

# CASTINE WATER SERVICE PROTECTION ORDINANCE



ENACTED BY THE TOWN IN MEETING ASSEMBLED

THE 24<sup>TH</sup> DAY OF MARCH 2003

(AND AS THEREAFTER AMENDED)

ATTEST: THIS IS A TRUE DOCUMENT. THE *CASTINE WATER SERVICE PROTECTION ORDINANCE*, HAS BEEN IN EFFECT WITHOUT CHANGE FROM 24 MARCH 2003 TO THE DATE HEREOF, EXCEPT AS AMENDED THROUGH 24 MARCH 2003, AS SHOWN.

DATED: 25 MARCH 2003

SIGNATURE: \_\_\_\_\_

AFFIX SEAL

SUSAN M. MACOMBER  
CASTINE TOWN CLERK

## **CASTINE WATER SERVICE PROTECTION ORDINANCE**

1. Title; Effective Date. This Ordinance shall be known as the “Castine Water Service Protection Ordinance”. It shall become effective on the date of its adoption by the voters of Castine, Hancock County, Maine.
2. Authority. This Ordinance is adopted pursuant to 30-A M.R.S.A. § 3001 et. seq. and Castine’s home rule authority.
3. Purposes. This Ordinance is adopted to address concerns regarding the protection of the public water supply and the Castine Water Department. The Castine Water Service Protection Area, herein after referred to as CWSPA, in Castine is one of the most densely populated areas within Hancock County, and it periodically suffers from water shortages. This Ordinance is intended to accomplish the following purposes:
  - 3.1. To implement the policies, guidelines and recommendations of the current Castine Comprehensive Plan.
  - 3.2. To protect that public water supply by managing the extraction of water from the aquifer that serves the Castine Water Department;
  - 3.3. To ensure the long-term availability of the Castine public water supply to the residents and businesses located in the CWSPA by controlling the development and use of private wells which draw water from the same aquifer;
  - 3.4. To protect public safety by securing the continuation of the Castine fire protection system;
  - 3.5. To have the means, when necessary, to impose water conservation measures on all water sources within the CWSPA;
  - 3.6. To protect the financial integrity of the Castine Water Department, and to help prevent financial hardship to its customers and to property owners not served by the public water supply; and
  - 3.7. To ensure that the Castine Water Department continues to be able to repay its debt and the expenses of debt service from its user fees, thereby reducing the risk of its debt being paid by residents outside of the CWSPA who are not served by the public water supply.
4. Castine Service Water Protection Area; Applicability. The CWSPA is hereby defined as that portion of the Town of Castine that is identified on Map 1, which is attached hereto and incorporated into this Ordinance.

This Ordinance applies to all property in the CWSPA, whether residential, commercial, institutional or undeveloped.

5. Definitions. For purposes of this Ordinance the following terms shall have the following definitions. If no term used in this Ordinance is so defined, its customary dictionary definition shall be applied:
  - 5.1. “Debt” shall mean all money borrowed by the Town of Castine or the Castine Water District, in the past, or to be borrowed in the future, to construct, maintain, repair or replace any plant, wells, ponds, pipelines, facilities, accessories thereto or equipment used to provide a public water supply system in the CWSPA;
  - 5.2. “Debt Service” shall mean the interest, fees and other charges incurred in connection with debt and shall be considered part of the water system debt of the Town of Castine;
  - 5.3. “Owner” shall mean an individual, the individual trustee as well as a corporation or its duly authorized managing officials, a partnership, limited liability company, trust, personal representative of the estate, the estate or other entity, or agent that holds the record title to a property on land located in the Castine Water Supply Protection Area;
  - 5.4. “Plumbed Structure” shall mean a structure which contains piping and plumbing fixtures and which is or shall be connected to a public or private water supply;
  - 5.5. “Private Well” shall mean a shaft drilled or dug into the ground for the purpose of extracting water from the ground;
  - 5.6. “Public Water Supply System” shall mean the existing plant, wells, ponds, pipelines, facilities, and accessories thereto, owned by the Town of Castine and managed by the Castine Water Department, as well as any replacements or extensions thereof; and
  - 5.7. “Public Water Supply” shall mean water supplied to customers by the Castine Water Department through public waterlines or private waterlines where there is a right of access.
  - 5.8. “Well Registration Permit” is a form designated by the Superintendent of the Castine Water department as referenced in section 7.3 of this Ordinance and used for the purpose of monitoring well development and placement. See Appendix A for a specimen of the Well Registration Permit.
6. Required Actions. The following acts are required by this Ordinance. Any violation of these requirements shall constitute a “civil violation” under Title 30-A M.R.S.A. § 4452.
  - 6.1. The owner(s) of every plumbed new structure, being constructed all or in part within four hundred (400) feet from a public water supply within the CWSPA shall, at his, her or their expense, connect that entire structure to the public water supply in a manner and location approved by the Castine Water Department.
  - 6.2. The owner(s) of every property where a plumbed outbuilding, addition or alteration is constructed all or in part within four hundred (400) feet from a public water supply

within the CWSPA, shall connect, in a manner and location approved by the Castine Water Department, all plumbed structures on the property within four hundred (400) feet of the public water supply when the plumbing fixtures are installed in the structure.

**6.3.** The owner(s) of every property that contains a plumbed structure which is within four hundred (400) feet from a public water supply shall connect, in a manner and location approved by the Castine Water Department, all such plumbed structures on the property to the public water supply either:

**6.3.1.** within one hundred eighty (180) days of the sale of the property or,

**6.3.2.** within one hundred eighty (180) days of the transfer the entire property to anyone other than the owner's spouse.

**7.** Prohibited Actions. The following acts are prohibited by this Ordinance. Any violation of it shall constitute a "civil violation" under Title 30-A M.R.S.A. § 4452:

**7.1.** It shall be unlawful to disconnect any plumbed structure from its existing connection with the Castine public water supply except for any temporary disconnection required to make repairs or alterations to the public or private system. This prohibition shall not apply to the Castine Water Department;

**7.2.** No owner(s) of property within the CWSPA that is served by the Castine Water Department shall terminate that service, provided however that an owner is entitled to drain the plumbing system for repairs only of an occupied structure provided that he or she continues to pay the minimum quarterly or seasonal water service charges;

**7.3.** It shall be unlawful to drill a private well on property within the CWSPA without first obtaining a well registration permit from the Castine Water Department. Permitting is for the purpose of monitoring well development and placement. No well registration permit will be granted for structures lying all or in part within 400 feet of the public water supply unless its use is restricted to purposes outside of the structure or structures or a variance has been obtained under section 8 of this Ordinance. Furthermore, the Town adopts the prohibition in state law that forbids any residence or building that affords water to people from being simultaneously hooked up to the public water supply and a privately owned well.

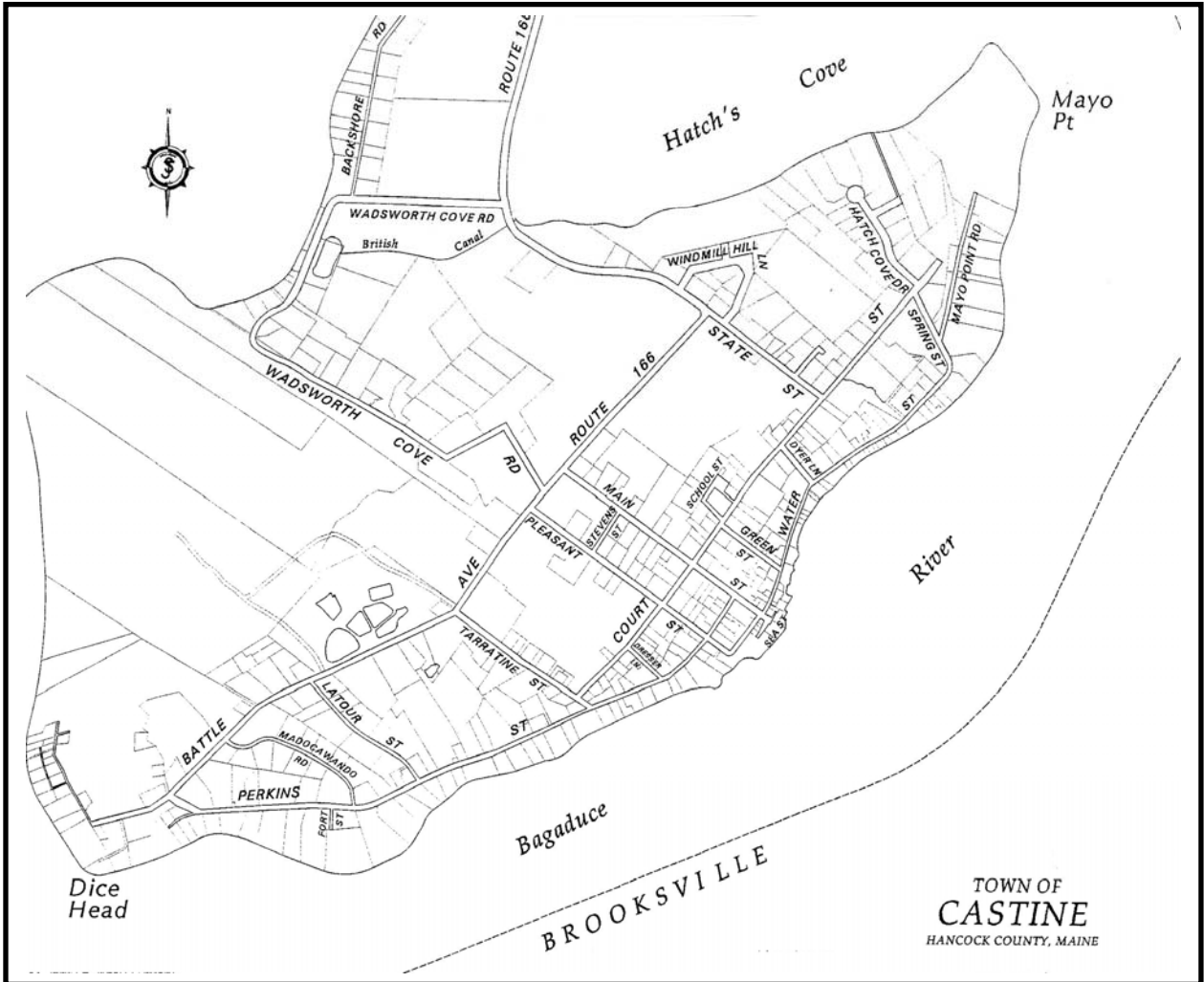
**7.4.** If the Castine Board of Selectmen should enact a mandatory water conservation measure, as provided below, no person - either a customer of the Castine Water Department or the owner(s) of property within the CWSPA that has a private well - shall use more water than allowed under that conservation measure.

**8.** Variance. The Castine Board of Appeals may grant a variance from the requirements and restrictions of this Ordinance only when strict application of the Ordinance would cause Undue Hardship. For purposes of this Ordinance alone, "Undue Hardship" means that a variance is required due to the unique circumstances of the property because:

- 8.1. Even though the new structure, addition or renovation structure is within the 400 feet of the public water supply as it is defined herein, the topography of the property or obstructions between the structure and the public water supply would require the length of the connector to exceed 400 feet. For purposes of this sub- paragraph the needed removal of less that 100 yards of ledge to a depth of 4 feet deep shall not be considered as an “Undue Hardship”, or
  - 8.2. More than 100 yards of ledge would have to be removed in order to bury the connector line below a 4-foot frost line, or
  - 8.3. The property does not adjoin the street or land where the public water supply is located and the owner does not possess a private water line easement and the owner can not obtain such an easement from the owners of the intervening land.
9. Mandatory Water Conservation Measures. At any such time as the Castine Water Department shall report to the Castine Board of Selectmen that the public water supply is in danger of being depleted because of drought or other conditions, the Board may, after public notice of its meeting, enact mandatory water conservation measures that may include (1) limits on the amount of water that may be used by each structure connected to the Castine public water supply or to a private well within the CWSPA, which limit may be tied to the number of persons residing in that structure (2) regulations on the times when water may be used to water lawns and gardens, to fill swimming pools, to wash vehicles, etc., and (3) any other regulations that it deems necessary to address the potential danger.
10. Enforcement; Inspection; Penalties & Costs; Consent Agreements. This Ordinance shall be enforced by the Castine Board of Selectmen acting through the Code Enforcement Officer or town attorney. The Code Enforcement Officer is hereby authorized to enter upon any property within the CWSPA at a mutually agreeable time to inspect the premises for compliance with the terms of this Ordinance and to investigate any violations.
- 10.1. Any enforcement action shall be brought in the name of the Inhabitants of the Town of Castine or by the Town of Castine and any civil penalties or fines shall be paid to the Town. Such action shall be brought pursuant to court rule 80K after notice of violation has been given to the owner(s) of the property, and the owner has not resolved the violation within the time specified by the Code Enforcement Officer. For each violation, the violator shall pay the civil penalty stated in Title 30-A M.R.S.A. § 4452(3), as it may be amended, and the violator shall pay the Town’s attorney fees, expert witness fees and costs. The minimum penalty shall be \$100; the maximum penalty shall be \$2,500. Each day of violation constitutes a separate violation.
  - 10.2. The Castine Board of Selectmen is authorized to enter into administrative consent agreements with the owner(s) of the property or other violator for the purpose of resolving violations of this Ordinance and collecting fines and/or fees without court action. An agreement may provide for a fine that is less than the civil penalty called for in the statute.

## MAP 1

# CASTINE WATER SERVICE PROTECTION AREA



APPENDIX A

Specimen



# Castine Well Registration Permit

**Note: This is a registration / permit process.**

**This permit can not be issued until all of the information listed below is supplied to the Castine Water Department.**

1. Property Owner: \_\_\_\_\_ Phone: \_\_\_\_\_

2. Street Address: \_\_\_\_\_ Tax Map \_\_\_\_\_ Lot \_\_\_\_\_

3. Well Type:  Bedrock (drilled)  Dug  Sand Point  Spring ( appropriate box)

4. Distance from the road: \_\_\_\_\_

5. General location on the property:  
\_\_\_\_\_

6 Well Depth: \_\_\_\_\_ feet

7. Well Cap:  Buried  Exposed ( appropriate box)

8. Depth to bedrock: \_\_\_\_\_ or casing length \_\_\_\_\_ feet

9. Well Yield: \_\_\_\_\_ gallons per minute

10. Well driller: \_\_\_\_\_ of (Town) \_\_\_\_\_ year drilled: \_\_\_\_\_

11. Signed by property owner: \_\_\_\_\_

Approved by Castine Water Department

Date: \_\_\_\_\_ Signature: \_\_\_\_\_

Specimen