



John Elias Baldacci  
GOVERNOR

STATE OF MAINE  
MAINE DEPARTMENT OF AGRICULTURE, FOOD & RURAL RESOURCES  
BOARD OF PESTICIDES CONTROL  
28 STATE HOUSE STATION  
AUGUSTA, MAINE 04333-0028

SETH H. BRADSTREET III  
COMMISSIONER  
HENRY JENNINGS  
DIRECTOR

April 28, 2008

Dale Abernethy  
Town of Castine Municipal Offices  
PO Box 204  
Castine ME 04421-0204

Dear Mr. Abernethy:

This letter is to confirm that Castine's town ordinance related to pesticides has been adopted pursuant to Title 22 M.R.S.A. Section 1471-U and the changes are now included in our centralized listing of municipal ordinances. Thank you for your cooperation in this matter. Please feel free to contact me if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Henry S. Jennings".

Henry S. Jennings  
Director

Enclosure



# CASTINE MAINE U.S.A.

APR 18 2008

Dale Abernethy  
Town Manager  
dale@castine.me.us

April 17, 2008

VIA CERTIFIED MAIL

Maine Board of Pesticides Control  
28 State House Station  
Augusta, ME 04333-0028

Reference: Municipal Ordinance Amendment

Gentlemen:

The Town of Castine held a town meeting on March 24, 2008 and approved several amendments to the municipal zoning ordinance. One of the amended sections has and continues to regulate the application of pesticides within the Town. Specifically, Section 5.2 *Aquifer Protection Overlay District* was amended, moved to Article 4, Section 4.7.4 of the ordinance and retitled *Source Water Protection Overlay District*.

Pursuant to Title 22 M.R.S.A. § 1471-U (3), this letter is transmitting a copy of the approved amendment to the Board. If you require any additional information, please contact me at the municipal office.

Very truly yours,

Dale Abernethy



# CASTINE MAINE U.S.A.

APR 18 2008

Susan M. Macomber  
Town Clerk  
[sue@castine.me.us](mailto:sue@castine.me.us)

April 17, 2008

ATTEST:

Attached is a true copy of the excerpts dealing with pesticides from Article 4 of the *Zoning Ordinance of the Town of Castine, Maine* adopted by the voters at the annual town meeting held on March 24, 2008.

Susan M. Macomber  
Town Clerk

AFFIX SEAL

APR 18 2008

## ARTICLE 4: ZONING DISTRICTS

### 4.7. DISTRICT OVERLAY REQUIREMENTS

#### 4.7.4. Source Water Protection Overlay District [Am. 6]

The Source Water Protection Overlay District applies overlay requirements to the land within the boundaries of the District. In addition to uses prohibited in the underlying districts, certain additional uses are prohibited. There are also additional requirements for other uses requiring Site Plan Approval.

##### 4.7.4.1. Delineation of Zones within the Source Water Protection Overlay District

There shall be two zones within the District:

- Zone 1 shall consist of all land lying within a circle of 300-foot radius around each water supply well.
- Zone 2 shall consist of all remaining land lying within the boundaries of the District.

##### 4.7.4.2. Permitted Uses within Source Water Protection Zone 1

The following are permitted uses in Zone 1:

- Uses directly related to the operations of the Castine Water Department or approved by it.
- Any other uses in existence on March 24, 2008.

##### 4.7.4.3. Prohibited Uses within Source Water Protection Zone 1

Any use not set forth in Section 4.7.4.2. above is prohibited.

##### 4.7.4.4. Permitted Uses within Source Water Protection Zone 2

4.7.4.4.1. The following are permitted uses not requiring Site Plan Approval:

- Subsurface sewage disposal system, the design and maintenance schedule of which is reviewed and approved by the Local Plumbing Inspector (LPI).
- Gardening,
- Residential composting,
- Residential pesticide or fertilizer application in compliance with label restrictions,
- Non-commercial animal husbandry,
- Forest management activities, and forest product harvesting, so long as harvest removes less than 40% of the canopy from any lot within a ten (10) year period,
- Recreational uses,
- Municipal uses such as road and facility maintenance,
- Creating impervious surfaces totaling not more than twenty percent (20%) of any lot,
- Storage of not more than ten (10) gallons in the aggregate of petroleum products in portable containers with secondary containment,
- Storage of greater than ten (10) gallons of petroleum products in fixed containers subject to Section 4.7.4.10 below,
- Maintenance of any existing structure.

4.7.4.4.2. In addition to those permitted uses in the underlying districts and listed in the Land Use Table as requiring Site Plan Approval, the following permitted uses require Site Plan Approval under this section and shall be issued a Conditional Use Permit:

- Non-residential application of pesticides or fertilizers.
- Flooding or mining of land.

**4.7.4.5. Prohibited uses within Source Water Protection Zone 2**

In addition to those uses prohibited in the underlying districts, the following uses are prohibited in Zone 2:

- Automobile graveyards or the outdoor storage of more than three motor vehicles not in regular use.
- New underground storage tanks or containers for petroleum products or chemicals after March 24, 2008.
- Creating impervious surfaces totaling more than twenty percent (20%) of any lot.
- Commercial activities involving the disposal of liquid or leachable wastes, except as are routinely permitted for disposal into the Town sewage system.
- Commercial waste impoundment or disposal.
- Uncovered waste storage.
- Commercial waste storage for a period exceeding 30 days.
- Commercial manure or sludge storage or spreading.
- Uncovered sand and salt piles.

**4.7.4.6. Status of Castine Water Department**

For any application for Site Plan Approval in the Source Water Protection Overlay District, the Castine Water Department shall have the status of an abutter.

**4.7.4.7. Permitted Use Standards**

All permitted uses within Zone 1 and Zone 2 shall be constructed, operated and maintained in a manner that will not cause a material increased risk of contamination or decreased quantity of recharge to the aquifer and the public water supply ponds as determined by the Planning Board in its sole discretion. The Planning Board may be guided in making its determination by advice from consultants chosen by it and by the advice contained in the manual of the Maine Department of Health and Human Services Drinking Water Program entitled *Best Management Practices for Groundwater Protection – A Guide for Local Officials and Public Water Suppliers*. (This publication is available at the Town Office and on the Town web site [www.castine.me.us](http://www.castine.me.us)).

**4.7.4.8. Source Water Impact Analysis**

For uses requiring Site Plan Approval pursuant to Section 4.7.4.4.2. above, the Planning Board may also require submission to the Planning Board by the applicant of a Source Water Impact Analysis. The Planning Board expects the detail of the Analysis to vary according to the proposed use. The Planning Board may require that any or all of the components of the Analysis be prepared by an appropriate registered/licensed professional, with the fees of such professional to be paid as determined by the Planning Board. In the sole

discretion of the Planning Board, the Analysis may contain any or all of the following components:

- 4.7.4.8.1. Maps showing any or all of: 1) property boundaries, 2) topography, 3) soil types, 4) surficial geology on the property, 5) post-development recharge areas, 6) the recommended sites for subsurface wastewater disposal systems and wells in the development; 7) direction of groundwater flow and 8) direction and routing of surface water flow.
- 4.7.4.8.2. Documentation of existing ground water quality for the site.
- 4.7.4.8.3. A nitrate analysis, or other contaminant analysis as applicable, including calculation of anticipated concentrations at the property line(s) and wells on the property.
- 4.7.4.8.4. For water intensive uses, as determined by the Planning Board in its sole discretion, an analysis of the effects of the proposed use on the aquifer drawdown relative to the quantity and quality of water available for other water supplies or potential water supplies serving the Town or private parties.
- 4.7.4.8.5. The installation of, and sampling of water from, water quality monitoring wells in accordance with appropriate ASTM standards. The number, location and depth of monitoring wells shall be determined by the Planning Board. Water quality sample results from monitoring wells shall be submitted to the CEO with evidence showing that they meet the Maine Department of Health and Human Services Drinking Water Program performance standards for water quality.
- 4.7.4.8.6. A list of assumptions made to produce the required information.

**4.7.4.9. Sanitary waste water disposal**

No use, including home occupations, shall dispose of other than normal domestic waste water on-site. No more than 900 gallons per day of sanitary waste shall be discharged to any one subsurface sewage disposal system. Septic tanks shall be pumped every three (3) years for routine maintenance. Pumping shall be observed by the LPI. Disposal of waste water shall be in compliance with the *Maine Subsurface Waste Water Disposal Rules* (CMR 10-144, Chapter 241, as amended).

**4.7.4.10. Petroleum product storage, above ground**

- For inside above ground storage of petroleum for commercial or private use, tanks (including replacement tanks) installed after March 24, 2008 in a fixed location must be designed to contain leaks, with either double-walled primary containers, or with a single walled tank set in a secure secondary container having a capacity of at least 110% of the capacity of the primary tank. There shall be no floor drains into which leaking oil could drain in a building storing petroleum products for commercial use.
- For outside above ground storage of petroleum in fixed tanks (including replacement tanks) installed after March 24, 2008, tanks shall be enclosed to prevent accidental toppling and shall have a cover or roof to prevent filling of the secondary containment with rainwater.
- Tanks (including replacement tanks) installed after March 24, 2008 must be installed in accordance with Maine Oil and Solid Fuel Board *Installation of Oil Burning Equipment* (CMR 02-381, Chapter 9, as amended).

#### **4.7.4.11. Petroleum product storage, underground**

For underground storage of petroleum in existence on March 24, 2008 for commercial or private use, the standards of Maine DEP *Rules for Underground Oil Storage Facilities* (CMR 06-096, Chapter 691, as amended) shall apply. Specifically, regarding design and operation, all tanks and piping shall be double walled for containment of petroleum product, and volumes and interstitial spaces shall be continuously electronically monitored. If portions of the system are to be replaced, then the design of such replacement shall be in accordance with the Chapter 691 regulations requiring the maximum security against spills and leaks of petroleum product.

#### **4.7.4.12. Application of pesticides or fertilizers**

Prior to non-residential application of pesticides and fertilizers, the permit applicant shall develop an Integrated Pest Management Plan and Nutrient Management Plan following Best Management Practices described in the publication entitled *Best Management Practices for the Application of Turf Pesticides and Fertilizers* of the Maine Department of Agriculture Board of Pesticides Control. (This publication is available at the Town Office and on the Town web site [www.castine.me.us](http://www.castine.me.us).)

The plans shall be reviewed by the Maine Department of Agriculture Board of Pesticides Control and the Maine Department of Health and Human Services Drinking Water Program and approved by the Planning Board.

Such plans shall incorporate:

- maps showing the location and types of turf to be treated,
- label directions for any pesticides or fertilizers proposed for application,
- pesticide applicator licenses,
- water insoluble and low-leachability options where available and a minimization of fertilizers and pesticide use,
- 24 hour advance notice to the public of pesticide or fertilizer applications to an area larger than nine (9) square feet, such notice to be posted at prominent locations, visible to the public from public ways, on the subject property and at the application site.

#### **4.7.4.13. Excavation or mining, fill, sand, gravel and other minerals.**

The water table shall not be artificially lowered by ditches, trenches, pumping or other methods. Excavation shall not be allowed below five feet above the average seasonal high water without Site Plan Approval from the Planning Board following receipt of a variance from the Maine DEP for mining below the water table pursuant to Maine DEP *Variance Criteria for the Excavation of Rock, Borrow, Topsoil, Clay or Silt and Performance Standards for the Storage of Petroleum Products* (CMR 06-096, Chapter 378, as amended).

