinance allows the normal upkeep and maintenance of non-conforming uses and structures including repairs or renovations which do not involve expansion of the non-conforming use or structure, and such other changes in a non-conforming use or structure as federal, state, or local building and safety codes may require.

#### A. Non-conforming Structures

1. Expansion: A non-conforming structure may not be expanded unless the expansion conforms to all the regulations of the zone in which it is located.
2. Relocation: A non-conforming structure may be relocated within the boundaries of the parcel on which it is located provided that the site of relocation conforms to all setback requirement to the greatest practicable extent as determined by the Planning Board, and provided that the applicant demonstrates that the present subsurface wastewater disposal system meets the requirements of State law and the State of Maine Subsurface Wastewater Disposal Rules (Rules), or that a new system will be installed in compliance with the law and said Rules. In no case may a structure be relocated in a manner that causes the structure to be more non-conforming.

In determining whether the relocation meets the setback to the greatest practicable extent, the Planning Board 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.

3. Reconstruction, Replacement Any non-conforming structure that is removed, damaged or destroyed may be reconstructed or replaced provided that a permit is obtained within one year of the date of damage, destruction or removal, and provided that such reconstruction or replacement is in compliance with the standards established in Article III of this Ordinance.

#### B. Non-conforming Use

1. Expansions: Expansion of any non-conforming use is prohibited. (Existing businesses may be allowed to expand providing that the expansion is related to the existing business.)
2. Discontinuance: A non-conforming use that is discontinued for a period exceeding one (1) year, or that is changed to conforming use, shall not be allowed to recur.

#### SECTION 4. PERMIT APPLICATION

An Applicant for a permit under this ordinance shall submit an application in writing to the Planning Board, as designated in the Wellhead Protection Area Land Use Table (Article III, Section 2). All applications shall be dated and signed by the owner(s) or lessee(s) of the property or another person with a letter of authorization from the owner(s) or lessee(s). Such signature(s) shall certify that the information in the application is complete and correct.

#### SECTION 5. PLANNING BOARD PERMIT HEARINGS

Within forty-five (45) days of the date of receiving a written application, the Planning Board or CEO shall notify the applicant in writing, either that the application is a complete application or, if the application is incomplete, that specified additional material is needed to make the application complete. The Planning Board or CEO shall also notify the Water District. Once the proposal is complete the Planning Board shall ask the District to provide comments on the proposal. Once a complete application has been received, the Planning Board shall approve or deny the application, in writing, within forty-five (45) days. However, if the Planning Board has a waiting list of applications, such approval or denial shall occur within forty-five (45) days of the first available opening on the Planning Board's agenda or, within forty-five (45) days of the public hearing(s), if a hearing(s) are held.

Permits shall be approved if the proposed use or structure is found to be in conformance with the provisions of this ordinance. Permits may be made subject to reasonable conditions to insure conformity with provisions of this ordinance. If a permit is either denied or approved with conditions, the reasons shall be stated in writing.

When a proposed use in a Wellhead Protection Area requires Planning Board approval under Article III, Section 2 of this ordinance, the Planning Board, may, as a condition of its approval, require the applicant to (1) grant the municipality or the Water District permission to install and maintain groundwater monitoring wells on the applicant's property; or (2) install monitoring wells and implement a groundwater testing and monitoring program approved by the Planning Board, at the applicant's expense.

#### SECTION 6. APPLICATION FEE

The Town shall establish annually, on the advice of the Planning Board and CEO, a schedule of fees, charges, and expenses for matters pertaining to this Ordinance. The schedule of fees shall be posted in the Town Office, and may be altered or amended after a public hearing by the Selectmen.

#### SECTION 7. INDEPENDENT REVIEW AND ADVICE

##### A. Professional Services

The Planning Board may require an attorney or consultant to review one or more aspects of an application for compliance or noncompliance with this ordinance and to advise the Planning Board. The attorney or consultant shall first estimate the cost of such review and the applicant shall deposit, with the Town the full estimated cost, which the Town shall place in

an escrow account. The Town shall pay the attorney or consultant from the escrow account and reimburse the applicant if funds remain after payment.

#### B. Additional Studies

The Planning Board may require the applicant to undertake any study that it deems reasonable and necessary to determine whether a proposed activity meets the requirements of this ordinance. The costs of such studies shall be borne by the applicant.

### SECTION 8. PERFORMANCE GUARANTEES

The Planning Board may require the applicant to provide performance guarantees for an amount adequate to cover the total construction costs of all required improvements. Performance guarantees may be made by certified check, payable to the Town, or a savings account naming the Town as owner, for the establishment of an escrow account; by an irrevocable letter of credit from a financial institution establishing funding for the construction of the project, from which letter the Town may draw if construction is inadequate; or by a performance bond, payable to the Town, issued by a surety company and acceptable to the Town. The form, time periods, conditions, and amount of performance guarantees shall be determined by the Planning Board.

### SECTION 9. EXPIRATION OF PERMIT

Following the issuance of a permit, if construction or use does not commence within one (1) year of the date of the permit, the permit shall lapse and become void. However, the permit may be renewed within six (6) months of the date of expiration, upon application to PB/CEO and the applicant demonstrates that there are no substantial changes in the proposed structure or use and there are no changes to the ordinance. A permit renewal fee may be assessed by the Planning Board.

### SECTION 10. ENFORCEMENT AND PENALTIES

#### A. Inspections and Complaints

The CEO shall investigate all complaints of alleged violations of this Ordinance, pursuant to 30-A MRSA Section 4452. The CEO may seek technical advice from a representative of the Water District when investigating complaints.

The CEO may also conduct site inspections to ensure compliance with this Ordinance, pursuant to 30-A MSRA Section 4452. During investigations, the Code Enforcement Officer may be accompanied by a representative of the Water District.

#### B. Notice of Violations

It shall be the duty of the CEO to enforce this ordinance, in accordance with the provisions of this ordinance and state laws. If the CEO finds that any provision is being violated, the CEO shall notify in writing the person responsible for such violation. The notice shall state the nature of the violation, the ordinance provision or permit condition violated, and the action necessary to correct the violation. The notice shall inform the recipient of their right to appeal



as to the facts supporting the notice by the CEO. A copy of the notice shall be provided to the Planning Board, Water District, and Selectmen.

### C. Recordkeeping

The CEO shall keep a complete record of all transactions relating to the administration and enforcement of this ordinance, and shall maintain a permanent record of those transactions at the town office. Copies of all permits shall be provided to the Water District.

### D. Legal Action

When a person does not correct a violation after receiving notice to do so, the CEO shall notify the Selectmen and the Water District. The Selectmen, or their authorized agent, may institute all legal and equitable actions necessary to correct the violation and recover fines and costs.

### E. Penalties

Any person who continues to violate a provision of this ordinance or condition of a permit after receiving written notice to correct the situation shall be subject to penalties as provided in 30-A MRSA Section 4452.

## SECTION 11. APPEALS

### A. Time for Appeal

Any party aggrieved by a decision or order of the Code Enforcement Officer, Planning Board, or Madawaska Water District Board under this ordinance may appeal the decision or order concerned within thirty (30) days to the Board of Appeals. Appeals shall be filed on forms to be provided by the Board of Appeals for this purpose.

### B. Parties

For purposes of this section, the term "party" shall be limited to:

1. A permit applicant whose application is denied or granted with conditions.
2. A permit holder whose permit is suspended or revoked by the CEO or PB.
3. A person owning property within a Wellhead Protection Area designated in the Map Appendix of this ordinance, who is adversely affected by a decision or order of the Code Enforcement Officer, Planning Board, or Madawaska Water District Board with respect to any property located in the same Wellhead Protection Area.
4. A person whose use of groundwater as a domestic water supply is adversely affected by a decision or order of the Code Enforcement Officer, Planning Board, or Madawaska Water District Board under this Ordinance.
5. The Town of Madawaska through its municipal officers.
6. The Madawaska Water District.

### C. Decision or Order

The purposes of this section, the term "decision or order" shall not include failure by the Code Enforcement Officer to take enforcement action with respect to a particular person, property or alleged violation, when the enforcement action has been requested by persons or organizations other than the municipal officers.

### D. Type of Review

An appeal from a decision or order may be taken to the Board of Appeals under this section only where it is alleged that the decision or order concerned is based on an error of law or misinterpretation of this ordinance. All appeals to the Board of Appeals under this section shall be reviewed by the Board of Appeals as purely de novo matters, based on the administrative record made by the Code Enforcement Officer, Planning Board, or Water District Board. No new evidence shall be received or considered by the Board of Appeals as to any matter appealed to the Board of Appeals under this section.

### E. Board's Procedure

1. The Board shall decide all appeals in an open session of the Board within 30 days after the Hearing, and shall issue a written decision on all appeals.
2. All decisions shall become part of the record and shall include a Statement of findings and conclusions, as well as the reasons or basis therefore, upon all the material issues of fact, law, or discretion presented, and the appropriate order, relief, or denial thereof. Notice of any decision shall be mailed or hand delivered to the petitioner, their representative or agent, the Planning Board, agency or office, the CEO, and the Town Officers within 7 days of the decision date.
3. Upon notification of the granting of an appeal by the Board, the CEO shall immediately issue a Permit in accordance with the conditions of the approval, unless the applicant's proposal requires subdivision or site design review. In the case of a variance appeal, the applicant shall register the variance in the Aroostook County Registry of Deeds in accordance with Title 30-A MRSA Section 4353.5 within 90 days of the date of the final written approval of the variance or the variance is void. The application shall provide proof of registration to the CEO, prior to the issuance of the Permit.
4. Appeals may be taken within 45 days from any decision of the Board of Appeals to Superior Court.
5. Any Board of Appeals reconsideration of an original decision must be reconsidered and the proceedings completed within 30 days of the vote on the original decision.
6. The right to relief from the terms of this Ordinance granted by vote of Board in a specific case shall expire if the work or change is not substantially completed within one (1) year.
7. A second appeal of a similar nature shall not be heard by the Board within one year from the date of denial of the first appeal. However, re-appeal may be made to the Board if substantial new evidence shall be found or an error or mistake in law or misunderstanding of fact shall have been found.
8. The Board may impose such conditions and safeguards regarding location, character, fencing, screening, landscaping, or other features as it may deem advisable in furthering the intent and purpose of this Ordinance.

9. The Board, with the advice and assistance of the CEO, shall maintain a current map indicating by means of appropriate symbols, colors, or other notations the locations in which it has taken approving actions.
10. The Board shall not have the power to permit any industrial use in a business district, any business use in a residential district, or any residential use in an industrial district, except as may be provided within this Ordinance.

#### F. Appeals

Any party who is aggrieved by a decision of the Board of Appeals may appeal that decision to the Aroostook County Superior Court, in accordance with 30-A MRSA Section 2691 (3)(6) and Rule 80B, Maine Rules of Civil Procedure.

### **Article III. Land Use Requirements**

#### SECTION 1. ESTABLISHMENT OF ZONES

The Wellhead Protection Area consists of two (2) zones that are shown on the official Town of Madawaska Zoning Map or official Wellhead Protection Area Map. The two zones are defined as:

##### A. Zone 1: Immediate Recharge Area (300 feet from center of well)

Zone 1 includes the area immediately recharging the water supply, as shown on the official Town of Madawaska Zoning Map or official Wellhead Protection Area Map.

##### B. Zone 2: Primary Recharge Area (1,000 feet from center of well)

Zone 2 includes the primary recharge area shown on the official Town of Madawaska Zoning Map or official Wellhead Protection Area Map.

#### SECTION 2. LAND USE TABLE

The uses listed below are commonly integrated within other types of uses. For example, Use or storage of petroleum products can occur at auto repair shops as well as gas stations. Any proposed land use which incorporates the following in their primary use is subject to the requirements of this section.

[NOTE: All land uses and activities may be subject to requirements of other Town ordinances and State rules and regulations.]

#### SECTION 3. LOT SPECIFICATIONS

##### A. Minimum Lot Size

Areas not served by public sewer:

### Zone Land Area per Dwelling or Commercial Unit

Zone 2. (with town sewers and public water) 20,000 sq. ft. with 100 feet of frontage on a road.

Zone 2. (without town sewers but with public water) 40,000 sq. ft. with 200 feet of frontage on a road. If public sewers are not available an "advanced treatment unit" on a septic tank will be required and the unit will need to obtain certification by the State Plumbing Code for nitrate and bacterial reduction.

Zone 2. (without town sewers and without public water and no "advanced treatment unit" on a septic tank) 80,000 sq. ft. with 200 feet of road frontage will be required.

### B. Maximum Lot Coverage

For portions of lots within the Wellhead Protection Area, the maximum lot coverage that can be covered by impermeable surfaces including parking areas, shall be limited as follows:

#### Zone Maximum lot Coverage

Zone 2. (with town sewer and public water) 50 percent

Zone 2. (without town sewer but with public water) 30 percent

Notwithstanding other provisions of the ordinance, lot coverage that exists as of the date of adoption of this ordinance that equal or exceed the applicable percentage limitation may be continued and may be expanded with Planning Board approval. Expansions of lot coverage shall be limited to no more than ten percent (10%) of the portion of the lot located in the Wellhead Protection Area. However, the Planning Board shall not authorize expansion of impermeable surfaces of existing uses if the total coverage of all lot areas located in the Wellhead Protection Area is greater than sixty-five percent (65%) in Zone 2 (with town sewer and public water) or greater than fifty percent (50%) in Zone 2 (without town sewer but with public water).

## SECTION 4. APPLICATION REQUIREMENTS

The Planning Board may modify or waive any of the following submission requirements if it determines that, because of the size or nature of the project or circumstances of the site such requirement(s) would not be applicable or would be an unnecessary burden upon the applicant and would not affect or conflict with the purposes of this ordinance.

### A. All Applications

All applications may contain the following information.

#### 1. Written information:

- a. Name of development; municipality; tax map and lot numbers.
- b. Owner and applicant's names and addresses; name and addresses of person who prepared the application and/or plan.
- c. Name and address to which correspondence should be sent.

- d. If applicant is a corporation, state whether the corporation is licensed to do business in Maine and attach a copy of Secretary of State's Registration.
- e. Copy of recorded deed for property; verification of ownership of legal interest.
- f. Interest the applicant has in any property abutting the parcel to be developed.
- g. State whether the development covers the entire or contiguous holdings of applicant.
- h. On-site sewage disposal report from licensed site evaluator or information from local sewer district indicating capacity.
- i. Special reports:
  - i. Necessary state and/or federal permits and date of application and approval (please list).
  - ii. List of construction items, cost estimates.
  - iii. Construction schedules.
  - iv. Proposed method of performance guarantee.
  - v. Restrictions, conditions, covenants and easements.

2. Plan information:

- a. Existing and proposed streets.
- b. Outline of development and remaining portion of property scale; written and graphic date; north point.
- c. Perimeter survey (bearings and distances; surveyor's seal; number of acres; existing and proposed monuments; abutters names).
- d. Lot lines, numbers and sizes; building setback lines.
- e. Existing water bodies, watercourses, wetlands, and other significant natural features.
- f. Public and private rights-of-way and easements.
- g. Zoning boundaries.
- h. Location of test pits keyed to site evaluator's or soil scientist's report.
- i. Base flood elevation, if applicable.
- j. Written request for waivers or variances.
- k. Contours of 5 feet or other interval; refer to USGS bench if within 500 feet.
- l. Location and design of culverts, drains and other storm water control structures, existing and proposed.
- m. Location and design of proposed sewers and water lines.
- n. Typical engineering plan, profiles, and cross-sections.
- o. Medium intensity or high intensity soils maps.
- p. Location of parking, open space, conservation and/or recreation areas.
- q. Landscaping plan and details.
- r. Surface drainage plan.
- s. Soil erosion and sedimentation control features.
- t. Locations, dimensions and profiles of underground utilities.
- u. Profile and typical cross-sections of streets and other public works.
- v. Location/identification of buffers, lots or areas to be restricted or dedicated for common or public use.

B. Additional Application Requirements for Planning Board Review for Certain Activities within the Wellhead Protection Area

More than one of the categories listed below may apply to a particular use. Applicants should request assistance from the Planning Board should there be questions as to which

categories apply.

1. Non-agricultural chemical use, storage and handling, (including petroleum products)
  - a. Type and volume of chemical compounds handled and/or stored.
  - b. Site plan showing all storage, handling and use areas for raw materials and wastes.
  - c. For outside areas, details to contain spills including:
    - i. drainage and contour information to prevent the flow of runoff from entering the storage area and which keep leaks or spills from flowing off site;
    - ii. provisions to collect chemicals should they enter the drainage system;
    - iii. provisions to segregate underground systems to insure that there are no cross connections;
    - iv. provisions to prevent accidental containment breach by collisions;
    - v. statement of emergency measures which can be implemented for surface drainage systems;
  - d. For inside areas, details to contain spill including the:
    - i. design of dikes around rooms;
    - ii. the location of floor drains and floor drains outlets;
    - iii. the location of separators, holding tanks and/or drain outlets;
    - iv. the specific location and design of underground storage structures;
    - v. the location and design of piping systems for wash are discharged and that wastes are discharged to appropriate sewers or treatment systems.
  - e. A spill prevention and control and countermeasure (SPCC) plan detailing:
    - i. materials and equipment to be available;
    - ii. a training plan and schedule;
    - iii. a list of contacts (EPA/DEP/local fire officials) with phone numbers;
    - v. an inspection schedule.
  - f. A report by an industrial engineer or other competent professional detailing:
    - i. steps which have been taken to reduce the use of hazardous material;
    - ii. actions which have been taken to control the amount of wastes generated;
    - iii. any reports to provide information on the design theory or methodology for the above features.
2. Vehicular use and storage
  - a. A site plan, drawn to scale, showing locations and designs of secondary containment for fuel and storage and refueling pads.
3. Subsurface injection
  - a. Subsurface Wastewater Disposal
    - i. Soil evaluator's report and septic system design.
    - ii. For sites/uses producing >1,000 gallons of sewage, a hydrogeologic analysis of nitrate concentrations at the property line.
  - b. Sewage Disposal
    - i. Evaluation of public/private sewer system capacity and integrity of sewer lines serving the development by a Registered Engineer or the sewer system superintendent.

c. Subsurface Injection

- i. Provisions and designs for all floor drains, grease traps, and holding tanks.

4. Stormwater Management

a. Engineering calculations and plans which provide:

- i. Design of dry wells, storage, retention or detention facilities and other surface water;  
ii. Impoundments;  
iii. Stormwater system outlets;  
iv. Delineation of post development drainage areas;  
v. Plans for ice control, use of road salt, and snow removal.

5. Utility Corridors

- a. Type and volume of chemical compounds handled and/or stored.  
b. Site plan showing all storage, handling and use areas for raw materials and wastes.  
c. For outside areas, details to contain spills including:  
i. drainage and contour information to prevent the flow of runoff from entering the storage area and which keep leaks or spills from flowing off site;  
ii. provisions to collect chemicals should they enter the drainage system;  
iii. provisions to segregate underground systems to insure that there are no cross connections;  
iv. provisions to prevent accidental containment breach by collisions;  
v. statement of emergency measures which can be implemented for surface drainage systems;  
d. For inside areas, details to contain spill including the:  
i. design of dikes around rooms;  
ii. the location of floor drains and floor drains outlets;  
iii. the location of separators, holding tanks and/or drain outlets;  
iv. the specific location and design of underground storage structures;  
v. the location and design of piping systems for wash are discharged and that wastes are discharged to appropriate sewers or treatment systems.  
e. A spill prevention and control and countermeasure (SPCC) plan detailing:  
i. materials and equipment to be available;  
ii. a training plan and schedule;  
iii. a list of contacts (EPA/DEP/local fire officials) with phone numbers;  
iv. an inspection schedule.  
f. A report by an industrial engineer or other competent professional detailing:  
i. steps which have been taken to reduce the use of hazardous material;  
ii. actions which have been taken to control the amount of wastes generated;  
iii. any reports to provide information on the design theory or methodology for the above features.

## SECTION 5. PERFORMANCE STANDARDS

### A. General Provisions

All development located within the Wellhead Protection Area shall comply with the Performance Standards established in this section to protect the quality and quantity of the public water supply.

### B. Performance Standards for vehicular use and storage

1. When draining oils or fluids from vehicles, precautionary measures such as portable drip pans, must be taken to ensure that no spills occur.
2. All fuel oil, waste oil, lubricants, antifreeze, or other potential contaminants must have secondary containment equal to 110% of the liquid volume stored.
3. No vehicle washing may occur with the intent to remove oils, grease and other hazardous materials..
4. Refueling vehicles must be equipped with a shovel, an impermeable container with a volume of no less than 35 gallons and a tight fitting lid, and at least two absorbent pads or pillows. An absorbent pad or portable drip catch must be in place beneath the fill tube at all times during the refueling operation.
5. Refueling must occur on a concrete pad or other impermeable surface.

### C. Performance Standards for septic systems

1. All new and replacement subsurface wastewater disposal systems shall submit evidence of site suitability prepared by a Maine licensed site evaluator in full compliance with the requirements of the State of Maine Subsurface Waste Water Disposal Rules and for systems producing > 1,000 gallons of sewage, a hydrogeologic analysis of nitrate/nitrite impact study, with nitrate/nitrite concentrations limited to 5mg/L at the property line.

### D. Performance Standards for Stormwater Management

1. If a project includes less than one acre of impervious area the stormwater management system must detain or retain stormwater from 24-hour storms of 2, 10, and 25-year frequencies such that the peak flow of stormwater from the site does not exceed the peak flow of stormwater from the site prior to the undertaking of the project. The peak flow of the receiving waters may not be increased as the result of the stormwater runoff from the site for 24-hour storms of 2, 10, and 25-year frequencies. In municipalities with designated 100-year flood elevations, the site runoff may not adversely affect the designated 100-year flood elevations.

The Planning Board may waive this requirement if the system is designed to discharge stormwater flow into a stormwater system of a municipality or public utility, when the applicant has permission to discharge stormwater into that system, and demonstrates that the municipality or public utility has determined that it has adequate capacity to accommodate the change in flow.



2. Infiltration of stormwater from impervious areas greater than 20,000 square feet shall not be infiltrated, and any detention or retention structures shall be designed and constructed in such a manner that excludes groundwater interaction.

E. Performance Standards for Utility Corridors

1. Pesticide use shall conform to the Standards listed in Article III, Section 5(B) of this ordinance, "Non-agricultural chemical use, storage and handling".

SECTION 6. CONTROL OF EXISTING THREATS

A. Inspection

The CEO shall also have the right to inspect any property located in a Wellhead Protection Area, except building interiors, at reasonable hours, with landowner permission, as provided in 30-A MRSA section 4452, for the purpose of determining compliance with this ordinance or any permit issued hereunder. The Code Enforcement Officer may be accompanied by a representative of the Water District. In the event the landowner denies or prevents access for this purpose, the CEO shall be authorized to apply for an administrative site inspection warrant pursuant to Rule 80E, Maine Rules of Civil Procedure.

B. Monitoring

Whenever the CEO finds that a use existing as of the date of adoption of this ordinance, including but not limited to uses of the types identified in Article III, Section 2 of this ordinance, is located within a Wellhead Protection Area designated by this ordinance and poses an actual or potential threat to the safety or quality of a public groundwater supply, the Planning Board may order the property owner to grant permission for installation, or to install, groundwater monitoring wells and to conduct testing as provided in subsection (1) above. Installation of monitoring wells and testing and monitoring of groundwater in such cases shall be at the sole cost of the municipality or the Water District, provided that if such testing indicates that the use is found to cause or contribute to reduction of ten percent (10%) or more of the State Primary or Secondary Drinking Water standards at the Water District property line, the property owner shall reimburse the municipality or Water District for all expenses incurred for installation, testing and monitoring.

C. Enforcement

If any use causes or contributes to a reduction of ten (10%) of proven baseline more of the State Primary or Secondary Drinking Water standards at the Water District property line, the CEO may require the owner of the property on which the contaminating use occurs to cease activity, install or construct mechanisms, or enact appropriate procedures to reduce the contamination.

## Article IV. Definitions

**Accessory Structure:** A structure of which is incidental to that of the principal structure and which is located on the same lot.

**Advanced Treatment Unit:** A unit designed to pre-treat waste water for nitrate and provide bacterial reduction prior to entering a leach field. This unit will be required to meet certification by the State Plumbing Code.

**Agriculture:** The production, keeping, or maintenance for sale or lease, of plants and/or animals, including but not limited to: forages and sod crops; grains and seed crops; dairy animals and dairy products; poultry and poultry products; livestock; fruits and vegetables; and ornamental and green house products. Agriculture does not include forest management and timber harvesting activities.

**Aquifer:** A geological unit in which porous and permeable conditions exist and thus are capable of yielding usable amounts of water. (See: MDEP Aquifer Maps).

**Best Management Practice:** Procedures designed to minimize the impact of certain activities or land uses on groundwater quality and quantity, and shall include best management practices relating to groundwater quality as developed by the State of Maine departments of Agriculture, Forestry, Transportation and Development pursuant to 38 M.R.S.A. Section 410-J.

**Board:** Refers to the Town of Madawaska Planning Board.

### **Chemical Bulk Storage**

Storage of a chemical or chemicals in a container or containers larger than those intended for normal homeowner or retailer purposes. Proper, non-commercial, homeowner use of chemicals is not included.

**Code Enforcement Officer:** A person appointed by the Town Officers to administer and enforce an ordinance. Reference to the CEO may be construed to include Building Inspector, Plumbing Inspector, Electrical Inspector, and the like, where applicable.

**Commercial:** Commercial shall include the use of lands, buildings, or structures, other than home occupations, the intent and result of which activity is the production of income from the buying and selling of goods and services, exclusive of rental of residential buildings and dwelling units.

**Conforming:** A building, structure, activity or land use which complies with the provisions of this ordinance.

**Construction:** Includes built, erected, altered, reconstructed, moved upon, or any physical operations on the premises which are required for construction. Excavation, fill, paving, drainage, and the like, shall be considered as part of construction.

**Construction and Commercial Equipment & Vehicle Storage:** Storage of construction equipment or other commercial vehicles in excess of thirty (30) consecutive days in which the

equipment is not used.

**Construction/Demolition:** Construction or demolition of facilities, buildings, etc. associated with the land uses or activities.

**District:** Refers to the Madawaska Water District.

**Drinking Water Standards, Primary and Secondary:** Standards for drinking water as stated in the State of Maine Rules Relating to Drinking Water, Maine Department of Human Services.

**Dump** (see landfill)

**Excavation** (see construction)

**Fill** (see construction)

**Floor Drain:** An opening in the floor that leads to the ground and/or is not permitted under other State, Federal, or local regulations. Work sinks which lead to such drains are included.

**Fuel Oil Distributor, Fuel Oil Storage:** The storage of fuel for distribution or sale. Storage of fuel oil not for domestic use, i.e., not in tanks directly connected to burners.

**Gas Station, Service Station:** A building where gasoline, or any other automobile engine fuel (stored only in underground tanks), kerosene, or motor oil and lubricants or grease are retailed directly to the public on the premises; including storage of unlicensed vehicles and not including body, frame or fender straightening and repair.

**Ground water:** The water contained within the interconnected pores, cracks or fractures located below the water table of a confined or unconfined aquifer.

**Hazardous Material:** Any gaseous, liquid or solid materials or substances designated as hazardous, by the Environmental Protection Agency and/or the Maine Department of Environmental Protection.

**Hazardous Waste:** Any substance identified under chapter 850, Identification of Hazardous Wastes, of the rules of the State of Maine, Department of Environmental Protection, effective date July 1, 1980, including revisions or amendments thereto, and any radioactive waste material which means any solid, liquid, or gas residue, including but not limited to spent fuel assemblies prior to processing, remaining after the primary usefulness of the radioactive material has been exhausted and containing nuclides that spontaneously disintegrate or exhibit ionizing radiations.

**Horticulture** (see agricultural)

**Industrial, Heavy:** The use of real estate, building, or structure, or any portion thereof, for the processing and manufacturing of materials or products predominately from extracted raw materials, or use engaged in storage of, or manufacturing processes using flammable, or explosive materials, or storage or manufacturing processes that potentially involve hazardous or nuisance conditions, such as, but not limited to, noise, smoke, vibration, odor, or appearance.

**Industrial, Light:** A use engaged in the manufacture, predominately from previously prepared materials, of finished products or parts, including processing, fabricating, assembly, treatment, packaging, incidental storage, sales, and distribution of such products, and excluding industrial processes which utilize extracted or raw materials, flammable or explosive materials, or which will not create nuisance conditions, such as, but limited to, noise, smoke, vibration, odor, or appearance.

**Industrial Waste:** Wastes resulting from the processes employed in industrial manufacturing, trade, or business establishments.

**Inert Fill:** Material placed on or into the ground as fill that will not react chemically with soil, geologic material, or groundwater.

**Integrated Pest Management Plan (IPM):** Integrated Pest Management (IPM) is the coordinated use of physical, biological and cultural controls and least-toxic pest control products and techniques to prevent unacceptable levels of pest damage by the most economical means with the least possible hazard to people, property and the environment. Integrated Pest Management involves the monitoring of pest populations, establishment of injury levels, modification of habitats (to eliminate sources of food, water, harborage and entry), utilization of least-toxic controls, and keeping of records and evaluation of performance on an ongoing basis

**Intensive Open Space Uses:** Uses of open space which have the potential, because of their duration, frequency, or nature, to significantly impact the environment, particularly the groundwater quality and quantity. Examples of intensive open space uses include: automobile or all-terrain vehicle race tracks or ranges, etc.

**Landfill:** An area used for the placement of solid waste, liquid waste or other discarded material on or in the ground.

**Lot Coverage:** That area of a property that is occupied by buildings or structures, (temporary or permanent) such as but not limited to: houses, garages, sheds, decks, gazebos, fireplaces, slabs, patios, swimming pools, sidewalks, pathways, gravel or asphalt driveways and roads.

**Mining or Mineral Extraction:** Any operation within any twelve (12) successive month period which removes more than one hundred (100) cubic yards of soil, topsoil, loam, sand, gravel, clay, rock, peat, or other like material from its natural location and to transport the product removed, away from the extraction site. Mineral extraction shall not include the term quarry.

**Nursery** (see agriculture)

**Open Space:** Land that is free of buildings and other permanent structures.

**Overlay District:** The overlay District is an area that shall be superimposed over underlying Districts and land uses that are subject to both the standards in the underlying and the overlay District.

**Park:** Land area set aside for public recreation, conservation, wildlife, or other similar purpose.

**Paving** (see construction)

**Permanent Structure:** Any structure which remains in place for more than seven (7) months over any consecutive twelve (12) month period.

**Pesticide, Herbicide Bulk Storage:** Storage of herbicides or pesticides intended for sale or intended for application on commercial premises or intended for application on cash crops. Homeowner storage or storage by non-commercial gardeners is not included.

**Road:** A public or private thoroughfare used, or intended to be used, for passage or travel by motor vehicles, consisting of a bed of exposed mineral soil, gravel, asphalt, or other surfacing material constructed for or created by the repeated passage of motorized vehicles.

**Salt or Sand/Salt Piles (uncovered):** Storage of any amount of salt or sand/salt mix, for any purpose, without a rood or other structure capable of preventing precipitation from reaching the salt or sand/salt.

**Silviculture** (see agriculture)

**Sludge:** Residual material produced by water or sewer treatment processes, industrial processes, or domestic septic tanks.

**Sludge Utilization:** The spreading of sludge on the ground or other use of sludge which might expose surface or groundwater to the sludge.

**Snow Dump:** A location to which snow is transported and dumped by commercial, municipal, or State snow-plowing operations.

**Solid Waste:** Discarded solid material with insufficient liquid content to be free flowing. This includes but is not limited to rubbish, garbage, scrap materials, junk, refuse, inert fill materials and landscape refuse.

**SPCC Plan:** Spill Prevention Control and Countermeasure Plan as described in 40CFR, Part 112 of Federal Oil Pollution Prevention Regulations.

**Stormwater Drainage**

A sewer or other system for conveying surface runoff due to storm events and unpolluted ground or surface water, including that collected by cellar drains, but excluding sanitary sewage and industrial waste.

**Stormwater Impoundment:** Any structure designed and constructed to contain stormwater runoff.

**Structure:** Anything built for the support, shelter or enclosure of persons, animals, goods or property of any kind, together with anything constructed or erected with a fixed location on or in the ground, exclusive of fences, retaining walls, satellite dishes, patio bricks and driveways. The term includes structures temporarily or permanently located.

**Subdivision:** A subdivision shall mean the division of a tract of parcel of land as defined in Title 30A, M.R.S.A., section 4401. The term subdivision shall also include such developments as mobile home parks, multiple-family dwelling(s), shopping centers, condominiums, and industrial parks where there are three or more units involved, and additional divisions and developments defined as subdivision in the Madawaska Land Use Ordinance.

**Subsurface Injection** (see subsurface wastewater disposal)

**Subsurface Wastewater Disposal System:** A collection of treatment tank(s), disposal area(s), holding tank(s) and pond(s), surface spray system(s), cesspool(s), well(s), surface ditch(es), alternative toilet(s), or other devices and associated piping designed to function as a unit for the purpose of disposing of wastes or waste water on or beneath the surface of the earth. The term shall not include any waste water discharge system licensed under Title 38 MRSA §414, any surface waste water disposal system licensed under Title 38 MRSA §413 Subsection 1-A, or any public sewer. The term shall not include a waste water disposal system designed to treat waste water which is in whole or in part hazardous waste as defined in Title 38 MRSA Chapter 13, subchapter 1.

**Temporary Structure:** Any structure which remains in place for less than seven (7) months over any consecutive twelve (12) month period.

**Timber Harvesting:** The cutting and removal of trees from their growing site, and the attendant operation of cutting and skidding machinery but not the construction or creation of roads. Timber harvesting does not include the clearing of land for approved construction

**Transfer Station; Recycling Facility:** Facility designed for temporary storage of discarded material intended for transfer to another location for disposal, re-use, and/or processing.

**Utility Corridor:** Right-of-way, easement, or other corridor for transmission wires, pipes or other facilities, for conveying energy, communication signals, fuel, water, wastewater, etc.

**Underground Storage Tank:** As defined by State of Maine regulations published by the Maine Department of Environmental Protection.

**Waste Disposal, Industrial/Commercial:** (See Industrial waste)

**Wastewater:** Any combination of water-carried wastes from institutional, commercial and industrial establishments, and residences, together with any storm, surface or groundwater as may be present.

**Wastewater Treatment Plant:** Any arrangement of devices and structures used for treating wastewater.

**Watershed:** Land lying adjacent to water courses and surface water bodies which creates the catchment or drainage area of such water courses and bodies; the watershed boundary is determined by connecting topographic high points surrounding such catchment or drainage areas.

**Wellhead:** The specific location of a well (a hole or shaft dug or drilled to obtain water) and/or any structure built over or extending from a well.

**Wellhead Protection Area:** Consisting of 2 zones, delineated according to Article III, Section 1 of this Ordinance.

**Well, Abandoned:** A shaft, casing, tile, hole, or pipe placed, drilled, or dug in the ground for the extraction or monitoring of groundwater that has not been used for a period to two consecutive years.

**Well, Existing or New:** A shaft, casing, tile, hole, or pipe placed, drilled, or dug in the ground for extraction or monitoring of groundwater.

**Zone of Contribution:** The area from which groundwater flows to a pumping well.

**Madawaska Land Use Chart (Table 1)**

Principal Land Use	Zone 1 (300')	With Public Water	With Public Water
		Zone 2 (1000') With Public Sewer	Zone 2 (1000') No Public Sewer
Abattoir	NO	YES	NO
Adult Entertainment	NO	YES	NO
Agricultural Product Storage	NO	NO	NO
Agricultural Product Processing	NO	NO	NO
Airport or Landing Strip	NO	NO	NO
Antique Sales Shop	NO	YES	NO
Art Gallery or Crafts Studio	NO	YES	NO
Assembly and Packaging Facility	NO	NO	NO
Assisted Living Facility	NO	YES	NO
Auction Building	NO	YES	NO
Automobile (Vehicle) Body Shop	NO	NO	NO
Automobile (Vehicle) Car Wash	NO	YES	NO
Automobile (Vehicle) Graveyard	NO	NO	NO
Automobile (Vehicle) Repair	NO	NO	NO
Automobile (Vehicle) Sales	NO	NO	NO
Automobile (Vehicle) Service and Convenience Store	NO	NO	NO
Automobile (Vehicle) Service Station	NO	NO	NO
Automobile (Vehicle) Storage	NO	NO	NO
Bakery	NO	YES	NO
Bank or Financial Service	NO	YES	NO
Bed and Breakfast	NO	YES	NO
Boarding House	NO	YES	NO
Building Materials - Storage and Sale	NO	NO	NO
Bulk Grain Storage	NO	YES	NO
Bulk Oil and/or Gas Terminal	NO	NO	NO
Campground/RV Park	NO	NO	NO
Cemetery	NO	NO	NO
Cemetery, Pet	NO	NO	NO
Church, Synagogue, and/or Parish House	NO	YES	NO
Cluster Residential Subdivision	NO	YES	NO
Coffee Kiosk	NO	YES	YES
Commercial Greenhouse	NO	NO	NO
Commercial Recreation, Indoor	NO	YES	NO
Commercial Recreation, Outdoor	NO	NO	NO
Commercial Sporting Camp	NO	YES	NO
Community Center	NO	YES	NO
Community Residence for Developmentally Disabled	NO	YES	NO
Community Shelter - Victims Domestic Violence	NO	YES	NO
Conference Center	NO	YES	NO
Confined Animal Feeding Operation	NO	NO	NO
Congregate Housing	NO	YES	NO
Copy Shop	NO	YES	YES
Correction/Detention Facility	NO	YES	NO
Data Processing Facility	NO	YES	NO
Child Day Care	NO	YES	NO
Demolition Waste Disposal	NO	NO	NO
Dwelling, Multi-Family	NO	YES	NO



Principal Land Use	Zone 1 (300')	With Public Water	With Public Water
		Zone 2 (1000') With Public Sewer	Zone 2 (1000') No Public Sewer
Dwelling, Single-Family	NO	YES	YES
Dwelling, Two-Family (Duplex)	NO	YES	NO
Extended Stay Motel	NO	YES	NO
Fire, Police, or Ambulance Station	NO	YES	NO
Firewood Processing	NO	NO	NO
Funeral Home	NO	YES	NO
Golf Course	NO	NO	NO
Helipad	NO	NO	NO
Home Improvement Center	NO	NO	NO
Home Occupation One	NO	YES	YES
Home Occupation Two	NO	YES	YES
Hospital, Clinic, or Out-Patient Care	NO	YES	NO
Hotel, Motel, or Inn	NO	YES	NO
Indoor Amusement Facility	NO	YES	NO
Industry, Heavy	NO	NO	NO
Industry, Light	NO	NO	NO
Junkyard	NO	NO	NO
Kennel	NO	NO	NO
Laundry or Dry Cleaning	NO	YES	NO
Library	NO	YES	YES
Livestock and Poultry	NO	NO	NO
Manufacturing	NO	NO	NO
Massage Establishment	NO	YES	YES
Micro-Brewery	NO	YES	NO
Mobile Home, Newer	NO	YES	YES
Mobile Home, Older	NO	YES	NO
Mobile Home Park	NO	YES	NO
Mineral Exploration	NO	NO	NO
Mineral Extraction	NO	NO	NO
Mineral Storage	NO	NO	NO
Museum	NO	YES	NO
Newspaper and Printing Plant	NO	YES	NO
Nursing Home, Group Home, Hospice	NO	YES	NO
Owner-Operated General Store or Grocery Store	NO	YES	YES
Parking Facility	NO	NO	NO
Personal Service Business	NO	YES	YES
Pharmacy, Retail Medical Supply Store	NO	YES	NO
Professional Office	NO	YES	YES
Private Club	NO	YES	NO
Public and Government Facility	NO	YES	NO
Public and Private School	NO	YES	NO
Public Utility	NO	NO	NO
Recycling Facility	NO	NO	NO
Recycling Collection Point	NO	NO	NO
Research, Testing, or Development Laboratory	NO	NO	NO
Restaurant	NO	YES	NO
Restaurant, Commercial/Recreation	NO	YES	NO
Restaurant, Entertainment	NO	YES	NO

Principal Land Use	Zone 1 (300')	With Public Water	With Public Water
		Zone 2 (1000') With Public Sewer	Zone 2 (1000') No Public Sewer
Retail Use with <5,000 SF of Gross Floor Area	NO	NO	NO
Retail Use with >5,000 SF of Gross Floor Area	NO	NO	NO
Retail Use with <1,500 SF of Outdoor Sales or Service	NO	NO	NO
Retail Use with >1,500 SF of Outdoor Sales or Service	NO	NO	NO
Riding Stable	NO	NO	NO
Sawmill	NO	NO	NO
Secondhand Merchandise, Retail Sales	NO	NO	NO
Second or Third Story Apartment	NO	YES	NO
Self-Service Storage Facility	NO	NO	NO
Septage Spreading and/or Storage	NO	NO	NO
Shopping Center	NO	NO	NO
Sludge Spreading and/or Storage	NO	NO	NO
Telecommunication Facility	NO	YES	NO
Theater	NO	YES	YES
Theater, Multiplex	NO	YES	NO
Tradesman's Shop	NO	NO	NO
Trucking Distribution Terminal	NO	NO	NO
Veterinary Hospital	NO	NO	NO
Video Store	NO	YES	YES
Water Treatment and/or Pumping Facility	YES	YES	YES
Wholesale Business	NO	NO	NO
Warehouse	NO	NO	NO
Use Similar to Prohibitive Uses	NO	NO	NO
Use Similar to Requiring Planning Board/Madawaska			
Water District Review & Permit	NO	YES	YES
Structures Accessory to Permitted Use	NO	YES	YES

**Key to Land Use Chart**

YES- Requires review by CEO, Planning Board, and Water District prior to final approval.

NO- Not allowed.