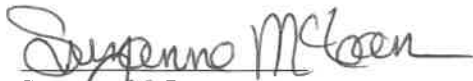


Code of Ordinances, City of Ellsworth

CHAPTER 55
WATER SUPPLY PROTECTION

A true copy, attest:


Suzanne McLean
City Clerk



The **FRIENDLY CITY**
Ellsworth
Maine

HISTORICAL NOTE: ADOPTED JULY 18, 2005 (EFFECTIVE AUGUST 11, 2005); AMENDED THROUGH MARCH 15, 2010;
AMENDED AUGUST 16, 2010; AMENDED JANUARY 14, 2013; AMENDED JULY 1, 2026.

CHAPTER 55

WATER SUPPLY PROTECTION

ARTICLE 1 GENERAL PROVISIONS

101 PURPOSES

In addition to the general purposes of the City Code set forth in Chapter 1, Article 2, the purpose of this Chapter 55 is to protect the water quality of Branch Lake, the Ellsworth drinking water supply and its sources, as well as the health, safety, and welfare of persons dependent upon such supplies. These supply sources include all perennial and intermittent streams, as well as the wetlands of ten (10) acres or more located within the Branch Lake Watershed Boundaries. This Chapter 55 is intended to protect the drinking water supply and its sources from pollution and development; chemical contamination; increased recreational and boating pressures; and invasive aquatic species.

The provisions of this Chapter 55 pertaining to surface water use and water-related activities include any activity in, on, or from the surface water or the frozen water of Branch Lake and its sources.

102 EFFECTIVE DATE

This Chapter 55, enacted on the 18th day of July 2005 by the City Council, shall take effect August 15, 2005.

103 APPLICABILITY AND MAP

This Chapter 55 shall apply to all surface water use on Branch Lake or its sources, as delineated on the Public Water Supply Protection Map, attached as Appendix 55-A.

104 ADMINISTRATION AND ENFORCEMENT

The Branch Lake Steward is responsible for administering this Chapter 55.

The CEO, any duly designated officer of the Police Department, the Water Superintendent, and the Branch Lake Steward are responsible for enforcing the provisions of this Chapter 55 by inspecting premises, investigating complaints, issuing notices of violation, suspending or revoking permits or approvals (including boating permits and boat tags), and participating in legal prosecution of violations as needed, in accordance with Chapter 1, Section 510 of the City Code.

ARTICLE 2 DEFINITIONS

Aeroplane: An airplane that can land on or take off from water or ice.

All-Terrain Vehicle or ATV: Any recreation vehicle with three (3) or more wheels and weighing under Fifteen hundred (1500) pounds.

Amphibious Aeroplane: An airplane that can take off and land using conventional runways and water.

Amphibious Vehicle: Any vehicle that can be used over land and water.

Arsenic-Treated Wood Products: Lumber, timber, poles, posts, plywood, shakes, shingles, or other wood or forest products intended for outdoor use that have been pressure treated to reduce decay with a wood preservative containing inorganic arsenic or inorganic arsenic compounds.

Aquatic Plants: As defined by Title 12 MRSA sec. 13001, a plant species that requires a permanently flooded freshwater habitat.

Dock: Floating or fixed structure located in, on, or over the waters of Branch Lake.

Boat Inspection: The inspection of boat, motor vehicle, trailer, marine engine, live well, bilge, bait bucket, and all other related equipment to ensure that no aquatic invasive plants are introduced in Branch Lake and in its sources.

Boat: Any device capable of carrying one or more person in, on, or over the waters of Branch Lake. It does not include air mattresses, inner tubes, or beach and water toys.

Boat Launch: A facility designed primarily for the launching and landing of watercraft.

Creosote-Treated Wood: Lumber, timber, poles, posts, plywood, shakes, shingles, or other wood or forest products intended for outdoor use that have been treated with creosote.

Float Plane Base: On-water location designed for docking, mooring, or servicing three or more aeroplanes simultaneously.

Fuel Depot: Waterside fueling facility containing fuel storage in excess of 50 gallons.

Infested Water Bodies: Lakes, Ponds, Rivers, or Streams known or suspected to contain invasive aquatic plants. For the purposes of this Chapter 55, all water bodies beyond the borders of the state of Maine will be suspected to contain invasive aquatic plants. Known Maine infested water bodies are those listed in the most recent annual Maine Department of Environmental Protection (ME DEP) update.

Invasive Aquatic Plants: As defined by 38 M.R.S.A. § 410-N, species identified by the MDEP as an invasive aquatic plant, and any of the following species:

- (1) Eurasian water milfoil, *Myriophyllum spicatum*;
- (2) Variable-leaf water milfoil, *Myriophyllum heterophyllum*;
- (3) Parrot feather, *Myriophyllum aquaticum*;
- (4) Water chestnut, *Trapa natans*;
- (5) Hydrilla, *Hydrilla verticillata*;
- (6) Fanwort, *Cabomba caroliniana*;
- (7) Curly pondweed, *Potamogeton crispus*;
- (8) European naiad, *Najas minor*;
- (9) Brazilian elodea, *Egeria densa*;
- (10) Frogbit, *Hydrocharis morsus-ranae*; and
- (11) Yellow floating heart, *Nymphoides peltata*.

Mooring: Appliance used by a boat for anchoring purposes that is not carried aboard such boat when underway as regular equipment.

Motorbike: Any self-propelled two (2) wheeled motorcycle or motor-driven cycle designed for or capable of traveling off developed roadways and highways.

Motor Vehicle: A self-propelled wheeled conveyance, such as a car or truck.

Normal High-Water Line: The line which is apparent from visible markings, changes in the character of soils due to prolonged action of the water or changes in vegetation, and which distinguishes between predominantly aquatic and predominantly terrestrial land. In the case of wetlands adjacent to rivers and great ponds, the normal high-water line is the upland edge of the wetland.

No Wake Speed: Operation of a boat at the slowest possible speed to maintain steerage.

Personal Watercraft (PWC): A small, lightweight water jet propelled craft designed to be either sat-on or stood-on with motorcycle-like handlebars and squeeze throttle.

Resident Boat: A boat or watercraft belonging to a person owning property or right-of-way abutting Branch Lake.

Snowmobile: Any self-propelled vehicle under one thousand (1,000) pounds unladen gross weight, that is steered by tracks, skis, or runners.

Substantial Improvements: Any reconstruction, rehabilitation, or other improvement of a launch, dock, or other structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed.

Watercraft: Any boat or other floating device of rigid or inflatable construction which is designated to carry people or cargo on the water, and which is propelled by machinery, oars, paddles, or wind action on a sail; except: inner tubes, other floatable material not propelled by machinery, personal floating devices worn or held in hand, and other objects such as floating or swimming aids, including float tubes.

ARTICLE 3 SURFACE WATER USE REGULATIONS

301 ESTABLISHMENT OF ZONES

The following zones, as depicted on the Official City of Ellsworth Public Water Supply Protection Area Map, are hereby established:

301.1 Intake Zone

This 280,000 square feet rectangular zone encompasses the area of water around the Ellsworth public water supply point of intake in Branch Lake commencing at the northwest corner of the Ellsworth tax map 55 lot 14 at the normal high-water line of Branch Lake and extending one hundred and twenty-four (124) feet in a generally northwesterly direction along the shoreline; thence at a right angle in a northeasterly direction seven hundred (700) feet to a point; thence at a right angle in a southeasterly direction four hundred (400) feet to a point; thence at a right angle in a southwesterly direction seven hundred (700) feet to a point; thence at a right angle in a northwesterly direction two hundred and seventy-six (276) feet along the shoreline to the point of beginning.

301.2 Recreation Zone

This zone encompasses all of the water surface of Branch Lake and its sources excluding the Intake Zone area.

301.3 Aeroplane Landing & Takeoff Zone

This zone, located within the Recreation Zone, encompasses waters in the “Upper Lake” section of Branch Lake north of a line running between the Branch View Drive peninsula and the 401 Phillips Way peninsula 200 feet North of so-called “Little John Island.”

302 RESTRICTIONS

The following restrictions apply to the following zones, as depicted on the Official City of Ellsworth Public Water Supply Protection Area Map:

302.1 Intake Zone

1. All water-related activities in this area are prohibited; no trespassing is allowed.
2. The City Water Department shall have authority to place, at its discretion, signs and/or buoys in the lake delineating the zone and indicating the penalties to be imposed for trespassing.

302.2 Recreational Zone

1. **No Wake.** It shall be unlawful to operate any boat at speeds faster than no wake speed within 200 feet of the shoreline.
2. **Motor Vehicles.** Motor vehicles are prohibited unless used for the express purpose of launching a boat.
3. **ATVs.** ATVs are prohibited unless used on the ice or used to launch a boat.
4. **Motorbikes.** Motorbikes are prohibited unless used on the ice or used to launch a boat.
5. **Snowmobiles.** Snowmobiles are allowed on the ice of Branch Lake.
6. **Amphibious Vehicles.** Amphibious vehicles are prohibited, including amphibious aeroplanes.
7. **Aeroplanes.** No person shall cause or permit any aeroplanes to land, operate, or take off except in accordance with Article 6.
8. **Diesel Engines.** All vessels with diesel engines are prohibited.
9. **House Boats.** No vessel fitted for use as a dwelling or residence or occupied as such shall be permitted.
10. **Engine Repairs.** Servicing or repair of engines is prohibited.
11. **Dumping of Wastes.** No person shall dump, cause to dump, or discard feces, ashes, food wastes, offal, or any waste or refuse.
12. **Ice Shacks and On-ice Activities.** *See* Section 305 below.
13. **Overnight Stay.** Overnight stays on the ice are prohibited.
14. **Moorings.** All mooring gear must be free of aquatic plants before being placed in Branch Lake or its sources.

15. **Fishing Equipment.** All fishing equipment must be free of aquatic plants before being placed in Branch Lake or its sources.

302.3 Aeroplane Landing and Takeoff Zone

1. **Aeroplanes.** No person shall cause or permit any aeroplanes to land, operate, or take off except in accordance with Article 6.
2. **No Wake.** It shall be unlawful to operate any aeroplane at speeds faster than no wake speed within 200 feet of the mainland or island shoreline.

303 PROTECTION OF WATER SUPPLY, GENERALLY

- 303.1** It shall be unlawful for any person to pollute, threaten, jeopardize, or render impure, turbid, or offensive the waters of Branch Lake or its sources.
- 303.2** No person shall put filth, sewage, ashes, animal or vegetable matter, wood chips, compost, construction debris, herbicide, wood shavings, or any other substance or pollutant, whether solid or liquid, in the waters of Branch Lake or its sources.
- 303.3** The owner or operator of a motorized vehicle or aeroplane that sinks beneath the water or ice of Branch Lake or its sources must contact the City Water Department or City Police Department as soon as safety permits.

304 BOAT LAUNCHES AND DOCKS

- 304.1** All new boat launches, docks, and other structures in, on, or over the waters of Branch Lake are prohibited with the exception of docks used for residential purposes and those structures listed under Section 304.5.
- 304.2** Boat launches, docks, and other structures in place before the effective date of this ordinance may continue unless the use is discontinued for a period of 12 consecutive months.
- 304.3** All new docks and other structures in, on, or over the waters of Branch Lake must meet the following specifications and restrictions:
 1. The structure shall be built no larger in dimension than necessary to carry on the activity and be consistent with existing conditions, use, and character of the area;
 2. Habitable or enclosed structures are prohibited;
 3. The use of metal drums is prohibited;
 4. The use of any flotation devices that will sink when punctured are prohibited;
 5. The use of creosote- and arsenic-treated wood products are prohibited;
 6. The use of drums, barrels, or containers of any type that have been previously used to store oil, petroleum products, or hazardous materials of any type are prohibited;
 7. Toilet facilities on boat docks are prohibited; and
 8. Boat docks shall be free of any invasive aquatic plant before being placed in Branch Lake or its sources.

- 304.4** A dock or other structure in place in, on, or over the waters of Branch Lake before the effective date of this Chapter 55 must meet the specifications and restrictions set forth in Section 304.3 if substantial improvements take place.
- 304.5** Boat launches, docks, and other structures in, on, or over the waters of Branch Lake erected on City-owned or State-owned property are allowed.
- 304.6** No structures in, on, or over the waters of Branch Lake shall be used for building, constructing, or repairing of any boat or aeroplane.

305 ICE SHACKS AND ON-ICE ACTIVITIES

- 305.1** Ice shacks and other similar structures providing temporary protection are allowed.
- 305.2** Disposal or abandonment of bottles, cans, ash, trash, human waste, pet waste, building materials, or equipment on the ice or in the water is prohibited. Anything brought on the ice must be packed out.
- 305.3** Defecating or urinating on the ice or in the water is prohibited.
- 305.4** Burning of trash on the ice is prohibited.

306 AEROPLANE USE

- 306.1** Before a pilot operates an aeroplane on Branch Lake, the pilot must be certified as an “Aeroplane Self-inspector” by the City in accordance with Section 502.
- 306.2** The authorized aeroplane landing and take-off zone on Branch Lake is in the basin depicted as the Upper Lake north of a line running between the Branch View Drive peninsula and the 401 Phillips Way peninsula 200 feet north of so-called “Little John Island” as depicted on the Official City of Ellsworth Public Water Supply Protection Area Map. Because of the drinking water intake in the Lower Lake, only the taxiing of aeroplanes in the Lower Lake (southeast of the peninsulas) is allowed.
- 306.3** Aeroplane fly-in events are prohibited.
- 306.4** A 500 feet minimum altitude shall be maintained when not landing or taking off.
- 306.5** Self-inspection of an aeroplane, and therefore direct landing in Branch Lake, is prohibited if in the last twelve (12) months the aeroplane has been in an infested water body. If the pilot of an aeroplane that has been in an infested water body within the last 12 months wishes to use Branch Lake, the pilot must contact the City Water Department and schedule an inspection conducted by the Water Superintendent, Branch Lake Steward, CEO, or a duly designated City Police Officer.
- 306.6** No aeroplanes shall operate on Branch Lake in conjunction with any commercial use or business enterprise, including flight training schools, guiding operations, tour operations, resorts, or housing developments, whether or not such commercial uses or business enterprises are located in the Branch Lake watershed. No fuel depots or floatplane bases shall be operated on Branch Lake.
- 306.7** The owner or operator of an aeroplane that sinks beneath the water or ice or crashes onto the water or ice of Branch Lake or its sources must contact the City Water Department or City Police Department as soon as safety permits.

ARTICLE 4 BOAT TAGS, INSPECTIONS, AND PERMITS (TIP)

401 TAGS, INSPECTIONS

Except as provided in Section 403, launching of any watercraft in Branch Lake is prohibited unless: (i) the boat has a valid TAG (sticker), (ii) an INSPECTION was conducted, and (iii) a PERMIT has been issued, all in accordance with the following requirements:

401.1 Tag

1. A Boat Tag consists of a City-supplied sticker applied to the left bow of the boat in plain view above the waterline.
2. Boat Tags are available at City Hall, at the City-operated Branch Lake Launch located off the Happytown Road and may be available from any City Manager appointed substation agents.
3. By the end of December of each year, the City Council shall establish the Boat Tag Fee Schedule for the next calendar year, in accordance with Chapter 1, Article 3.
4. Boat Tags are mandatory for all boats, with or without inspection waivers.
5. Should a Boat Tag become mutilated so that it cannot be read easily, it must be removed and replaced with a new Boat Tag.

401.2 Boat Inspection

No person shall be extended the privilege of boating, including canoeing and kayaking, on the waters of Branch Lake without a boat inspection conducted for the presence of aquatic plants, unless otherwise specified. If an aquatic plant fragment is discovered during a boat inspection, the aquatic plant fragment shall be handled as described in the Ellsworth Boat Inspection Guidelines and shall be provided to the City Police Department within 24 hours of discovery. The boat must be re-inspected and found to be free of aquatic plants before it will be permitted to enter Branch Lake.

1. **City Inspector.** Boat inspections are to be conducted by City Boat Inspectors at the City-operated Branch Lake Boat Launch off the Happytown Road. The City Manager may establish inspection substations in convenient locations and appoint inspection agents.
2. **Certified Boat Self-Inspector.**
 - (a) Self-inspector Certification can be obtained by anyone 16 years of age or older after successful completion of the Ellsworth Boat Inspection Training course.
 - (b) Certified Boat Self-inspectors can inspect boats under the following conditions:
 - (i) The subject boat has a valid Tag.
 - (ii) The boat is inspected per the Ellsworth Boat Inspection Guidelines.

After these conditions have been met, the boater can be issued a valid permit by the Certified Boat Self-inspector.

- (c) Self-inspection of boats is prohibited if in the last twelve (12) months the boat has been in an infested water body.
- (d) Self-inspection of personal watercraft (PWC) is prohibited.

402 PERMITS

- 402.1** Boating on Branch Lake is only allowed by permit. Boaters shall have their permits with them at all times.
- 402.2** Once a boat passes inspection and is found clear of any aquatic plants, a City Boat Inspector or a Certified Self-Inspector may issue a Branch Lake Boating Permit.

403 RESIDENT BOAT EXCEPTION

The tag, inspection, and permit requirements of Section 401 and Section 402 shall not apply to boats owned by and registered to a person owning property or right-of-way that abuts Branch Lake (a “resident boat”) as long as all the following conditions are met:

- 403.1** The resident boat has not been used in any other water body since it was last hauled out of Branch Lake;
- 403.2** The resident boat has not been in any other water body within the last twelve (12) months;
- 403.3** The resident boat will not be used in any other water body during the year’s boating season; and
- 403.4** The resident boat owner attests in writing on a form provided by the City that the above conditions have been met and will be followed.

ARTICLE 5 AEROPLANE TAGS, INSPECTIONS, AND PERMITS (TIP)

Landing of any aeroplane in Branch Lake is prohibited unless: (i) the craft has a valid TAG (sticker), (ii) an INSPECTION has been conducted, and (ii) a Self-inspection PERMIT LOG has been filled out, all in accordance with the following requirements:

501 TAG

- 501.1** An Aeroplane Tag consists of a City-supplied sticker applied to the left float of the aeroplane in plain view above the waterline.
- 501.2** Aeroplane tags are available at City Hall for certified aeroplane self-inspectors, and are available from the Branch Lake Steward.
- 501.3** By the end of December of each year, the City Council shall establish the Tag Fee Schedule for the next calendar year, in accordance with Chapter 1, Article 3.
- 501.4** Should a Tag become mutilated so that it cannot be read easily, it must be removed and be replaced by a new Aeroplane Tag.

502 INSPECTION AND PERMIT

No person shall be extended the privilege of operating an aeroplane on the waters of Branch Lake without an inspection conducted for the presence of aquatic plants. If an aquatic plant fragment is discovered during an inspection, the aquatic plant fragment shall be handled as described in the Ellsworth Aeroplane Inspection Guidelines and shall be provided to the City Police Department

within 24 hours of discovery. The aeroplane must be re-inspected before it will be permitted to land on Branch Lake.

502.1 Certified Aeroplane Self-Inspector.

1. Self-inspector Certification can be obtained by anyone 16 years of age or older after successful completion of the Ellsworth Aeroplane Inspection Training course.
2. Certified Aeroplane Self-inspectors can inspect aeroplanes under the following conditions:
 - (a) The subject aeroplane has a valid Tag.
 - (b) The aeroplane is inspected per the Ellsworth Aeroplane Inspection Guidelines.

When these conditions have been met, the Aeroplane Self-inspector completes a permit (log) and keeps it with the aircraft.

3. Self-inspection of an aeroplane is prohibited if in the last twelve (12) months the aeroplane has been in an infested water body. If the pilot of an aeroplane that has been in an infested water body within the last 12 months wishes to use Branch Lake, the pilot must contact the City Water Department and schedule an inspection to be conducted by the Water Superintendent, Branch Lake Steward, or any duly designated City Police Officer.

STATE LAW REFERENCE—22 M.R.S.A § 2642 (PUBLIC WATER SUPPLIES—MUNICIPAL REGULATION AUTHORIZED; PENALTY).

APPENDIX 55-A
PUBLIC WATER SUPPLY PROTECTION MAP

