

# TOWN OF PROSPECT, MAINE

## AQUIFER PROTECTION ORDINANCE

Enacted 12-20-23  
Certification of Proposed Ordinances by the Municipal Officers

This certifies to the municipal clerk of **Prospect** that the within ordinance is a true copy of an ordinance entitled **Aquifer Protection Ordinance** to be acted upon the voters at a Town Meeting to be held on 12-20-2023

Dated: 12/6/23 Municipal Officers of Prospect  
Brandy Bridges  
Paul Carter  
Joanne McGowan  
Attested By: Wendy McGowan Prospect Town Clerk



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**ARTICLE I — TITLE & PURPOSE**

§1 Title

This Ordinance shall be known and may be cited as the Town of Prospect Aquifer Protection Ordinance and is referred to herein as "this Ordinance."

§2 Purpose

The purpose of this Ordinance is to put into law standards and procedures intended to protect the Town's aquifers and regulate the extraction of water from the Town's aquifers. These standards and procedures are intended to protect the public health, safety, and general welfare, and to minimize the adverse impact of water extraction to the Town, abutting property owners, citizens of the Town, and wildlife and natural resources by:

- A. Preserving and protecting surface and groundwater quality and quantity for current and future use of the Town and/or its residents.
- B. Preserving the value of property and its future ability to be an asset to the Town and its residents, including wildlife habitat and scenic qualities.

**ARTICLE II -- PROTECTION OF GROUNDWATER FROM POLLUTANTS AND CONTAMINATION**

§1 The purpose of this article is to safeguard the groundwater resources which may be or are used for public or private water supplies. This protection is provided by limiting and/or regulating the storage, handling, disposal, use and/or production of hazardous materials which cannot be rendered harmless by dilution or by the attenuative capacity of soil prior to reaching water supply wells.

- A. This chapter and any later-enacted land use regulations are intended to:
  - a. Prohibit, restrict, or alter uses which have historically posed severe threats to the potability of water supplies.
  - b. Allow use, handling, or storage of hazardous materials only where adequate protection has been provided to prevent contamination of groundwater resources.
  - c. Recognize strict performance standards for use, handling or storage facilities associated with hazardous materials so as to preclude their introduction into the aquifer. Such performance standards are to be more particularly described in the Town of Prospect Land Use Ordinance.
- B. Disposal of hazardous waste materials is prohibited.
  - a. Hazardous waste shall have the same meaning as contained in 42 U.S.C. § 6903(5):

- b. In addition to those materials identified as hazardous waste by the United States Environmental Protection Agency in accordance with 42 U.S.C. § 6903(5) above, hazardous waste shall also include any and all materials designated as hazardous waste by the State of Maine Board of Environmental Protection, pursuant to its rule-making authority in 38 M.R.S.A. § 1319-O, and in accordance with the definition located at 38 M.R.S.A. § 1303-C15.
- C. Safeguards: Provision shall be made to protect against discharge or loss of toxic or hazardous materials resulting from corrosion, accidental damage, spillage, or vandalism. These provisions shall include spill control measures at hazardous material delivery, storage, and transfer points; secured storage areas for toxic or hazardous materials; and indoor storage provisions for corrodible or leachable materials. Handling and storage of toxic and hazardous materials shall meet performance standards established by the Maine Department of Environmental Protection.
- D. Pollution levels: The concentration of any pollutant introduced into soil on any site will be attenuated to a contaminant concentration in the groundwater that is less than one half of the difference between the background concentration before the use or activity proposed and guideline established for that contaminant by the Safe Drinking Water Standard, EPA Health Advisory, or NAS Health Advisory. The background concentration of pollutants for a site shall be determined by obtaining water quality samples from on-site groundwater monitoring wells prior to the commencement of uses or activities proposed.
- E. Responsibility for clean-up costs for any discharge of toxic or hazardous materials lies with the person, persons, or entities that directly or indirectly caused the discharge or who are responsible for the maintenance of the premises where the discharge occurred.

### **ARTICLE III — WATER EXTRACTION TIERS**

§1 Water Extraction activities in Prospect will fall in one of three Tiers based upon the amount of groundwater to be withdrawn from wells or aquifers in any 24-hour period (even if the extraction is only to occur on an irregular or temporary basis).

- A. Tier 0: Tier 0 water extraction activities do not require a review or a permit under this ordinance. Tier 0 Activities include the following:
  - a. Water extraction activities not exceeding 1000 gallons in any 24-hour period for residential use and not sold.
  - b. Water extraction activities not exceeding 1000 gallons in any 24-hour period for commercial use and not sold.
  - c. Construction of farm and fire ponds and wells for firefighting.
  - d. Water extraction to support normal agricultural operations that do not exceed 1000 gallons in any 24-hour period.
- B. Tier 1: Tier 1 water extraction activities require approval by the Code Enforcement Officer (CEO) who will issue a permit if the proposed water extraction activity meets the Tier 1 regulations. Tier 1 Activities include the following:
  - a. Water extraction activities exceeding 1000 gallons in any 24-hour period but not exceeding 2000 gallons in any 24-hour period from any withdrawal point for residential use and not sold.

- b. Water extraction activities exceeding 1000 gallons in any 24-hour period from any withdrawal point but not exceeding 2000 gallons in any 24-hour period for commercial use and not sold.
  - c. Water extraction activities that support normal agricultural operations that exceed 1000 gallons in any 24-hour period from any withdrawal point but not exceeding 2000 gallons in any 24-hour period.
- C. Tier 2: Tier 2 water extraction activities will require review and approval by the Planning Board. Tier 2 water extraction activities are any water extraction activity not listed in Tier 0 or Tier 1, including but not limited to any extraction exceeding the rates outlined in Tier 1 or Tier 2, and any extraction for commercial sale of water.
- D. Active water extraction operations with valid State permits for the extraction activity as of the date of enactment that are Tier 1 or Tier 2 are excluded from this ordinance. Any change in an existing, state-approved extraction operation from Tier 1 to Tier 2 will require review and permit by the Planning Board after the enactment of this ordinance.

#### **ARTICLE IV — AUTHORITY, APPLICABILITY & ADMINISTRATION**

##### **§1 Effective Date**

This Ordinance shall be effective upon its adoption by The Town of Prospect town meeting.

##### **§2 Permit Required**

- A. Approval under this Ordinance shall be obtained as part of and concurrent with any other applicable Planning Board and/or Site Plan review.
- B. Any application submitted to the Planning Board for any portion of the affected area, shall be treated as if it includes all the previously exempt or non-permitted un-reclaimed inactive areas new or expanded extraction activity shall take into account any other current water extraction on the same parcel for the purposes of determining the tier of the extraction activities and for the purposes of applying the approval standards..

##### **§3 Permit To Be Recorded**

No permit shall take effect or be valid until it is recorded in the Waldo County Registry of Deeds along with an affidavit from the Code Enforcement Officer which shall include any conditions of approval and a reference to the site plan, to be separately recorded. These materials shall be recorded within 90 days of the granting of said permit at the expense of and by the applicant who shall provide proof of such recording to the Town. If the recording requirement is not met within the 90-day period, the approval shall become void.

##### **§4 Accessory Uses Not Included**

It is the intent of this Ordinance that a permit granted hereunder does not imply permission to undertake any accessory or non-extraction uses. Such uses shall be subject to Site Plan Review (if applicable) and all other applicable ordinances and required permits of the Town of Prospect.

## ARTICLE V — WATER EXTRACTION APPLICATION REVIEW

### §1 Application

Prior to the establishment or expansion of a water extraction activity, the person or entity intending to conduct the use shall apply for and receive a water extraction permit if required by this Ordinance, as well as all other applicable town permits or approvals. In addition to any submissions required by other applicable town ordinances, the water extraction application shall contain the following information, where applicable, and any other information that may be required by Article VI of this Ordinance:

- A. Site Plan, prepared by and bearing the seal of a land surveyor or engineer licensed to practice in the State of Maine, showing all information required by the Town of Prospect Site Plan Review Ordinance as well as the following:
  - a. Boundaries of the subject parcel, and of all lots with any boundary that is located within 1,000 feet from any boundary of the subject parcel. The Planning Board shall require a survey of the extraction area by a licensed surveyor unless the area is less than 5 acres. The Planning Board may require a survey of the property by a licensed surveyor if the boundaries are in question.
  - b. Location of existing, inactive, reclaimed, and proposed mineral or other extraction activities and structures on the property.
  - c. Location and identification of existing public and private streets, roadways, and rights-of-way on or abutting the property.
  - d. Location of proposed access road to the water extraction activity from public roadways. Location of all conservation areas and protected natural resources.
  - e. Location and type of existing and proposed berms, fences, hedges, and tree lines
  - f. Location of existing natural drainage ways and proposed storm drainage facilities, including dimensions of culverts, pipes, etc. If any portion of the water extraction activity is in a flood-prone area, the boundaries of any flood hazard areas and the 100-year flood elevation shall be delineated on the plan.
  - g. Location of existing wells:
    - i. all wells on the parcel itself; and,
    - ii. all wells within 1,000 feet of the proposed activity, if 5 acres or more.
  - h. Location of proposed hazardous material storage areas including but not limited to fuel storage and handling, and washdown areas.
- B. The name, address and telephone number and email of each applicant, and if the applicant is not a natural person, list of the names, titles, addresses and telephone numbers and email addresses and fax numbers of the natural persons that will be responsible for the management of the operation.
- C. A narrative description of the surface and groundwater impacts, including protection plans and the identification of any significant mapped aquifers.
- D. Information and a map showing soils conditions on the site of the proposed water extraction activity. For subsurface sewage disposal proposed, the information shall include evidence of soil suitability according to the standards established in Article VI of this Ordinance. The Site Plan shall show the location of soil test areas.

- E. A narrative description of the impact on the wildlife habitat, and the location of any deer yard or other significant wildlife habitat designated by Maine Dept. of Inland Fisheries and Wildlife, including any proposed mitigation plan.
- F. A narrative description of the present use of the parcel and property within 500 feet of the activity.
- G. Estimated duration of the operation, including phasing.
- H. Types and amounts of equipment to be used in the operation.
- I. All submissions made to any federal or state agency concerning the property.
- J. Other information the Planning Board may require to meet standards in Article VI.

## §2 Alternate Submissions

Activities that already have a valid DEP permit or a complete pending DEP application may submit the DEP application to satisfy relevant submission requirements above, but shall not be excused from submitting any other submittals required by this Ordinance and not included in the state application package.

## §3 Waiver from Submission Requirements

An applicant may request waiver of any submission requirement, which waiver the Planning Board may grant upon a demonstration that it is unnecessary or unduly burdensome given the scope, scale, size, location or minimal likely impacts of the proposed operation.

## §4 Application Procedures

- A. Applications for water extraction permits shall be submitted to the Town Clerk, Code Enforcement Officer, and Chair of the Planning Board together with and as part of any other materials required to be submitted for Site Plan approval of the development. All application procedures set forth in the Town of Prospect Site Plan Review Ordinance shall apply to review of applications pursuant to this Ordinance.
  - 1. The application shall be accompanied by a fee in accordance with a fee schedule determined by the Select Board. Additional fees may be required by the Prospect Planning Board to cover the cost of reviewing the application as specified in Article IV §1-C(4) and Article IV §5-H.
- B. Public Hearing and Planning Board Decision
  - 1. All water extraction activity larger than 5,000 gallons in any 24-hour period shall require a public hearing. Notice of and procedures for the public hearing shall be as set forth in the Town of Prospect Site Plan Review Ordinance.
  - 2. Upon approval of the water extraction activity, the Planning Board Chair or designee shall sign all copies of the final site plan. The original shall be recorded by the applicant with the Waldo County Registry of Deeds and a copy of such recording provided to the Town. One copy shall be retained by the applicant, one copy shall be retained by the Planning Board, one copy shall be filed with the Tax

Assessor, and one copy shall be filed with the Code Enforcement Officer. Recording fees shall be paid by the applicant. The Code Enforcement Officer and Planning Board shall maintain a permanent record of their respective actions on water extraction activity applications.

C. Operation Conditions and Limitations

Before any water extraction activity begins, and as a condition of any approval, the applicant shall apply for and receive all applicable permits as may be required by Town, state or federal regulations, laws or ordinances regulating such developments, including but not limited to the Town of Prospect Site Plan Review Ordinance. Any violation of other permits necessary for operation and noted in the permit shall be considered a violation of this Ordinance.

D. Expiration of Approval

Water Extraction Activity permits shall automatically expire one year from the date of issuance unless the water extraction activity has been substantially commenced during that period, as defined by the Site Plan Review Ordinance.

E. Plan Revisions after Approval

Plan revisions after approval shall be made as further provided for in Article VI §4 of this Ordinance.

F. Expert Witnesses and Opinions

In the event that the Planning Board requires expert opinions, advice or testimony during the course of reviewing the application, it shall require the applicant to pay for such services, after giving notice to the applicant of the name of the expert, the area of qualification of the expert, the purpose for which the expert is required, and the approximate cost of the expert. The applicant shall be provided with an opportunity to meet with the Planning Board to arrange a schedule for payment of the costs. The applicant shall deposit with the Town funds sufficient to cover the anticipated review costs and may be submitted in increments as approved by the Planning Board. Such funds shall be allocated to a sub-account to be maintained by the Town Clerk and may not be spent for any other municipal purposes. If any funds remain in said sub-account after the completion of expert review, they shall be returned to the applicant within 45 days after consideration of the permit and its granting or denial.

The applicant shall have the right to request a public hearing before the Board of Appeals to determine if the experts, as noticed by the Planning Board, are reasonably necessary to a determination of any issue properly before the Planning Board. It will be the applicant's burden to prove that the requested expert is unnecessary, or that the cost is excessive. The applicant shall request the hearing within 10 days of the Planning Board's determination of the requirement for expert assistance.

G. Transfer of Water Extraction Activity Permit.

Within thirty (30) days of the date of the transfer, by sale or otherwise, of land upon which a water extraction operation is situated and prior to start of operations by the new owner or operator, the transferee shall file with the Town notice of the transfer and a statement of agreement and capacity to comply with the Town Water Extraction Permit.

1. Failure to comply with this requirement shall be a violation of this Ordinance and may subject the violator to any penalty, or combination of penalties, that may be imposed under the Ordinance.
2. The transferee shall provide the Planning Board the information as required in

Article IV §1-A, B, and D of this Ordinance.

3. Proposed changes to the terms of the permit, including financial responsibility requirements, shall be considered a request for permit modification and processed accordingly.
4. The Planning Board may hold a public hearing and provide an opportunity for public comment on any substantive changes in the terms of the permit. Notice of that hearing shall be as specified in Article IV §4-C.

#### §5 Appeals

Any person aggrieved by the Planning Board's issuance or denial of a permit or approval required under this Ordinance shall have the right to file a written appeal by following the provisions set forth in the Town of Prospect Site Plan Review Ordinance.

### ARTICLE VI – MINIMUM DESIGN & PERFORMANCE STANDARDS

#### §1 General Requirements — All Operations

- A. Water extraction activities shall conform to all applicable federal, state, and local laws and ordinances or regulations, as well as the performance standards under this Ordinance.
- B. The owner and/or permit holder of a water extraction activity shall be responsible, both jointly and severally, for ensuring the maintenance of all infrastructure, structures and their sites in accordance with the terms of this Ordinance and any permits governing the activity.
- C. The applicant shall have the financial capacity, technical ability, and experience needed to complete all proposed activities. The issuing authority may consider any prior violation, suspension, or revocation of a permit issued under this ordinance, or similar permit issued by any other agency of government, and any other environmental enforcement history.
- D. The Planning Board may approve the application only if the applicant or agent is in compliance with all other Town of Prospect or State of Maine permits. The applicant or agent shall be deemed not in compliance if it is the owner or operator of a water extraction operation which has been issued a notice of violation of an applicable law, ordinance, regulation or permit, and has not brought the property or operation in full compliance with any order of the court or government agency.
- E. In all cases, the applicant shall have the burden of proof that all requirements, standards, and conditions of this Ordinance and subsequent approval are met.
- F. A copy of the permit must always be displayed on site.

#### §2 Performance Standards

- A. Erosion, Sedimentation Control & Storm Water Management.  
The application shall ensure that sediment will not leave the boundaries of the project parcel or enter a Protected Natural Resource.
- B. Groundwater Impacts  
Water is a precious resource, and the applicant must take measures to assure that the quantity



and quality of the groundwater is not adversely affected by the proposed activity.

The applicant must conduct baseline water quality tests on all non-applicant-owned wells within 5,000 feet of the water extraction site boundary lines and shall conduct follow-up testing upon a schedule to be agreed upon by the Planning Board and reasonably calculated to demonstrate any impacts of the use on the water quality and quantity of said wells. Failure to test any well shall not be considered a violation if the well owner has refused to authorize entry to the property or authority to perform the test.

**C. Blasting.**

The Planning Board may require additional monitoring for 2,000 feet of the water extraction site boundary lines or within the boundaries of the Town for blasting operations.

**1. Water Supply Buffer.**

A 300-foot separation must be maintained between the limit of excavation (including but not limited to gravel and quarry operations) and any pre-existing private drinking water supply. A 1,000-foot separation must be maintained between the limit of extraction and any well or spring which qualifies as a public drinking water supply. The Planning Board shall require larger buffers from water supplies if it finds that a hazard is shown to exist due to the water extraction activity.

**2. Water Use.**

a. A water extraction activity must not withdraw more than 5,000 gallons of ground water per day, unless a hydrogeologic study is submitted by a hydrogeologist that determines this activity will not represent an environmental hazard or threaten drinking water supplies.

b. Any water that is discharged from the site shall be routinely monitored for sediment, pH, and other contaminants to ensure the discharge shall not adversely affect surface water quality. Records of such monitoring shall be provided upon request from the Code Enforcement Officer.

**3. Standards for Acceptable Groundwater Impacts**

a. Projections of ground water quality shall be based on the assumption of drought conditions (assuming 60% of annual average precipitation).

b. No water extraction activity shall cause any contaminant concentration in the ground water tested on an adjacent property to increase any contaminant concentration in the ground water to more than the Secondary Drinking Water Standards.

## **ARTICLE VII — ENFORCEMENT AND INSPECTIONS**

### **§ 1 Annual Compliance Inspection**

A. The annual compliance inspection fee, payable to the Town of Prospect, shall be in accordance with a fee schedule determined by the Select Board.

B. The Annual Compliance Inspection (ACI) shall be conducted by the CEO during the months of June through October. The CEO shall provide the Select Board, site owner, and site operator with a report outlining any violations of this ordinance and remediation required.

C. It is the responsibility of the permit holder to ensure that the inspection is conducted as required by this section and to ensure payment of the annual water extraction inspection fee as established by the Select Board. Failure to pay the annual inspection fee may result in a "Stop Work Order" being issued.

- D. The CEO shall have the right of entry onto any water extraction activity site at reasonable times and with reasonable notice for the purposes of making any inspection required by this Ordinance or investigating any potential violations.

#### §2 5-Year Renewal

Every five (5) years an approved permit requires a review by the Planning Board. If a Five-Year Review application is filed at least thirty (30) days before the annual renewal deadline, water extraction activities may continue under the existing permit until the Planning Board review has been completed.

Upon receiving the review and approval request, the Planning Board shall schedule a public hearing regarding the request. The applicant shall provide at a minimum, an updated site plan prepared and stamped by a surveyor or engineer licensed in the State of Maine identifying the original footprint of the operation, the original active extraction area, the current extraction area, and any changes to the site since the original approval. Additional data may be requested by the Planning Board as necessary to determine compliance with the standards of this ordinance. The Planning Board may, as part of the renewal process, impose new conditions on the license or modify the license in any way necessary to assure compliance with the license being reviewed and the Ordinance as it is in effect at the time of renewal. If there has been a history of significant non-compliance, the Planning Board may deny the request for license renewal. A water extraction activity cannot be expanded beyond its original license area as part of the 5-year process. Any expansion not allowed in the original application must be processed as a separate application under the ordinance in effect at the time of the expansion application.

#### §3 Violations

- A. No water extraction activity plan shall be recorded in the Waldo County Registry of Deeds until a Final Plan has been approved and signed by the Planning Board in accordance with this Ordinance.
- B. No water extraction activity shall be conducted except in compliance with all applicable federal or State laws and regulations, Town ordinances, plans approved by the State or Town, or any terms and conditions of any State or Town permit or approval.
- C. No person, corporation, or other legal entity may conduct water extraction activities or sell or offer to sell any materials derived from a water extraction site which has not been approved by the Planning Board and recorded in the Waldo County Registry of Deeds.
- D. Any operation that is in violation of other approvals (including state or other municipal approvals) covering the same operation shall be deemed in violation of approvals granted under this Ordinance, in that all other approvals are necessary for approvals under this ordinance to be valid.

#### §3 Water Extraction Plan Amendments after Approval

All activities shall be conducted as depicted on the approved plans. No changes, erasures, or modifications shall be made in a Final Plan after approval has been given by the Planning Board unless the plan is first resubmitted, and the Planning Board approves any modifications. The applicant is not required to go through the complete review process of an amendment to an existing water extraction activity, unless, in

the judgment of the Planning Board, the amendment substantially alters the character of the original water extraction activity, or unless the change constitutes a new water extraction activity. If an amended Final Plan is recorded without complying with this requirement, it shall be null and void. The Planning Board shall record a revocation of a previously recorded document in the Waldo County Registry of Deeds.

#### §4 Enforcement

- A. The Code Enforcement Officer of the Town of Prospect, Maine, shall enforce this Ordinance and the Select Board of the Town of Prospect, Maine is authorized to institute legal proceedings to enjoin violations of this Ordinance.
- B. If the Code Enforcement Officer finds a violation of any provision of this Ordinance or failure to comply with any order, permit, approval, condition or other final decision or action of the Planning Board that constitutes a substantial and immediate danger to the health, safety, or welfare of any person(s), or property or environment of the Town of Prospect, Maine, the Code Enforcement Officer may issue a Stop Work Order and the Town may initiate immediate proceedings to abate or correct such violations. Violations are subject to inspection as per §1 of this Article.
- C. In any action to enforce any provision of this ordinance where the Town of Prospect prevails, the Town shall be awarded penalties, reasonable attorney fees, expert witness fees, costs, and other remedies available pursuant to Title 30-A M.R.S.A. § 4452.

#### §5 Penalties

- A. Any person, firm, or corporation, being the owner or having control or use of any water extraction activity in violation of any of the provisions of this Ordinance or terms or conditions of any order, permit or approval or final decision of the Planning Board shall be subject to a civil penalty due and payable to the Town of Prospect, Maine, of not less than one hundred dollars (\$100.00) for each day said violation exists and not more than twenty-five hundred dollars (\$2,500.00) for each day said violation exists or twice the economic benefit resulting from the violation, whichever is greater, not to exceed \$25,000 per day. If the same person has been convicted of a violation of this ordinance within the previous two years, the maximum penalty is twenty-five thousand dollars (\$25,000.00) for each day said violation exists.
- B. In setting the penalties, the Court shall consider but is not limited to the following:
  - 1. Prior violations by the same person;
  - 2. The degree of environmental damage that cannot be abated or corrected;
  - 3. The extent to which the violation continued following an order to stop;
  - 4. The extent to which the Town of Prospect, Maine, contributed to the violation by providing incorrect information or failing to take timely action; and
  - 5. Whether penalties have been imposed by another governmental agency for the same incident(s).
- C. If the maximum penalty amount of Article VII §6-A of this ordinance is held void or invalid, it is the intent of the Town of Prospect, Maine, that provisions of Title 30-A, M.R.S.A. Section 4452 be given full force and effect and that the maximum penalty amounts authorized by such provision apply to violations of any order, permit, or final decision of the Planning Board, or any provision of this ordinance.

### ARTICLE VIII — SEVERABILITY & CONFLICT

### § 1 Severability

Should any section of this Ordinance be declared by the courts of the State of Maine or by the courts of the United States to be invalid, such decisions shall not invalidate any other section or provision of this Ordinance.

### §2 Conflict with other Ordinances

This Ordinance shall in no way impair or remove the necessity of compliance with any other rule, regulation, bylaw, permit or provision of law. Where this Ordinance imposes a greater restriction upon the use of the land, buildings, or structures, than any other rule, regulation, bylaw, permit, or provision of law, the provisions of this Ordinance shall prevail.

## **ARTICLE IX- AMENDMENTS TO THE ORDINANCE**

### § 1 Initiation of Amendment

An amendment to this ordinance may be initiated by:

- A. The Planning Board (provided that a majority of the Board has so voted), or,
- B. Request of the Select Board to the Planning Board, or,
- C. Written petition to the Select Board bearing signatures of registered voters of the Town of Prospect, Maine numbering at least 10% of the number who voted in the last gubernatorial election.

### § 2. Adoption of Amendment

All proposed amendments to this Ordinance shall be referred to the Planning Board for their recommendation. The Planning Board may hold a public hearing on any proposed amendment. Within 30 days of receiving a proposed amendment or within 30 days of the public hearing, if one is held, the Planning Board shall make known their recommendation to the Select Board. After receiving the recommendation of the Planning Board, the shall cause the amendment to be voted on by the voters of the Town of Prospect, Maine at the next Town Meeting, a simple majority vote being required for adoption.

## **ARTICLE X —REFERENCES & DEFINITIONS**

### §1 Construction of Language

In general, all words and terms used in this Ordinance shall be defined as stated below. If not defined herein, shall be defined as in the Site Plan Review Ordinance, or Title 38 M.R.S.A. Section 490-A or its successor, or if not so defined, shall have their customary dictionary meanings. More specifically, certain words and terms shall be described below.

### §2 Relationship to Other Town Ordinances

This Ordinance shall be applied as part of the site plan review and approval process as set forth in the Town of Prospect Site Plan Review Ordinance. All substantive and procedural provisions of the Site Plan Review Ordinance shall apply to review of water extraction activities covered by this Ordinance. Where there is a conflict between the language contained in this Ordinance and the Site Plan Review Ordinance any other Town ordinances, the stricter or more specific language shall apply.

### §3 References to the Town

All references in this Ordinance to "Town," "the Town," "the Town of Prospect," and to any board, official or officer, unless clearly defined otherwise, shall be construed to be references to The Town of Prospect, Maine, an incorporated municipality in the County of Waldo, State of Maine and its municipal boards, officials, and officers.

#### §4 References to Other Documents

All references in this Ordinance to any statute, regulation, document, chapter, handbook, or other external reference, shall be construed to be references to said documents and their successor documents, as they may be amended or replaced from time to time by other materials.

#### §5 Definitions

**Buffer:** A natural, undisturbed area or belt of land that contains vegetation. A buffer area may be larger than specified in this ordinance.

**Duration:** A specified length of time.

**Ground Water:** All of the water found beneath the surface of the ground. For purposes of aquifer protection, this term refers to the subsurface water present in aquifers and recharge areas.

**Infrastructure:** Structures, roads or utility facilities that are a necessary part of the development of an operation.

**Hazardous Waste:** The term "hazardous waste" means a solid waste, or combination of solid wastes, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may: cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness; or pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed.

**Immediate Family:** The spouse or children of a specific individual.

**Lake or Pond:** Any inland impoundment, natural or man-made, which collects and stores surface water.

**Maximum Seasonal High Groundwater Level:** The upper level at which the ground water table normally is located during the season of the year when such levels are at their highest.

**Normal High-Water Mark of Inland Waters:** That line of the shores and banks of nontidal water which is apparent because of the different character of the soil or the vegetation due, or to the prolonged action of the water. Relative to vegetation, it is that line where the vegetation changes from predominantly aquatic to predominantly terrestrial (by way of illustration, aquatic vegetation includes but is not limited to the following plant and plant groups: water lily, pond lily, pickerel weed, cattail, wild rice, sedges, rushes, and marsh grasses, and terrestrial vegetation includes but is not limited to the following plants and plant groups, upland grasses, aster, lady slipper, wintergreen, partridgeberry, sarsaparilla, pines, cedars, oaks, ash, alders, elms, and maples). In places where the shore or bank is of such character the high-water mark shall be estimated from places where it can be determined by the above method.

**Phasing:** A plan of completion of the operations in separate and distinct sequences that have a complete beginning and ending for predetermined areas. In the context of this ordinance, all phases must be structured so that they stand on their own, shall be inspected for completeness at the end of each phase and have reclamation of area completed at the end of each phase.

**Pond:** See "Lake"

**Projections of Groundwater Quality:** An analysis of the potential changes to existing groundwater quality by examining the processes, chemical byproducts and outflow of a proposed operation.

**Protected Natural Resource:** Wetlands, significant wildlife habitat, fragile mountain areas, freshwater wetlands, bog, marsh, rivers, streams, or brooks, as the terms are defined in applicable Town of Prospect ordinances, federal, or State law.

**River or Stream:** A free flowing drainage outlet, with a defined channel lacking terrestrial vegetation and flowing water for more than three months during the year.

**Road:** Public and private owned ways such as alleys, avenues, boulevards, highways, roads, streets, lanes, and other rights-of-way, as well as areas on water extraction activity plans designated for

vehicular traffic.

Stream: See "River."

Surface Water Body: Any water flowing on the surface, either channelized or by sheet flow including, but not limited to, rivers, streams, brooks, ponds, lakes and any swamp, marsh, bog, or other contiguous lowland where water is periodically ponded on the surface.

Water Table: The upper surface of groundwater, or that level below which the soil is seasonally saturated with water.