

TOWN OF ELIOT, MAINE

PLANNING BOARD AGENDA

TYPE OF MEETING: IN PERSON WITH REMOTE OPTION

DATE:

Tuesday, May 3rd, 2022

PLACE: TOWN HALL/ZOOM

TIME:

6:00 P.M.

All in-person attendees are asked to wear face masks

PLEASE NOTE: IT IS THE POLICY OF THE PLANNING BOARD THAT THE APPLICANT OR AN AGENT OF THE APPLICANT MUST BE PRESENT IN ORDER FOR REVIEW OF THE APPLICATION TO TAKE PLACE.

- 1) **ROLL CALL**
 - a) Quorum, Alternate Members, Conflicts of Interest
- 2) **PLEDGE OF ALLEGIANCE**
- 3) **MOMENT OF SILENCE**
- 4) **10-MINUTE PUBLIC INPUT SESSION**
- 5) **REVIEW AND APPROVE MINUTES**
 - a) March 15th, 2022 ~ April 19th, 2022 – if available
- 6) **NOTICE OF DECISION**
 - a) 16 Arc Road (Map 45/Lot 17) – if available
 - b) 22 Arc Road (Map 46/Lot 5) – if available
- 7) **PUBLIC HEARING**
 - a) 23 Park Street (Map 6/Lot 30), PID # 006-030-000, PB22-05: Shoreland Zoning Permit Application – Permanent Fixed Pier, Seasonal Gangway, and Seasonal Floats
- 8) **NEW BUSINESS**
 - a) Planning Board Fees
 - b) Comprehensive Plan Update
 - c) Technology for Planning Board Meetings
 - d) Erosion & Sedimentation Control Model Ordinance – **as time allows**
- 9) **OLD BUSINESS**
- 10) **CORRESPONDENCE**
 - a) Town Planner Update – written or verbal – if available
- 11) **SET AGENDA AND DATE FOR NEXT MEETING**
 - a) May 17th, 2022
 - b) Reminder: May 10th Site Walk
- 12) **ADJOURN**

NOTE: All Planning Board Agenda Materials are available on the Planning Board/Planning Department webpages for viewing.

To view a live remote meeting: (Instructions can also be found on the Planning Board webpage)

- a) Go to www.eliotme.org
- b) Click on “Meeting Videos” – Located in the second column, on the left-hand side of the screen.
- c) Click on the meeting under “Live Events” – The broadcasting of the meeting will start at 7:00 (Please note: streaming a remote meeting can be delayed up to a minute)

Instructions to join remote meeting:

- a) To participate please call into meeting 5 minutes in advance of meeting start time. Please note that Zoom does state that for some carriers this can be a toll call. You can verify by contacting your carrier.
- b) Please call **1-646-558-8656**
 1. When prompted enter meeting number: **869 8880 3856 #**
 2. When prompted to enter Attendee ID **press #**
 3. When prompted enter meeting password: **810587 #**
- c) Members of the Public calling in, will be first automatically be placed in a virtual waiting room until admitted by one of the members of the Planning Board. Members of the public will be unmuted one at time to allow for input. Please remember to state your name and address for the record.
- d) Press *9 to raise your virtual hand to speak


Carmela Braun – Chair

NOTE: All attendees are asked to wear facial protective masks. No more than 50 attendees in the meeting room at any one time. The meeting agenda and information on how to join the remote Zoom meeting will be posted on the web page at eliotmaine.org/planning-board. Town Hall is accessible for persons with disabilities.

TOWN OF ELIOT, MAINE

PLANNING BOARD NOTICE OF DECISION

CASE #: PB22-1 - REQUEST FOR PLANNING BOARD ACTION/MINOR CHANGE TO RELOCATE TRAILER TARPING STATION AT WASTE TRANSFER STATION	MAP/LOT: 46/5 22 ARC ROAD	DATE OF DECISION: 03-15-2022
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3/2/2022

DRAFT

WIN Waste Innovations/Wheelabrator Holdco1
c/o Matthew Hughes
90 Arboretum Drive
Suite #300
Portsmouth, NH 03801

To: Mr. Hughes

This letter is to inform you that the Planning Board has acted on your **Request for Planning Board Action to amend a previously approved site plan (16-3) to construct a Trailer Tarping Station.**

APPLICATION DOCUMENTS AND SUPPORTING MATERIAL SUBMITTED:

SUBMITTED FOR MARCH 15, 2022:

1. Request for Planning Board Action Application, received December 17, 2021
2. Quitclaim Deed and Exhibit A, Book18307/Page240, registered at the York County Registry of Deeds, dated July 8, 2020.
3. Location Map and Plan.
4. Sheets showing structure plans and details.
5. Boundary Retracement Survey.
6. Memo from Jeff Brubaker, Town Planner, dated March 8, 2022.

FINDINGS OF FACT:

1. The owner of the property is: WIN Waste Innovations/Wheelabrator Holdco1 (mailing address: 90 Arboretum Drive, Suite300, Portsmouth, NH 03801).
2. The applicant is: WIN Waste Innovators/Wheelabrator Holdco1 (mailing address: 22 Arc Road, Eliot, Maine 03903).
3. The property is located at: 22 Arc Road and is 31.8 acre.
4. Property can be identified as: Assessor's Map 46/ Lot 5 and is located in the Commercial/Industrial Zoning District.
5. The applicant proposes to amend a previously approved Site Plan (16-3) to add a Trailer Tarping Station along the site driveway (haul road) of the ARC facility, consisting of two raised platforms (one on either side) with steps to allow trucks to be tarped over to contain debris and prevent falls from drivers while placing tarps.
6. Proposed Trailer Tarping Station has concrete foundations and steel framing. It is a free-standing structure with no moving parts and is 16 feet wide. Travel way width for emergency vehicles is approximately 14 feet.
7. The site driveway is currently wide enough for two-way traffic.
8. There is multiple access for emergency vehicles.
9. There is no Shoreland Zoning at proposed station location.
10. Applicant stated that the project will have no impact on Littlebrook Airpark, as the site topography where the tarping station will be located is well below the flight path.
11. This is a private road.
12. No speed limit sign is posted.

13. Discussed was the potential for moving the aggregate pile located between the buildings closest to proposed trailer tarping station to improve emergency vehicle access.
14. Also discussed were possible alternative locations for proposed trailer tarping station.
15. Use is allowed under “**Accessory use**” and is a SPR use in the Commercial/Industrial District.
16. Site is served by private septic and well
17. The Planning Board reviewed the application at the following regular meeting:
 - March 15, 2022.
18. On March 15, 2022, the Planning Board agreed by consensus that the proposed revisions to the previously approved Site Plan were minor, did not result in any substantial changes to the approved development, or further impact abutters and, therefore, did not require full site plan review.
19. There was no site walk or public hearing held.
20. The following fees have been paid by the applicant:
 - Site Plan Amendment Fee: \$100.00 paid
 - **Change of Use Fee: \$25.00 paid**
21. Copies of the application and supporting materials were sent to the Code Enforcement Office, Public Works, Police Department and Fire Department. There were no written comments submitted.

CONCLUSIONS:

1. Revisions to previously approved Site Plans are allowed with Planning Board approval under Section 33-140 (Revisions to final Site Plans after Planning Board approval).
2. All applicable criteria and/or ordinance requirements of Chapter 45 and Chapter 33 have been addressed by the Planning Board during review of this application.
3. The Planning Board determined that the proposed revision to the approved site plan was minor and did not result in any substantial changes to the approved development or further impact abutters and, therefore, did not require full site plan review.

DECISION:

Based on the above facts and conclusions, on **March 15, 2022**, the Planning Board voted to approve your application to amend a previously approved site plan (16-3) to **construct a Trailer Tarping Station**.

CONDITIONS OF APPROVAL:

The applicant must comply with all requirements of the Town of Eliot Land Use Ordinances. In addition, to further promote the purposes of the (Eliot Zoning Ordinances), the Planning Board has voted to impose the following conditions on the approval of this application:

1. **The property may be developed and used only in accordance with the plans, documents, material submitted, and representations of the applicant made to the Planning Board. All elements and features of the use as presented to the Planning Board are conditions of approval and no changes in any of those elements or features are permitted unless such changes are first submitted to and approved by the Eliot Planning Board.**
2. **The permit is approved on the basis of information provided by the applicant in the record regarding the ownership of the property and boundary location. The applicant has the burden of ensuring that they have the legal right to use the property and that they are measuring required setbacks from the legal boundary lines of the lot. The approval of this permit in no way relieves the applicant of this burden. Nor does this permit approval constitute a resolution in favor of the applicant of any issues regarding the property boundaries, ownership, or similar title issues. The permit holder would be well-advised to resolve any such title problems before expending money in reliance on this permit.**
3. **The applicant authorizes inspection of premises by the Code Enforcement Officer during the term of the permit for the purposes of permit compliance.**
4. **All previous conditions of approval remain in effect.**
5. **Site Plan Amendment fees of \$100 be paid prior to beginning construction.**
6. **The Eliot Fire Chief provide review and approval prior to beginning construction.**

APPEALS:

This decision can be appealed to the Board of Appeals within 30 days after **March 15, 2022** by an aggrieved person or party as defined in Sec. 1-2 and Sec. 45-50(b) of the Eliot Zoning Ordinance. Computation of time shall be in accordance with general provisions of the Town of Eliot Municipal Code of Ordinances, section 1-2.

Sincerely,

Carmela Braun, Chair

This letter reviewed and approved by the Planning Board on _____, 2022.

CC: Brent Martin, Tax Assessor
Shelly Bishop, Code Enforcement Officer
Jay Muzeroll, Fire Chief
Elliott Moya, Police Chief
Steve Robinson, Public Works Director

DRAFT

TOWN OF ELIOT, MAINE

PLANNING BOARD NOTICE OF DECISION

CASE #: PB22-8 - REQUEST FOR PLANNING BOARD ACTION/MINOR CHANGE TO RELOCATE TRAILER TARPING STATION	MAP/LOT: 46/5 22 ARC ROAD	DATE OF DECISION: 04-19-2022
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4/26/2022

DRAFT

WIN Waste Innovations/Wheelabrator Holdco1
c/o Matthew Hughes
90 Arboretum Drive
Suite #300
Portsmouth, NH 03801

To: Mr. Hughes,

This letter is to inform you that the Planning Board has acted on your **Request for Planning Board Action to amend a previously approved site plan (22-1) to relocate approved Trailer Tarping Station.**

APPLICATION DOCUMENTS AND SUPPORTING MATERIAL SUBMITTED:

SUBMITTED FOR MARCH 15, 2022:

1. Request for Planning Board Action Application, received April 13, 2022.
2. Quitclaim Deed and Exhibit A, Book18307/Page240, registered at the York County Registry of Deeds, dated July 8, 2020.
3. Location Map.
4. Site Plan showing relocation position of approved trailer tarping station.
5. Correspondence from applicant to Eliot Fire Chief requesting review, dated April 7, 2022.
6. Memo from Jeff Brubaker, Town Planner, dated April 14, 2022.

FINDINGS OF FACT:

1. The owner of the property is: WIN Waste Innovations/Wheelabrator Holdco1 (mailing address: 90 Arboretum Drive, Suite300, Portsmouth, NH 03801).
2. The applicant is: WIN Waste Innovations/Wheelabrator Holdco1 (mailing address: 22 Arc Road, Eliot, Maine 03903).
3. The property is located at: 22 Arc Road and is 31.8 acre.
4. Property can be identified as: Assessor's Map 46/ Lot 5 and is located in the Commercial/Industrial Zoning District.
5. The applicant proposes to amend a previously approved Site Plan (22-1) to relocate approved Trailer Tarping Station along the site driveway (haul road) of the ARC facility towards the southeast of the currently approved placement. Design of actual structure will remain the same.
6. Department of Environmental Protection (DEP) courtesy review had no major comments.
7. Applicant re-confirmed that the project will have no impact on Littlebrook Airpark, as the site topography where the tarping station will be relocated is well below the flight path.
8. Applicant submitted this proposed relocation to the Fire Chief but has not received comment back as of today.
9. The tarping station will be relocated more southerly and closer to the existing building. There is a wider right-of-way between the side of the road and the building that gives better access for vehicles.
10. Applicant stated that the Fire Chief did a site walk to review the original location and thought it was okay.
11. The Planning Board reviewed the application at the following regular meeting:

- April 19, 2022. Site Plan were minor, did not result in any substantial changes to the approved development, or further impact
- 12. On April 19, 2022, the Planning Board agreed by consensus that the proposed revisions to the previously approved abutters and, therefore, did not require full site plan review.
- 13. There was no site walk or public hearing held.
- 14. The following fee(s) have been paid by the applicant:
 - Site Plan Amendment Fee: \$100.00 paid
 - **Change of Use Fee: \$25.00 paid**
- 15. Copies of the application and supporting materials were sent to the Code Enforcement Office, Public Works, Police Department and Fire Department. There were no written comments submitted.

CONCLUSIONS:

1. Revisions to previously approved Site Plans are allowed with Planning Board approval under Section 33-140 (Revisions to final Site Plans after Planning Board approval).
2. All applicable criteria and/or ordinance requirements of Chapter 45 and Chapter 33 have been addressed by the Planning Board during review of this application.
3. The Planning Board determined that the proposed revision to the approved site plan was minor and did not result in any substantial changes to the approved development or further impact abutters and, therefore, did not require full site plan review.

DECISION:

Based on the above facts and conclusions, on **April 19, 2022**, the Planning Board voted to approve your application to amend a previously approved site plan (22-1) to **relocate the approved Trailer Tarping Station**.

CONDITIONS OF APPROVAL:

The applicant must comply with all requirements of the Town of Eliot Land Use Ordinances. In addition, to further promote the purposes of the (Eliot Zoning Ordinances), the Planning Board has voted to impose the following conditions on the approval of this application:

1. **The property may be developed and used only in accordance with the plans, documents, material submitted, and representations of the applicant made to the Planning Board. All elements and features of the use as presented to the Planning Board are conditions of approval and no changes in any of those elements or features are permitted unless such changes are first submitted to and approved by the Eliot Planning Board.**
2. **The permit is approved on the basis of information provided by the applicant in the record regarding the ownership of the property and boundary location. The applicant has the burden of ensuring that they have the legal right to use the property and that they are measuring required setbacks from the legal boundary lines of the lot. The approval of this permit in no way relieves the applicant of this burden. Nor does this permit approval constitute a resolution in favor of the applicant of any issues regarding the property boundaries, ownership, or similar title issues. The permit holder would be well-advised to resolve any such title problems before expending money in reliance on this permit.**
3. **The applicant authorizes inspection of premises by the Code Enforcement Officer during the term of the permit for the purposes of permit compliance.**
4. **All previous conditions of approval remain in effect.**
5. **Approval from the Fire Chief for the relocated tarping station location shall be received prior to beginning construction.**
6. **All application fees shall be paid prior to beginning construction.**

APPEALS:

This decision can be appealed to the Board of Appeals within 30 days after **April 19, 2022** by an aggrieved person or party as defined in Sec. 1-2 and Sec. 45-50(b) of the Eliot Zoning Ordinance. Computation of time shall be in accordance with general provisions of the Town of Eliot Municipal Code of Ordinances, section 1-2.

Sincerely,

Carmela Braun, Chair

This letter reviewed and approved by the Planning Board on _____, 2022.

CC: Brent Martin, Tax Assessor
Shelly Bishop, Code Enforcement Officer
Jay Muzeroll, Fire Chief
Elliott Moya, Police Chief
Steve Robinson, Public Works Director

DRAFT

1 **ITEM 1 - ROLL CALL**

2
3 Present: Carmela Braun – Chair, Jeff Leathe – Vice Chair, Lissa Crichton – Secretary,
4 and Christine Bennett.

5
6 Excused: Jim Latter.

7
8 Also Present: Jeff Brubaker, Town Planner.

9
10 Voting members: Carmela Braun, Jeff Leathe (by Zoom), Lissa Crichton, and Christine
11 Bennett.

12
13 Note: Ms. Braun said that I wanted to announce once more that beginning April 5th the
14 Planning Board will be meeting at 6:00 PM

15
16 **ITEM 2 – PLEDGE OF ALLEGIANCE**

17
18 **ITEM 3 – MOMENT OF SILENCE**

19
20 **ITEM 4 – 10-MINUTE PUBLIC INPUT SESSION**

21
22 There was no public input.

23
24 *****

25
26 Note: The Chair is moving the 22 Arc Road application (New Business) up before
27 holding the Public Hearings.

28
29 Mr. Chagnon said that I have an issue with that. I have two meetings to attend tonight and
30 I set up attendance according to the Public Hearing here tonight. Is there a compelling
31 reason why this has to be done.

32
33 Ms. Braun was agreeable to letting the agenda stand as written.

34
35 Mr. Brubaker suggested placing 22 Arc Road application immediately after the 16 Arc
36 Road Public Hearing.

37
38 Ms. Braun agreed with Mr. Brubaker's suggestion.

39
40 Mr. Chagnon thanked the PB.

41
42 **ITEM 5 – REVIEW AND APPROVE MINUTES**

43
44 **Ms. Crichton moved, second by Ms. Bennett, to accept the minutes of January 25,**
45 **2022, as amended.**

46 **VOTE**

47 **3-0-1 (Mr. Leather abstained)**
48 **Motion approved**
49

50 **ITEM 6 – NOTICE OF DECISION**

51
52 **A. 64 Harold L Dow Highway, PB22-3: Request for Planning Board Action**
53

54 **Ms. Crichton moved, second by Ms. Bennett, that the Planning Board accept PB22-**
55 **3, Request for Planning Board Action/Change of Use/ Seasonal Swim Lessons to**
56 **Existing Daycare Business/Minor Amendment, as written.**

57 **VOTE**
58 **4-0**
59 **Motion approved**
60

61 **B. 25 Alden Lane, PB22-2: Shoreland Zoning Permit Application**
62

63 **Ms. Bennett moved, second by Ms. Crichton, that the Planning Board accept the**
64 **Notice of Decision Letter for PB22-2 Shoreland Zoning Permit**
65 **Application/Replacement of Existing Garage with New Garage Structure, as**
66 **amended.**

67 **VOTE**
68 **4-0**
69 **Motion approved**
70

71 **ITEM 7 – PUBLIC HEARING**

72
73 **A. 16 Arc Road (Map 45/Lot 17), PB21-29: Site Plan Review, Change of Use, and**
74 **Shoreland Zoning Permit Application – Adult Use Marijuana Retail Store and**
75 **Medical Marijuana Caregiver Retail Store.**
76

77 **Received: November 15, 2021 (update January 13, 2022)**
78 **1st Heard: January 25, 2022 (sketch plan review)**
79 **2nd Hearing: February 15, 2022 (site plan review/completeness)**
80 **3rd Hearing: March 15, 2022 (continued review)**
81 **Public Hearing: March 15, 2022**
82 **4th Hearing: _____, 2022**
83 **Site Walk: N/A**
84 **Approval: _____, 2022**
85

86 **Mr. (John) Chagnon, (Project Engineer, Ambit Engineering, Inc.) and Ms. (Rebecca)**
87 **Brown (Traffic Engineer, Greenman-Pederson, Inc.) were present for this application.**
88

89 **7:25PM Public Hearing opened.**
90

91 **Mr. Chagnon said that the PB accepted the application as complete at the February 15th**
92 **meeting. After that meeting, we did attend a meeting of the Eliot Conservation**

93 Commission (ECC) and the one comment that they did have is that they wanted to see a
94 landscaping plan used onsite, so we did submit a revision to Sheet C2 where we changed
95 the landscaping to native materials. That is the only change to the plan set since our
96 meeting in February. In addition, the applicant has received a license from the Office of
97 Marijuana Policy (OMP), which is an item we were waiting for. (shown on the screen for
98 the PB). The project is off Arc Road and Arc Road is a private road coming off of Route
99 236. This lot is on the right after you cross Sturgeon Creek [and before the waste facility]
100 The project has had a number of approvals in the past. It started out as a landscaper's
101 yard, then turned into a contractor's yard for stone masons and then turned into the
102 compost facility. The applicant then purchased the property and got it permitted as a
103 grow facility about a year ago. The plan before you now (showing on the screen) is for a
104 combined caregiver/adult use marijuana retail facility. There's going to be new
105 construction of 6,000 square feet. There is an existing building on the site that will
106 remain. There's a driveway coming in and parking in the front, with employee parking to
107 the side and additional parking in between the existing structure and to the rear of the
108 proposed new structure for employees. Discussing the site plan, the long driveway comes
109 in off Arc Road. It's an existing gravel road. The plan shows landscaping around the
110 foundation, ADA parking, sidewalks. There is a generator, dumpster, security gate.
111 Utilities will include underground electrical service connections from the transformers.
112 The lines are already in place all the way up to the site. It has an existing well which will
113 service the whole project. The septic system is going to be constructed in the southeast
114 corner and there is some site drainage of the surface water run-off that drains into the
115 detention pond on-site. He also briefly discussed the lighting plan.

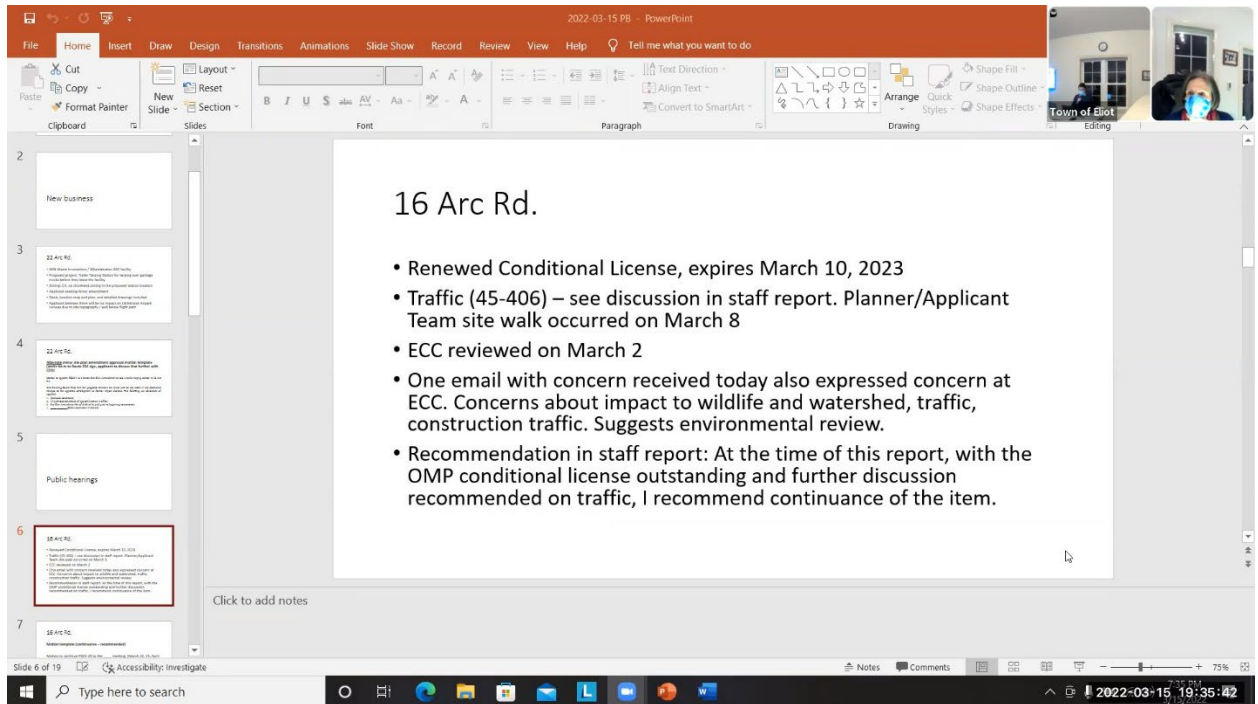
116
117 Mr. (Matt) Hughes, representing WinWaste Innovations, said that we operate the facility
118 at 22 Arc Road. I am the Director of Environmental Compliance with the company. We
119 recently just learned of this project, probably a couple of weeks ago, and haven't had a lot
120 of time to digest the information. We did have a conference call with Mr. Chagnon
121 yesterday and we are meeting with him later in the week to get more familiar with what's
122 being proposed on the road. As you know, it's a private road and this represents a pretty
123 big shift in activities that we've not been used to. We were pressed with the opportunity
124 to spend more time to look at this and review this with Mr. Chagnon and his client prior
125 to the PB taking any action on this application.

126
127 No one else from the public commented.

128
129 **7:30 PM Public Hearing closed.**

130
131 Mr. Brubaker shared his screen with the summary and recommendations.

132
133
134



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We received the conditional license this afternoon and is why it isn't in your packets. There is a traffic discussion in my staff report. I think the applicant needs to provide greater information on traffic and you can see my discussion in that report with some recommended options. The Eliot Conservation Commission (ECC) did review this application. We did receive an email with concerns this afternoon so it wasn't emailed to you or in your packet. It had concerns about the impact to wildlife, watershed, traffic, construction traffic, and suggesting an environmental review. My staff report does recommend continuance and I have included a motion template.

Ms. Crichton said that the application fee has not been paid.

Mr. Chagnon said that I'm glad you brought that up. We have the check submitted that was cashed in November. I will send you a copy of the check for your records.

Ms. Crichton said that I see the proposed location for the dumpster but behind that is the proposed propane tank. Is there anything around that, any proposed jersey barriers, or something. It looks like there's a loading dock there, or something, next to it. It doesn't look like there's anything protecting it.

Mr. Chagnon said that you make a good point. We can put some large boulders around it to protect it.

Ms. Braun asked Mr. Chagnon to make that notation on the site plan.

Mr. Chagnon agreed.

163 Ms. Crichton said that my concern is the traffic, the size of the road, the width of the
164 road, no stop sign, and I guess that's what you're going to be talking about.

165
166 Ms. Brown said that we actually did go out last week with Mr. Brubaker and found the
167 road in several places that, because of all the sanding and everything, it was hard to see
168 exactly where some of the edges of the road were. But we did determine, generally, that it
169 is about 21 feet wide throughout the roadway with a couple of areas of pavement that is
170 starting to unravel and a need for some repairs to the shoulders. But, overall, the
171 pavement is about 21 feet wide. It widens out closer to the intersection with the State
172 highway to about 24 feet. There is adequate width to allow passenger vehicles and trucks
173 to be able to pass each other. We will be going through the DOT process and will be
174 submitting our application for a traffic movement permit (TMP). We will get
175 confirmation that the DOT does want a TMP. When they look at whether a project needs
176 a TMP, they look at ITE traffic data, which is triggered with the 100-vehicle threshold to
177 require a TMP. We do fall within the 100 – 200 range, where we will likely require a
178 scoping meeting and then the permit will be issued, so most likely won't require
179 additional analysis. So, the traffic study we put together will likely suffice for DOT to
180 evaluate whether or not the intersection can handle it. The scoping meeting will be
181 scheduled within the next month and, if nothing more is required, we should have the
182 permit soon after that meeting.

183
184 Ms. Braun said that it is my understanding that the road is not in that great a shape. Is that
185 part of your analysis.

186
187 Ms. Brown said that the traffic analysis that we put together really focused on the
188 intersection, itself, to make sure the intersection at Route 236 would be able to handle the
189 traffic turning in and out. We haven't done any type of structural analysis.

190
191 Ms. Braun asked, if it comes to that, has there been any talk about doing some
192 improvements to the road.

193
194 Mr. Chagnon said that I and Mr. Hughes (WinWaste) talked by Zoom and they are very
195 much in favor of the upgrading of the road. I did want to mention the letter that Mr.
196 Brubaker got but you didn't receive for the public; that it had the same content as was
197 discussed by the CC. The CC determined that the re-use of this site as a **store** was not
198 going to provide a **review**-triggered environmental problem, that it would actually be an
199 improvement.

200
201 Ms. Crichton asked if any of your traffic studies looked at what is going on over at East
202 Coast.

203
204 Ms. Brown said that we haven't had any studies up there.

205
206 Ms. Crichton said that there was a lot of traffic. There are cars in and out, in and out all
207 day long while they're open. I've seen these guys (WIN Waste). Their trucks are huge,
208 absolutely huge, and it's a very small road. I drove down there. I know you were down

209 there but that concerns me. There were a whole lot of people coming in and out of that
210 plant.

211
212 Ms. Braun said that we did a site walk for the previous plans and I had the same concerns
213 about that.

214
215 Mr. Chagnon asked if your concern is about the number of cars or the way the cars are
216 interacting with Route 236.

217
218 Ms. Crichton said both. I don't know what your hours are but I'm sure they start early in
219 the morning.

220
221 Mr. Seymour said that employee hours are Monday through Saturday 7:00AM to 8:00PM
222 and Sunday 7:00AM to 5:00PM; store hours are 8:00AM to 7:00PM and Sunday 8:00AM
223 to 4:00PM. Deliveries will be there around 3AM to 4AM.

224
225 Ms. Brown said that we likely won't have a lot of overlap because the marijuana uses
226 tend to pick up around 3PM. So, it will probably be only that 3PM to 4PM time period
227 where there will tend to be some overlap. A lot of marijuana traffic happens in the
228 evenings and on the weekends. The feedback is that most of the business on Saturdays is
229 from noon to 3PM.

230
231 Ms. Braun asked if you have taken into account that there's going to be construction on
232 Route 236 up to Arc Road; that they are going to be putting sewer and water lines in up
233 there, which could impact how people get into the site. Especially if they're waiting to
234 get into the site, as there's no place for them to wait on Route 236.

235
236 Ms. Brown said that we haven't but there will be some type of traffic control that will be
237 involved with that project. Also, it's a temporary situation and we tend to look at
238 permanent impacts.

239
240 Ms. Braun asked the PB what they would like to do with this application.

241
242 Ms. Bennett said that, in light of the new information we have received this evening and
243 the owner of the (WIN Waste) facility coming forward and wanting to have conversation,
244 I would want to move that we continue this application.

245
246 Ms. Braun said that I definitely agree. How do you feel about this, Mr. Leathe.

247
248 Mr. Leathe said that I definitely agree with that, as well. I think trying to understand the
249 longer-term agreement of who is going to maintain the road, what the shape of the road is
250 going to be in, will there be a stop sign at the Route 236 entryway/exit way for safety.
251 Just who is going to be in charge of that road and who is paying for that maintenance. If
252 there is agreement, I think it is a much more important issue given the volume of the
253 traffic. I think the discussion has been good but I also think we're not in a position to
254 move this application along tonight.

255
256 Ms. Braun said that we're all in agreement with continuance. Do you have a template,
257 Mr. Brubaker.

258
259 Mr. Brubaker said yes. He suggested having a meeting April 12th because of the 30-day
260 timeframe.

261
262 Ms. Braun asked if that was acceptable to the applicant.

263
264 Mr. Chagnon said that it was.

265
266 Ms. Braun asked if that was acceptable to Mr. Hughes, as well.

267
268 Mr. Hughes said yes.

269
270 Ms. Bennett clarified that, regarding your scoping meeting with the DOT, you will have
271 that meeting within 30 days of the submission of your application.

272
273 Ms. Brown said that that is correct. Hopefully, we will have that scoping resolution
274 before our next meeting.

275
276 Ms. Bennett said that that would be a really crucial piece of information. So, it sounds
277 like April 12th.

278
279 Ms. Braun said okay. Could we have a motion, please.

280
281 **Ms. Bennett moved, second by Ms. Crichton, that the Planning Board continue the**
282 **application for PB21-29 to the April 12, 2022 meeting.**

283
284 **VOTE**
285 **4-0**
286 **Motion approved**

287
288 **ITEM 9 – NEW BUSINESS**

289
290 **A. 22 Arc Road (Map 46/Lot 5), PB22-1: Site Plan Amendment – Trailer Tarping**
291 **Station at Waste Transfer Facility.**

292
293 **Received: January 4, 2022**
294 **1st Heard: March 15, 2022 (site plan amendment review)**
295 **Site Walk: N/A**
296 **Approval: March 15, 2022**

297
298 Mr. (Matthew) Hughes, WIN Waste, was present for this application.

299

300 Mr. Hughes said that we are proposing a minor site amendment to install a tarping
301 station. So, our large tractor-trailers remove waste from the site to off site for either
302 recycling or disposal. Prior to leaving the site, the drivers need to, right now, climb on top
303 of a load to make sure the material is flat and doesn't damage their tarp. And they're
304 doing this without any sort of fall protection. This is a significant advance forward in the
305 safety of our employees and our third-party contractors to give them some sort of fall
306 protection so that they are not exposed to falling out of the truck. It's a scaled structure
307 with some concrete foundations. It's off to the side of an active haul road on the site. It's
308 not on any public way. So, once they load, they can drive to this tarping station and safely
309 cover the load before departing the site. It's a free-standing structure. There are no
310 moving parts and, again, it's on an existing roadway, our haul road is what we tend to call
311 it. It's a pretty straightforward project that would really improve the safety of our
312 operation.

313
314 Ms. Braun said that Littlebrook Airport is right behind you. This structure is not going to
315 interfere with any of that.

316
317 Mr. Hughes said no. On that side of the property, there's sort of a hill that goes up behind
318 where this operation is and the landing strip is way above that. This would be down sort
319 of next to the hill so there is no way that a plane coming in or going from the airport is
320 even going to see it probably.

321
322 Ms. Bennet asked the applicant to describe the haul road where this is going to be placed;
323 how much activity there is and the overall width of that haul road.

324
325 Mr. Hughes said that I'd have to defer to Jordan on the width of the road. As far as the
326 traffic pattern flows, the trucks will come across the scales, drive across the MSW
327 unloading building or the construction demolition building, unload, then drive around to
328 the back side of these buildings to this road that exits in back of the out-house scale. If I
329 had to guess, I think that road is probably 30 feet wide, maybe more. What do you think,
330 Jordan.

331
332 Jordan said yes, that it is wide enough for two-way traffic, as it stands now. There is a
333 section where it narrows right before the MSW building but it's wide enough for two-
334 way traffic as it is.

335
336 Ms. Bennet said that this structure you're proposing to build for the tarping operation, is
337 the width 21 feet.

338
339 Mr. Hughes, referring to the site plan, said that there are two walkways on either side of
340 the trailer. So, the width between the walkways as shown on the drawing is 10 feet and
341 another 6 feet for the walkway, so you're talking about 16 to 17 feet from the outer
342 edges, in.

343
344 Ms. Bennett said 6 feet for the catwalks.

345

346 Mr. Hughes clarified that the catwalks are 3 feet wide and there are two of them; that the
347 truck would drive down the middle.

348
349 Ms. Bennett said that the reason I'm asking is concern about any obstruction for
350 emergency vehicles getting through to that last building up at the back of the property.

351
352 Mr. Hughes said that this would be located off of the side of the road. The haul road
353 essentially encircles all the buildings so there's more than one way to get to the buildings.
354 This isn't the only way to get there. Jordan confirmed there is multiple access for
355 emergency vehicles.

356
357 Ms. Bennett said that I am looking at an aerial picture of the site and it looks like there is
358 a mound of excavation materials off to the southwest of that building.

359
360 Mr. Hughes said that below it there is what looks like crushed aggregate, which is what
361 that is. So, the material further to the lower right of the corner of the picture is
362 unprocessed concrete that we crush to make the aggregate (crushed concrete) that we sell
363 to people. The road is maintained between those piles to get over to the other building
364 right at the top of the picture.

365
366 Ms. Bennett said that the current traffic pattern to that other building is using the part of
367 the road where you want to put this tarping structure, correct.

368
369 Mr. Hughes said yes. And even if there is a truck there tarping, there won't be any
370 impediment to vehicles trying to get in there for emergency purposes.

371
372 Ms. Bennett said that it would be about 14 feet, asking if that's enough room for a fire
373 truck to get up there.

374
375 Mr. Hughes said yes.

376
377 Ms. Bennett said that the only concern is that there have been multiple fires at this
378 property in these buildings and, so, it does pose a significant risk to public safety if the
379 ability to fight fires on the property is hampered. That's my main concern. Is there any
380 other location on this property that you could put this, anything feasible. Have you look
381 at any alternatives.

382
383 Mr. Hughes said that we initially looked at closer to that building, I guess the due south
384 side, where the pink and green line starts but the trucks have a difficult time making that
385 turn to be lined up to make a straight shot into that tarping station. Where we have it,
386 now, we had our engineers take a look at that and it seemed to be a suitable location just
387 from the concerns you are talking about. There still would be, to the right of where the
388 proposed location is, access to the building from that side and, then, the primary route,
389 which is essentially between the piles of rubble, to the front of the building. When we did
390 have a large fire, that was the primary route they used coming and going. Doing the
391 rounds with the water trucks, they were driving in between the piles, coming to the front

392 of the building, then driving back out. So, that would still be available for emergency
393 vehicles to pass through.

394
395 Ms. Bennett said that it would just be a little tighter for those trucks to be making that
396 turn to the left to get into that structure.

397
398 Mr. Hughes said that we could evaluate that. That pile isn't a fixed pile so, if we needed
399 to move that over a few feet, that's something I think we could do.

400
401 Ms. Bennett said that that was my one real concern. Have we asked the Fire Chief about
402 this.

403
404 Mr. Brubaker said that I would have to check with staff to see if we've gotten a response
405 from the Fire Chief. I did want to propose an alternate motion template. Again, the
406 applicant is seeking a minor amendment and we talked about Littlebrook Airport. In
407 thinking about the motion template more, I'd rather not traverse the sign issue on Route
408 236 so I have this alternate motion that essentially has the standard conditions and then
409 just a condition that fees be paid prior to beginning construction; that Mr. Hughes and I
410 talked about that today and they are ready to pay the fee.

411
412 There was discussion regarding that Arc Road has no posted speed limit sign and that that
413 may be because it's a private road.

414
415 Ms. Braun said that my only concern is that I would like to get comments from the Fire
416 Chief to see if he approves of this. Also, we could put a condition in there that they move
417 that pile to make room for the trucks.

418
419 Mr. Brubaker said that I could get with the Fire Chief to see what he recommends.

420
421 Ms. Braun asked if we could make it a condition of approval that the Fire Chief has to
422 sign off on this.

423
424 Mr. Brubaker said that that certainly could be an option.

425
426 The PB agreed with the added condition.

427
428 Ms. Braun said that, if we're all in agreement, the Chair will accept a motion.

429
430 It was clarified that the pile to be potentially moved was the pile between the buildings
431 closest to the proposed Tarping Station.

432
433 **Ms. Bennett moved, second by Ms. Crichton, that the Planning Board approve**
434 **PB22-1 as a Minor Site Plan Amendment to add a Trailer Tarping Station at 22 Arc**
435 **Road. The Planning Board finds that the proposed revisions are minor and do not**
436 **result in any substantial changes to the approved development or further impact**
437 **abutters with the following conditions of approval:**

484
485 The PB agreed it needed more research before including it.

486
487 **Ms. Braun moved, second by Ms. Crichton, that the Planning Board omit the**
488 **licensing language in the proposed Town Code Amendment related to Solar**
489 **Energy Systems.**

490
491 Note: At this time, due to technical issues with the recording secretary's connection
492 on Zoom, Mr. Brubaker did the roll call votes.

493
494 **VOTE**
495 **4-0**
496 **Motion approved**

497
498 Mr. Brubaker said that I generally beefed up the environmental information
499 requirements (§33-191 to include significant wildlife habitat, deer wintering areas or
500 travel corridors, vernal pools, critical terrestrial wildlife buffers around vernal pools,
501 and some rules ensuring that they need to do a vernal survey around vernal pools on
502 the property or they could assume that they are significant and, if they do that, they
503 can get out of meeting **the survey** and the time of year application submitted could
504 delay review by at least two months (DEP CTH rules). Also, delineated wetlands,
505 location of prime farmlands, environmental assessments and alternative analysis,
506 which includes how the siting decision was made, different locations and sizes of
507 solar panels to be developed, a narrative describing impacts to wildlife, documented
508 significant natural areas, watersheds, and discussion of how these impacts will be
509 avoided, minimized, or mitigated.

510
511 Ms. Braun said that that sounds reasonable to me.

512
513 Ms. Bennett said that I think that makes this ordinance sounder.

514
515 Mr. Brubaker said that (e) talks to the applicant's status with CMP regarding new
516 power lines and anticipated upgrades to existing power distribution lines /poles.

517
518 Ms. Braun said that that would be important information to get up front.

519
520 Mr. Brubaker added that applicants would have to submit an operations and
521 maintenance plan, as well. In Shoreland Table of Land Uses, large systems would be
522 'No' across the board and small-scale would be CEO (Note 15: Must conform to §45-
523 462). In non-Shoreland Table of Land Uses §45-290, small scale would be CEO²¹ and
524 large-scale would be SPR²¹ (§45-462 – bulk of the performance standards). He
525 discussed Attorney Saucier's suggestion to clarify §45-462 objectives so I added
526 language to do that, as you can see here, in part to support the goals of the 2009
527 Comprehensive Plan.

528

529 The PB was very supportive of this; that it is good guidance in the planning and
530 review process.

531

532 **8:30PM Public Hearing opened.**

533

534 There was no public comment.

535

536 **8:31PM Public Hearing closed.**

537

538 **Mr. Leathe moved, second by Ms. Bennett, that the Planning Board recommend**
539 **that the proposed Town Code Amendments related to Solar Energy Systems be**
540 **placed on the June 2022 ballot and approved by voters with the following**
541 **changes, these discussed at the March 15, 2022 meeting. The Town Planner may**
542 **make minor editorial and formatting changes prior to presenting the**
543 **amendment to the Select Board and may update the background and rationale,**
544 **as needed, to reflect any changes that may be needed.**

545

546

VOTE

547

4-0

548

Motion passes

549

550

551 Mr. Leathe said that I wanted to thank Mr. Brubaker and who else has worked on that
552 new ballot. It was so necessary and so well done. I really appreciate it.

553

554 Ms. Braun agreed that it was very good work.

555

556 **2. Chapter 45 – Zoning, Related to Placement Standards for Signs and Making**
557 **Minor Formatting Corrections.**

558

559 Mr. Brubaker said that I don't have any changes but would be happy to answer any
560 questions you may have.

561

562 Ms. Braun said that I like that you are giving them a year to come into compliance.

563

564 **8:34 PM Public Hearing opened.**

565

566 There were no public comments.

567

568 **8:35 PM Public Hearing closed.**

569

570 **Ms. Crichton moved, second by Ms. Bennett, that the Planning Board**
571 **recommend that the Proposed Town Code Amendment related to Placement**
572 **Standards for Signs and Making Minor Formatting Corrections be placed on the**
573 **June 2022 ballot and approved by voters, with the following changes, if any,**
574 **discussed at the March 15, 2022 meeting. The Town Planner may make minor**

575 **editorial and formatting changes prior to presenting the amendment to the**
576 **Select Board and may update the background and rationale, as needed, to reflect**
577 **any changes that may be needed.**

578 **VOTE**
579 **4-0**
580 **Motion passes**

581
582 **3. Chapter 11 – Marijuana Establishments, Chapter 33 – Planning and**
583 **Development, and Chapter 45 – Zoning related to Licensing and**
584 **Performance Standards for Marijuana Uses.**
585

586 Mr. Brubaker said that I don't have anything late-breaking for this.

587
588 Ms. Bennett said, related to the Odor clause, that I thought that the odor was
589 currently required to be contained at the building.

590
591 Mr. Brubaker said that that is true.

592
593 Ms. Bennett said that this would encourage relaxing that standard in saying that the
594 odor needs to be contained at the property line.

595
596 Mr. Brubaker said yes. That is certainly open for discussion by the PB regarding
597 whether they want to do that or not.

598
599 Ms. Braun said that my question is why you feel it should be expanded to the
600 property line as opposed to staying within the building.

601
602 Mr. Brubaker said that I kind of stumbled upon that change because, in updating the
603 odor language, I was trying to incorporate the ideas that were suggested by Ms.
604 Bennett and other PB members with some other Maine communities, like Portland.
605 The lot line standard seemed to be more reasonable with regard to protecting
606 abutting property owners and members traveling on travel ways adjacent to these
607 uses. Admittedly, in a way, this is a weaker standard even though I think other
608 aspects of this tighten it up.

609
610 Ms. Braun said that it is weaker because we were saying that it was supposed to stay
611 in the building, and it's not staying in the building, so their odor management
612 program is not working. Now, you're relaxing the standard and they will relax their
613 odor management practices so that it's not going to be the property line but three
614 houses down.

615
616 Mr. Brubaker said that I see that point. That could be changed by doing a quick edit
617 to subsection 14 (a).

618
619 Ms. Braun said that that would be my recommendation and asked the other PB
620 members for their input.

621
622 Ms. Bennett said that I recognize the rationale and what is proposed, in my mind, is
623 consistent with our objective of this rule to **protect** abutters by being discomforted by
624 the operation. At the same time, I like the stronger mandate that we have been
625 enfolded in the application approval process. I'm of two minds about that but I
626 think I would like to keep it at the building. Then we wouldn't have to worry about
627 whether someone was over the lot line and how do you measure that.

628
629 Ms. Braun said that I think by relaxing the ordinance, you are giving them the
630 opportunity to relax their standards, and I find that unacceptable. That's not
631 protecting the residents of Eliot in my mind.

632
633 Ms. Crichton said that, going into the Transfer Station across from Sweet Dirt, you
634 can smell it with the windows closed.

635
636 Mr. Leathe said that I was thinking about that. If you put yourselves into the shoes of
637 one of these manufacturers and you happen to be taking measurements the day
638 someone opens the side door of the manufacturing facility and some odor escapes,
639 that would probably be a little unfair. But I totally agree with what Ms. Bennett said
640 in terms of the rationale and what the Chair mentioned, as well, trying to keep the
641 facilities to the tightest possible odor management requirements. And we have been
642 trying to do that so far with these facilities, so, I'm not feeling compelled to make
643 this change but I understand the rationale for it.

644
645 Ms. Braun asked Mr. Leathe if he was in favor of relaxing the standard for odor
646 management or keeping the current standard in place.

647
648 Mr. Leathe said no, I don't think we should relax it.

649
650 Ms. Braun said that we are all pretty much of the same mind so, if we could
651 wordsmith it to reflect that, please, that would be great.

652
653 Mr. Brubaker showed the language change: '~~mitigated at the property line~~' to
654 'contained within the building'.

655
656 **8:44 PM Public Hearing opened.**

657
658 There was no public comment.

659
660 **8:45 PM Public Hearing closed.**

661
662 **Ms. Bennett moved, second by Ms. Crichton, that the Planning Board**
663 **recommend the Proposed Town Code Amendments of the Licensing and**
664 **Performance Standards for Marijuana Uses be placed on the June 2022 ballot**
665 **and approved by voters, with the following changes discussed at the March 15,**
666 **2022 meeting. The Town Planner may make minor editorial and formatting**

667 **changes prior to presenting the amendment to the Select Board and may update**
668 **the background and rationale, as needed, to reflect any changes that may be**
669 **needed.**

670
671
672
673
674

VOTE
4-0
Motion passes

675 **4. Chapter 33 – Planning and Development, Related to Site Plan Review**
676 **Content Requirements**

677
678
679
680
681
682

Mr. Brubaker said that this is pretty simple and regards clarification of affidavit of ownership. Recommended by our attorney was to change the title from ‘Affidavit of Ownership’ to ‘Right, title, and interest’. He discussed a possible future amendment to clarify what was, and was not, required for Home Business in this instance. This would be just to formalize it.

683
684

8:47 PM Public Hearing opened.

685
686

There was no public comment.

687
688

8:48 PM Public Hearing closed.

689
690
691
692
693
694
695
696

Mr. Leathe moved, second by Ms. Crichton, that the Planning Board recommend the Proposed Town Code Amendments related to Site Plan Review Contents be placed on the June 2022 ballot and approved by voters, with the following changes, if any, discussed at the March 15, 2022 meeting. The Town Planner may make minor editorial and formatting changes prior to presenting the amendment to the Select Board and may update the background and rationale, as needed, to reflect any changes that may be needed.

697
698
699
700

VOTE
4-0
Motion passes

701
702
703

C. Proposed June 2022 Warrant Article Establishing the Maximum Number of Growth Management Permits at 28.

704
705

8:50 PM Public Hearing opened.

706
707

There was no public comment.

708
709

8:51 PM Public Hearing closed.

710
711
712

Ms. Bennett moved, second by Ms. Crichton, that the Planning Board approve establishing the maximum number of Growth Management Permit for 2023

713 **under Chapter 29 of the Municipal Code of Ordinances of Eliot, Maine at**
714 **twenty-eight (28) and forward it to the Select Board.**

715
716 **VOTE**
717 **4-0**
718 **Motion passes**
719

720 **ITEM 8 – OLD BUSINESS**

721
722 There is no old business.

723
724 **ITEM 10 – CORRESPONDENCE**

725
726 **A. Town Planner Update – transmittal only, discussion as time allows**

727
728 Mr. Brubaker said that I have nothing written but would take any questions form the PB.

729
730 Ms. Braun asked if you have gotten any bids back for the sewer and water project.

731
732 Mr. Brubaker said no, but we’re having our pre-bid conference tomorrow at 2PM and we
733 will see what kind of interest there is.

734
735 Ms. Braun asked about the walking and biking project.

736
737 Mr. Brubaker said that we hope to issue a RFP to get a designer on board.

738
739 Ms. Bennett asked for an update on our retreat.

740
741 Mr. Brubaker said that we would be here in this room.

742
743 Ms. Braun added that Attorney Saucier (Town Counsel) has a conflict for later in the
744 evening and he was wondering if we would be amenable to him coming at 5PM.

745
746 The PB agreed.

747
748 Ms. Braun said that, after that, I know we’d talked about the possibility of a meal, asking
749 Mr. Brubaker if he was still amenable to that and how we would do that.

750
751 Mr. Brubaker said that I like it.

752
753 Ms. Braun said that we could order out and somebody could pick it up.

754
755 The PB agreed.

756
757 Ms. Braun said that I’m basically looking for, at the retreat portion, how PB members
758 feel we are doing. If you had to give us a report card, what would our grade be. Which

759 way would you like us to go. That kind of thing. I would like you to be able to verbalize
760 your feelings. It has been a frustrating several months. I've never done this before but, to
761 me, a retreat is a time to get it all out, not to discuss future items that may come up but to
762 get it all out and cleanse yourselves, for lack of a better word. And if you are hearing
763 anything in the Town that we are not doing very well, tell me. I want everyone to feel
764 comfortable enough, even though we're being taped, to say what they want to say.

765
766 The PB agreed.

767
768 Ms. Braun said that we have a three-week break. Ms. Metz is going to participate, as well
769 as Ms. Lemire. She asked if anyone had any other comments on anything.

770
771 Mr. Leathe said that, having been on OWL tonight, it's been interesting because I've not
772 been on OWL from this side. What I noticed tonight is that the OWL doesn't catch
773 anyone in the audience that's speaking. It catches the podium and, if they don't speak
774 louder or announce who they are and where they're from, you don't really know who that
775 person is or what their role is, what their job is, where they fit in the context of why
776 they're speaking, and I don't know if that is fixable. Maybe the OWL is like a lot of us, it
777 just doesn't bend all the way.

778
779 Ms. Braun said that I have noticed, when I've watched meetings, that it doesn't pick up
780 anyone in the audience

781
782 Mr. Leathe said that I think the thing to do is have anyone who wants to speak go to the
783 podium. It will catch them there.

784
785 Ms. Braun agreed, adding that they do have to speak louder because, with masks or not,
786 we don't have microphones so they have to project.

787
788 **ITEM 11 – SET AGENDA AND DATE FOR NEXT MEETING**

789
790 The next meeting will be the PB retreat.

791
792
793 The next regular Planning Board Meeting is scheduled for April 5, 2022 at 5:30 PM.

794
795 **ITEM 13 – ADJOURN**

796
797 **Ms. Braun moved, second by Ms. Crichton, that the Planning Board adjourn.**

798 **VOTE**

799 **4-0**

800 **Motion passes**

801
802
803 The meeting adjourned at 8:59 PM.

804

805
806
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808
809
810
811
812
813
814
815
816
817
818

Lissa Crichton, Secretary
Date approved: _____

Respectfully submitted,
Ellen Lemire, Recording Secretary



TOWN OF ELIOT MAINE

PLANNING OFFICE
1333 State Road
Eliot ME, 03903



PUBLIC HEARING NOTICE

AUTHORITY: Eliot, Maine Planning Board
PLACE: Town Hall (1333 State Rd.) with Remote Option
DATE OF HEARING: May 3rd, 2022
TIME: 6:00PM

Notice is hereby given that the Planning Board of the Town of Eliot, Maine will hold a public hearing on Tuesday, May 3rd, 2022 at 6:00 PM for the following application(s):

- **23 Park Street (Map 6/Lot 30), PID # 006-030-000, PB22-05:** Shoreland Zoning Permit Application – Permanent Fixed Pier, Seasonal; Gangway, and Seasonal Floats
 - **Applicant:** Susan P. and Steven P. Wittrock
 - **Property Owner:** Susan P. and Steven P. Wittrock

Interested persons may be heard and written communication received regarding this application, and proposed ordinance amendments and warrant article, at this hearing. The application is on file and available for review in the Planning Office at Eliot Town Hall, 1333 State Road, Eliot, ME 03903. The meeting agenda and information on how join the remote Zoom meeting will be posted on the web page at eliotmaine.org/planning-board. Town Hall is accessible for persons with disabilities.



~ Classifieds ~

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LEGAL / PUBLIC NOTICES

County of York, Maine Request for Qualifications

The County of York, Maine invites qualified applicants to submit qualifications to provide design, specification services and cost estimates for a public safety training facility, a substance abuse recovery center, and a 40-unit supportive housing complex.

This notice is being posted in accordance with federal procurement standards as codified in 2 C.F.R. § 200.317 through § 200.326 and Local, and State procurement policies or legal instruments.

The full RFQ is available on the County's website: www.yorkcountymaine.gov/bids-proposals. RFQ proposals shall be received by 2:00 p.m. on Monday, May 2, 2022. RFQs may be submitted via email to Greg Zinser, County Manager at gtzins@yorkcountymaine.gov or by hard-copy to the Attn: of Greg Zinser, County Manager, 149 Jordan Springs Road, Alfred, ME 04002.



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FULL & PART TIME HOURS AVAILABLE

The Maintenance Department at Cape Neddick Country Club is hiring for outside **mowing positions** for the 2022 season. Competitive wages, discounted meals at the Clubhouse, and free golf!

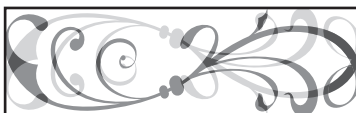
Please call 207-251-8410 to set-up an interview.

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Responsible professional **COUPLE LOOKING FOR A 3 OR 4 BEDROOM HOME** in York, Kittery, Eliot, or South Berwick. Very self sufficient, willing to do all maintenance ourselves. Both grew up in York and want to be close to family. No pets, non-smokers. Plenty of work and personal references as well as financial info if needed. \$2200-2700 price range. Please contact Jason at 603-534-1919 or jduffy75@gmail.com.



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Small boat experience a plus, but not required, no other experience necessary as we will train you. Must be prompt, physically fit, a team player and have good attention to detail. Position is seasonal; start ASAP to Oct/Nov.

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Responsible for the packing, grading, processing & delivery of fresh New England lobsters. Current hours are between 9am-5pm Tue-Sat but may change when summer approaches. Must be 18 years or older, have a valid driver's license & ability to obtain a DOT medical card.

To schedule an interview call **Zack Watson** at 207-994-3179

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LEGAL / PUBLIC NOTICES

Town of Eliot PUBLIC HEARING NOTICE

AUTHORITY: Eliot, Maine Planning Board
PLACE: Town Hall (1333 State Rd.) with Remote Option
DATE OF HEARING: May 3, 2022
TIME: 6:00PM

Notice is hereby given that the Planning Board of the Town of Eliot, Maine will hold a public hearing on Tuesday, May 3rd, 2022 at 6:00 PM for the following application(s):

23 Park Street (Map 6/Lot 30), PID # 006-030-000, PB22-05: Shoreland Zoning Permit Application – Permanent Fixed Pier, Seasonal; Gangway, and Seasonal Floats. Applicant: Susan P. and Steven P. Wittrock. Property Owner: Susan P. and Steven P. Wittrock.

Interested persons may be heard and written communication received regarding this application, and proposed ordinance amendments and warrant article, at this hearing. The application is on file and available for review in the Planning Office at Eliot Town Hall, 1333 State Road, Eliot, ME 03903. The meeting agenda and information on how join the remote Zoom meeting will be posted on the web page at www.eliotmaine.org/planning-board. Town Hall is accessible for persons with disabilities.

ZONING BOARD APPEALS

MEETING AGENDA MONDAY, MAY 2, 2022 @ 7:00 P.M.

LITTLEFIELD MEETING ROOM
WELLS TOWN HALL, 208 SANFORD ROAD

MEETING: CALL TO ORDER & DETERMINATION OF QUORUM AT 7:00 P.M.

Election of Officers

PUBLIC HEARING:

I. MISLOCATED BUILDING APPEAL - York Building & Design, unit 5 & 6 on Jennifer Lane and units 7 & 8 on Joseph's Lane is requesting a Mislocated Building Appeal pursuant to Article IX Section §145-67. A. (5). The building is mislocated in accordance with section 145-48 A (3); Buildings shall be separated by at least 30'. The survey shows 27' between units 6 & 7 and 19' between units 5 & 8. The property is in the Rural District. The lot is further identified as Assessor's Map 032 Lot 013 units 5,6,7 & 8.

DELIBERATIONS

II. MISLOCATED BUILDING APPEAL - York Building & Design, unit 5 & 6 on Jennifer Lane and units 7 & 8 on Joseph's Lane is requesting a Mislocated Building Appeal pursuant to Article IX Section §145-67. A. (5). The building is mislocated in accordance with section 145-48 A (3); Buildings shall be separated by at least 30'. The survey shows 27' between units 6 & 7 and 19' between units 5 & 8. The property is in the Rural District. The lot is further identified as Assessor's Map 032 Lot 013 units 5,6,7 & 8.

MINUTES: May 10, 2021

ADJOURN:

END

ANDERSON, DOUGLAS A REVOC
DOUGLAS A ANDERSON TRUSTE
224 PLEASANT ST
ELIOT, ME 03903

LJE PROPERTY DEVELOPMENT
2 PUNKIN TOWN RD STE 340
SOUTH BERWICK, ME 03908

CROSBY, ANITA J
12 PARK ST
ELIOT, ME 03903

MARSTON, JOHN E
MARSTON, SIGRED
20 PARK ST
ELIOT, ME 03903

CROSIER, DEBRA M & JOHN T
DEBRA M & JOHN T CROSIER
21 AQUA AVE
ELIOT, ME 03903

NEWLAND, PAMELA M
14 PARK ST
ELIOT, ME 03903

FURBISH, CINDY W
25 PARK ST
ELIOT, ME 03903

POISSON, NICHOLE M
POISSON, FREDERICK L
16 PARK ST
ELIOT, ME 03903

FURBISH, JEFFREY H
6 FOURTH AVE
ELIOT, ME 03903

SAKLAD, CYNTHIA L
1 MARJORIE WAY
ELIOT, ME 03903

HAMBLETT, BARBARA M
HAMBLETT, JOHN C
21 PARK ST
ELIOT, ME 03903

SAKLAD, RICHARD J
1 MARJORIE WAY
ELIOT, ME 03903

HAMMEKEN, MARQUITA
HAMMEKEN, ELAINA
38 VARNEY LN
ELIOT, ME 03903

SAURMAN, JANET A
SAURMAN, BRYAN D & MCNEIL
22 PARK ST
ELIOT, ME 03903

HINES, SUSAN N REVOCABLE
SUSAN N HINES TRUSTEE
24 PARK ST
ELIOT, ME 03903

SHEMATEK, ELEANOR M
1200 STEWART ST UNIT 921
BALTIMORE, MD 21230

JESSE REALTY LLC
2552 LONGBOAT DR
NAPLES, FL 34104

SIMPSON, ALLAN R
SIMPSON, KATHY L
18 PARK ST
ELIOT, ME 03903

JORDAN, HEIDE
15 PARK ST
ELIOT, ME 03903

TALBOT, JOHN D
19 PARK ST
ELIOT, ME 03903

PB22-5: 23 Park St. (Map 6, Lot 30): Shoreland Zoning Permit Application – Permanent Fixed Pier, Seasonal Gangway, and Seasonal Floats – Public Hearing



TOWN OF ELIOT MAINE

PLANNING OFFICE
1333 State Road
Eliot ME, 03903

To: Planning Board
 From: Jeff Brubaker, AICP, Town Planner
 Cc: Ryan M. McCarthy, PE, PLS, Tidewater Engineering & Surveying, Inc., Applicant’s Representative
 Shelly Bishop, Code Enforcement Officer
 Kearsten Metz, Land Use Administrative Assistant
 Date: April 28, 2022 (report date)
 May 3, 2022 (meeting date)
 Re: PB22-5: 23 Park St. (Map 6, Lot 30): Shoreland Zoning Permit Application – Permanent Fixed Pier, Seasonal Gangway, and Seasonal Floats – **Public Hearing**

Application Details/Checklist Documentation	
✓ Address:	23 Park St.
✓ Map/Lot:	6/30
✓ PB Case#:	22-5
✓ Zoning:	Village
✓ Shoreland Zoning:	Resource Protection, Limited Residential
✓ Owner Name:	Susan P. and Steven P. Wittrock
✓ Applicant Name:	Susan P. and Steven P. Wittrock
✓ Proposed Project:	Permanent fixed pier, seasonal gangway, and seasonal floats
✓ Application Received by Staff:	March 10, 2021
✓ Application Fee Paid and Date:	\$225 (Shoreland Zoning Permit Application, Residential Pier – \$50; Public Hearing – \$175) March 10, 2022
Application Sent to Staff Reviewers:	Town Planner discussed with Harbor Master 4/4/22 – no concerns raised during this discussion
✓ Application Heard by PB	April 12, 2022; May 3, 2022 (scheduled)
✓ Found Complete by PB	April 12, 2022
Site Walk	N/A
Site Walk Notice Publication	N/A
Public Hearing	May 3, 2022 (scheduled)
Public Hearing Publication	April 22, 2022 (Weekly Sentinel)
✓ Reason for PB Review:	Shoreland Zoning Permit Application, Permanent Residential Pier (SPR use)

Overview

Applicants Susan P. and Steven P. Wittrock (agent: Tidewater Engineering & Surveying, Inc.) are seeking review and approval of a proposed docking structure at their residential property at 23 Park St. (Map 6, Lot 30), which would consist of a permanent fixed pier, seasonal gangway, and seasonal floats. The purpose of the structure is to provide the applicants with “safe and efficient access to the

PB22-5: 23 Park St. (Map 6, Lot 30): Shoreland Zoning Permit Application – Permanent Fixed Pier, Seasonal Gangway, and Seasonal Floats – Public Hearing

coastal resource for recreational purposes such as boating, rowing and fishing.” The proposal includes the removal of existing stairs and old pilings and the construction of new stairways and landings for access to both the pier and the shoreline. The floats would be held by positional float piles driven into the subtidal surface.

The ~0.33-acre lot along the river currently includes a single-family residence built in 1965 (per Town tax records). Along the shore, there is a vegetated slope leading down to the tidal area, with large boulders and the old pilings/old stairs that will be removed. Between the house and the slope there is a developed lawn area.

Application package contents

- Cover letter dated March 10, 2022
- Shoreland Zoning Permit Application
- Site plan (proposed pier & float plan), dated January 11, 2022
- US Army Corps of Engineers (ACOE) Authorization Letter & Screening Summary
- Attachment #9 – site condition report
- Attachment #10 – Notice of Intent to File, certification, and abutter notices
 - Public notice and supporting documents
- Attachment #11 – for ACOE
 - Federal threatened and endangered species list
 - US Fish & Wildlife Service verification letter re: northern long-eared bat

NRPA Individual Permit Application package

- NRPA Individual Permit Application
- Table of contents
- DEP fee payment receipt
- Agent authorization letter to Town, DEP, and ACOE for Tidewater Engineering & Surveying, Inc. and Riverside & Pickering Marine Contractors, Inc.
- Warranty deed
- Attachment #1 – project description
- Attachment #2 – alternatives analysis
- Attachment #3 – location maps
- Attachment #4 – site photos
- Attachment #7 – construction plan
- Attachment #8 – erosion control plan
- Attachment #13 – functional assessment
- Attachment #14 – compensation
- Appendix A – DEP visual evaluation field survey checklist
- Appendix B – DEP coastal wetland characterization intertidal & shallow subtidal field survey checklist
- Appendix D – NRPA application project description worksheet
- (also labeled Appendix D) – Slip & Mooring Requests

Dimensions of proposed docking structure components

- Landing: 4' x 4'
- Stairs to pier and stairs to beach: 4' x ~13' each
- Permanent fixed pier: 4' x 85'
- Seasonal gangway: 3' x 40'
- Seasonal landing float and main float (perpendicular to landing float): 8' x 30' each

PB22-5: 23 Park St. (Map 6, Lot 30): Shoreland Zoning Permit Application – Permanent Fixed Pier, Seasonal Gangway, and Seasonal Floats – Public Hearing

Zoning

Village; Resource Protection (RP), Limited Residential (LR)

Uses

Permanent residential piers and other structures and uses extending over or below the normal high-water line or within a wetland are SPR uses in the shoreland zone.

Type of review needed by Planning Board *(5/3 update)*

Public hearing – receive public comments, if any, before deliberation and overall action on application

Status of other agency reviews

The applicant submitted a NRPA Individual Permit Application to DEP, dated February 7, 2022 (see packet). As of this report, DEP is reviewing the application. The applicant requests concurrent PB/DEP review.

The applicant received US Army Corps of Engineers (ACOE) approval on February 18, 2022. The ACOE General Permit authorization letter is included in your packet. In addition to general conditions, the ACOE approval includes a special condition requiring low-water installation of piles.

Section 44-35(c) review considerations *(5/3 update)*

This section has the land use standards for piers, docks, wharves, bridges and other structures and uses extending over or below the normal high-water line of a water body or within a wetland. The Planning Board may wish to review the application with regard to applicable provisions of this section. Some notes as follows (paragraph numbers under 44-35(c) are in parentheses; some sections are not exact wording in the Code):

44-35(c) para. #	Summary of paragraph	Evaluation of application
(1)	No more than one pier/dock/wharf/similar structure per lot given the amount of shoreline frontage (100 ft. is the standard for the Village district)	Only one is proposed. This lot has about ~70-75 ft. of shoreline, per the site plan and GIS. A minimum of 100 ft. is ordinarily needed in the Village zoning district, but 44-32(e)(1) allows nonconforming lots (not contiguous with any other lot in the same ownership) – with respect shore frontage, lot area, and lot width – to be built upon, without a variance. Standard appears to be met.

PB22-5: 23 Park St. (Map 6, Lot 30): Shoreland Zoning Permit Application – Permanent Fixed Pier, Seasonal Gangway, and Seasonal Floats – Public Hearing

(2)	Developed on appropriate soils so as to control erosion	Attachment #8 of the NRPA application is the Erosion Control Plan. This document states: “As the proposed activity does not include grading, bulldozing, digging, scraping the earth or filling, it is [contractor Riverside & Pickering’s] opinion that erosion control measures are not necessary for this project due to the minimal ground disturbance anticipated...Overall, Riverside & Pickering Marine Contractors anticipates minimal sedimentation or suspension of sediments from the installation of the docking system.” The plan states that “No open excavation is proposed or necessary within the resource or below the highest annual tide.” With use of a barge for installation, foot traffic on the shoreline will be limited, and installation of erosion control measures themselves (e.g. silt fence, filtration socks) “will exceed the disturbance from installing the pilings”. Standard appears to be met regarding pier, but PB members may want to ask for more information on the construction of the landing and stairs. Slope is unstable per ME Geo Survey Bluff Map (ref. site plan note 12). <i>5/3 update:</i> At 4/12 meeting, applicant stated that where pier is proposed, it is a relatively stable location with rip rap at the bottom. The posts will be drilled into the ground ~4-5 ft. with poured concrete so the posts can be supported in the ground and not on the surface. Applicant shared photos at 4/12 meeting of a similar construction – included in this packet.
(3)	N/A – pertains to beach areas	
(4)	Minimize adverse effects on fisheries	No (or minimal) adverse effects are apparent.
(5)	N/A – pertains to nontidal waters	
(6)	No new structure on/over/abutting a pier/wharf/dock/etc. unless it requires direct access to the water	No such structure proposed
(7)	N/A – pertains to nontidal waters	
(8)	No existing structure on/over/abutting a pier/wharf/dock/etc. may be converted to a residential dwelling unit	N/A
(9)	Structures built on on/over/abutting a pier/wharf/dock/etc. may not exceed 20 ft. in height above pier/wharf/dock/etc.	N/A
(10a)	Residential piers shall not extend beyond the mean low water mark and are limited to a maximum width of 6 ft.	Proposed pier is 4 ft. in width and does not extend beyond the mean low water mark. Standard appears to be met.
(10b)	Pier (+ temporary float) length restricted to 200 ft. (measured from NHWL), or a length that will provide 6 ft. of water depth for outermost float at mean low water, whichever is shorter; shall not extend more than halfway to mean low water deep channel centerline	The total length from the start of the pier to the end of the float is about 185 ft. (85’ pier + 40’ gangway + 30’ landing float + 30’ main float, though there is some overlap with the pier going landward of the NHWL, and between the gangway and landing float). Standard appears to be met.
(10c)	N/A – pertains to LC and GD districts	
(11)	No structure (including temporary ramps/floats and pilings) shall extend more than halfway to the deep channel centerline at mean low water	Visually, this appears to be met.

PB22-5: 23 Park St. (Map 6, Lot 30): Shoreland Zoning Permit Application – Permanent Fixed Pier, Seasonal Gangway, and Seasonal Floats – Public Hearing

(12)	25 ft. setbacks from riparian lines for neighboring properties (with lesser setback allowed with mutual agreement with neighbor)	Riparian lines are shown on the site plan. Main float encroaches on 25 ft. setback from south riparian line shared with Map 6, Lot 17. See site plan Note 18 regarding neighbor letter of concurrence. NRPA application Attachment #1 – Project Description – also references the letter, which is in your packet. With concurrence from neighbor, standard appears to be met.
(13)	Temporary/seasonal floats which sit on the bottom at low tide must be built per DEP guidelines to minimize harm to marsh grass/marine life living in the mud	The floats would mostly not touch the river bed. NRPA Application Attachment #1 – Project Description notes that the “proposed floats are positioned beyond mean lower-low water to minimize contact with substrate during most tides. This will reduce scour, turbulence and substrate impacts”. However, the landward side of the landing float could touch the bottom during extreme low tides. See site plan side elevation, which notes that float stops will be installed on the positioning pilings to address this.
(14)	Required reflectors on piers and floats: 3+ in. diameter, not more than 12 in. from each corner. At least 1 per 20 ft. on each side of piers >40 ft.	Standard appears to be met. See note 17 of the site plan.

Stairways (5/3 update)

The stairways and landings are proposed to be located on a bluff indicated as unstable by the Maine Geological Survey (<https://www.maine.gov/dacf/mgs/pubs/digital/bluffs.htm>).

44-35(b)(6) check for stairways to access the shoreline in areas of steep slopes or unstable soils

44-35(b)(6) standard	Evaluation of application
Max. 4 ft. in width	Standard appears to be met. Stairways proposed to be 4 ft. wide.
Structure does not extend below or over the normal high-water line, unless permitted by DEP	Stairway proposed to the shoreline extends below the NHWL, will need DEP approval. Reflected in approval motion template – see below.
Applicant demonstrates that no reasonable access alternative exists on the property	See Attachment #2 of NRPA Application – Alternatives Analysis

Trees

From NRPA Application Attachment #1 – Project Description: “The uplands adjacent to the proposed pier are developed as lawn area and will not require the removal of any trees to provide access to the proposed dock system.”

Other notes from 4/12 meeting (5/3 update)

- Applicant confirmed that per pier’s riparian lines, it will not encroach on the extension of Park St. (a public street).

Recommendation (5/3 update)

Approval with conditions – applicant appears to have met all applicable standards, or will have after fulfillment of approval conditions.

PB22-5: 23 Park St. (Map 6, Lot 30): Shoreland Zoning Permit Application – Permanent Fixed Pier, Seasonal Gangway, and Seasonal Floats – Public Hearing

Motion templates

Approval with shoreland zoning findings and conditions

Motion to approve the Shoreland Zoning Permit Application for PB22-5 – 23 Park St. – with the following findings of fact (in addition to other applicable findings of fact to be included in the Notice of Decision):

1. All applicable sections of the Shoreland Zoning Ordinance (Chapter 44) and Shoreland Zoning Permit Application have been or will be met.
2. Based on the information presented by the applicant and in accordance with Sec. 44-44, the Planning Board finds that the proposed use:
 - a. Will maintain safe and healthful conditions;
 - b. Will not result in water pollution, erosion, or sedimentation to surface waters;
 - c. Will adequately provide for the disposal of all wastewater;
 - d. Will not have an adverse impact on spawning grounds, fish, aquatic life, bird, or other wildlife habitat;
 - e. Will conserve shore cover and visual, as well as actual, points of access to inland and coastal waters;
 - f. Will protect archaeological and historic resources as designated in the comprehensive plan;
 - g. Will avoid problems associated with floodplain development and use;
 - h. Is in conformance with the provisions of section 44-35, land use standards.

The approval includes the following conditions:

1. [Standard conditions]
2. [If needed] Prior to, or along with, their building permit application, the applicant shall provide to the Code Enforcement Officer an approved Maine Department of Environmental Protection (DEP) Natural Resources Protection Act (NRPA) permit for the project.
3. Per Section 44-35(b)(6), the portion of the stairway leading from the pier to the beach, over the normal high-water line, may only be built if DEP approves it.
4. No later than 20 days after completion of the development, the applicant shall provide to the Code Enforcement Officer postconstruction photographs of the shoreline vegetation and developed site.
5. [Other conditions as desired]

Denial

To deny the Shoreland Zoning Permit Application for PB22-5, for the following reasons:

1. _____
2. _____
3. _____ [etc.]

Continuance

Motion to continue PB22-5 to the May 17, 2021, meeting.

PB22-5: 23 Park St. (Map 6, Lot 30): Shoreland Zoning Permit Application – Permanent Fixed Pier, Seasonal Gangway, and Seasonal Floats – Public Hearing

Section 33-131 continuance timelines

- 30 days after public hearing: June 2
- 75 days after April 12 completeness determination: June 26
- Timelines may be extended if applicant agrees

* * *

Respectfully submitted,

Jeff Brubaker, AICP
Town Planner



TOWN OF ELIOT MAINE

PLANNING OFFICE

1333 State Road

Eliot ME, 03903

To: Planning Board
From: Jeff Brubaker, AICP, Town Planner
Cc: Michael J. Sullivan, Town Manager
Date: April 28, 2022 (report date)
May 3, 2022 (meeting date)
Subject: Comprehensive Plan Update – Scoping (Working Draft)

2009 Comprehensive Plan Contents

Two major parts of the plan: **Inventory** and **Goals, Policies, & Strategies (GP&S)**

Inventory

- Population and Demographic Changes in Eliot
- Land Use in Eliot
- Economy and Labor Force
- Eliot Housing
- Transportation
- Recreation in Eliot
- Marine Resources
- Water Resources
- Critical Natural Resources
- Historical and Archaeological
- Agriculture and Forestry Resources
- Public Facilities and Services
- Energy
- Fiscal Capacity

The GP&S are organized with similar headings, though the wording is slightly different, e.g. “Recreation in Eliot” (Inventory) vs. “Outdoor and Active Recreation Resources” (Goals, Policies, & Strategies). The GP&S part also has a “Regional Coordination” section and a “Capital Improvement Plan”.

Why an update?

The 2009 Comprehensive Plan continues to be a useful guide for planning, land use, and community decision-making. If you read the GP&S, you will find that there is a mix of some strategies that have already been implemented, others that have not yet been implemented but that the community may still see as important and want to carry forward into the Update, and others that the community may want to modify or omit from the Update.

Some changes since 2009

- Community population change, 2010-20: 6,204 to 6,717 (8.2%) (U.S. Census)
- Country was coming out of recession, entering a long period of economic recovery, followed by global pandemic and recession
- Major impacts from pandemic on patterns in living, working, business, etc.
- Growth in PNSY employment by over 1,000 (2013-18 alone, growth was about 5,500 to 7,000)
- Housing affordability, increase in median home price relative to median income in Maine (from PNSY Joint Land Use Study). From our growth management report:
 - 58.6% of York County households are unable to afford a home at the median home price, a higher percentage than all counties except Cumberland, Knox, and Lincoln.
 - Eliot is in an area of Maine with the second most expensive Housing Wage: \$28.33 in the York-Kittery-South Berwick HMFA. Only the Portland HMFA is higher (\$30.62).
 - Maine LD 2003 – Housing Bill – signed into law
 - What can Eliot do to provide workforce housing opportunities, different housing types, etc., in a way that works for Eliot? What role do we play relative to the region?
- Continued urgency and need to respond to climate change: mitigation, adaptation, resilience
- Meteoric rise of use of social media from 2009 to present
- Legalization and burgeoning of medical, and then adult use, marijuana businesses in Maine and in the community
- Opportunity to reaffirm (or modify) where the community wants to grow, and reaffirm preservation values (natural resources, agriculture, historic and cultural resources)
- Opportunity to clarify where we want to invest, and embrace opportunities for investment in community quality of life (e.g. multimodal transportation, new Town Hall, land conservation, climate resilience, infrastructure in growth areas, parks and recreation, placemaking and community gathering spaces, etc.)
- Others?

Scope of update

Expected to be a true “update” rather than a “rewrite”. Lots to like in the 2009 plan, and we do not have the budget at this time to conduct a full rewrite.

Typically, a policy analysis is done to go through the 2009 GS&P and see what to keep/reaffirm, what to modify, what to omit, and what to add.

Timeline for update: Expect 1.5 to 2 years.

Steering committee

The idea of a Comp Plan Committee is pretty standard, as was done for the 2009 Comp Plan and those of most communities. It would be good to begin recruitment to such a committee this summer. Thoughts on division of responsibilities/sub-groups within the committee? Committee size?

Possible subcommittees

- Land use
- Transportation
- Agriculture
- Parks and recreation and public facilities
- Housing
- Economic development
- Climate change and environment
- Historic and cultural resources
- Youth advisory group
- Ideas for changes or additions?

Keep in mind, with more sub-groups, there is more division of responsibilities, but also more to be coordinated amongst groups.

Committee members could be expected to be both members from the community and liaisons from the PB, SB, and other committees, but would need to avoid quorums unless part of a public meeting.

Consultant selection: Expected late spring or summer

Just a few information resources to help with the update

- Maine DACF Municipal Planning Assistance Program
 - Has already sent us some maps/info
 - Climate Adaptation Guidance
- Maine Won't Wait state climate plan
- Other state agency resources
- SMPDC regional planning documents
- SMPDC climate resilience program/peer communities
- MMA resources/training
- Peer communities' comp plans – “borrow” ideas
- American Planning Association and its regional chapters – NNECAPA/MAP

Public involvement

- Traditional public meetings or charrettes

- ...but, think beyond just those. E.g. nontraditional events, going to where people are, fun events:
 - Tabling at existing events (e.g. Eliot Festival Days)
 - Stakeholder roundtable meetings
 - Using community stakeholders to gather input and get the word out
 - Community walks/bike rides/Walking Office Hours
 - Boat trip along the river?
 - Advisory committee meetings
 - Pop-up locations
 - Social media
 - Community guest speakers/lectures/panels?
- But, keep in mind limited budget/scope. Balance of enough public involvement activities to ensure it is truly a community-led plan, but without an overwhelming amount of activities
- Reach disadvantaged groups so they have a seat at the table and strong voice in the Update

Document content and style

Think about how you want to the comp plan to “look”. E.g. visuals vs. text, length, format. Video summaries?

What then?

After adoption, the updated Comp Plan can continue to be the legal basis for zoning/zoning changes and other programs, e.g. future impact fee program, a guide for community investments, and guide where growth occurs, housing types, placemaking, quality of life, etc.



TOWN OF ELIOT MAINE

PLANNING OFFICE

1333 State Road

Eliot ME, 03903

To: Planning Board
From: Jeff Brubaker, AICP, Town Planner
Cc: Michael J. Sullivan, Town Manager
Date: April 28, 2022 (report date)
May 3, 2022 (meeting date)
Subject: Town Hall Meeting Room Technology

The Planning Board was the first in Eliot to adopt a Remote Participation Policy. Hybrid in-person/remote meetings started August 2021, and I am pleased at the results. PB members, applicants, applicant's representatives, and members of the public have had the flexibility to participate in person or on Zoom. I believe this setup has already saved the Town money – e.g., by saving travel time and expense for Town consultants who were able to effectively participate on Zoom. Although the Zoom option grew out of the pandemic, hybrid meetings seem to be the “new normal” due to their flexibility and encouragement of greater participation in Town government.

However, as you know, the setup has not been without its challenges, e.g. seeing screens, hearing people in the room while on Zoom, etc. I think that large-scale, vivid projection of digital files is vital to effective PB meetings, as it allows every participant to see the material (e.g. site plans) being reviewed. The previous practice of “crowding around an easel” to see a site plan probably worked better for in-person-only meetings, though a livestreaming video camera wouldn't have picked up site plan details. With hybrid meetings, people in the room can see better on a large projection screen, while those on Zoom can review the same material through Zoom screenshare. It creates more opportunities to review the material for people of different abilities.

The challenges include where to place the current projector and how well it can be seen by everyone in the room, as well as whether the OWL camera needs to be supplemented, e.g. with another microphone. The idea with the projector was to duplicate the smaller TV screen to allow for better in-person visibility of the materials; however, the orientation of the meeting room, the available cables, and the quality of the projector may all hinder visibility. In recent years, there hasn't been adequate investment by the Town in meeting room technology. Lack of budget last summer, as we were preparing to go back to in-person meetings, even forced staff to purchase some needed meeting room A/V equipment out of pocket and allow for that personal equipment to be used for meetings.

Our new Town Manager has proposed a number of investment priorities for the Town in his FY 2022-23 budget. This includes an increase in the PB annual budget from \$20,000 to \$25,000. This

brings to mind the opportunity to consider potential short-term upgrades in meeting room technology. Specifically:

- A built-in, high-quality, vivid, large-scale projector with projector screen; or a large-scale display monitor
 - Ballpark cost: \$1,000 to \$3,500 dep. on the equipment; \$500 to \$1,000 for contracted installation unless that can be covered in a current service contract or done in-house
- An A/V control panel or docking station that can serve as a centralized module for all input and output cables
 - Ballpark cost: \$50 to \$200
- Additional accessories: e.g. additional OWL camera or microphone, cables, cable covers, devices for wireless communications, wireless mouse, etc.
 - Ballpark cost: \$100 to \$300

It is unclear if there is current budget for this or if there will be next fiscal year but PB input on these options would be appreciated.

Notes for Future Adopters

Elements required for MS4 compliance are in black text – this text should not be modified without careful consideration of 2022 MS4 General Permit.

Optional elements incorporating Maine Climate Council Recommendations or items more stringent than Chapter 500 are shown in blue italicized text. Municipalities may or may not incorporate these elements as they wish.

Much of the text is standard ordinance language and is shown in green. Municipalities may modify this to conform to their own ordinances and procedures.

Some sections of this model ordinance contain placeholders (underlined) for municipalities to fill in, such as municipal code references or the Enforcement Authority for the ordinance.

Comments are provided in the margins for better understanding (In the document ribbon, under the Review tab, select comments from the “Show Markup” pulldown menu).

Maine Model Ordinance for Erosion and Sedimentation Control at Construction Sites

4/21/2022 Final



Credits: This model ordinance was prepared by SMPDC, CCSWCD, and Integrated Environmental Engineering, Inc. under award CZM NA20NOS4190064 to the Maine Coastal Program from the National Oceanic and Atmospheric Administration, U.S. Department of Commerce. The statements, findings, conclusions, and recommendations are those of the author(s) and do not necessarily reflect the views of NOAA or the Department of Commerce.

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Section 1 Purpose

The purpose of this Ordinance is to protect, maintain, and enhance the public health, safety, and general welfare by establishing minimum requirements and procedures to control erosion at construction sites and prevent migration of sediment from construction sites so that erosion and sedimentation do not adversely impact off-Site natural resources, properties, or the Regulated Small MS4.

Section 2 Definitions

Adverse Impact – Means any undue deleterious effect due to erosion or sedimentation from Construction Activity on Waters of the State, Protected Natural Resources, the infrastructure of the Regulated Small MS4, or off-Site. Such undue deleterious effect is or may be potentially harmful or injurious to human health, welfare, safety, or property to biological productivity, diversity, or stability, or may unreasonably interfere with the enjoyment of life or property, including outdoor recreation.

Erosion and Sedimentation Control Best Management Practices (Erosion and Sedimentation Control BMPs) - Means schedules of activities, prohibitions of practices, maintenance procedures, and other methods, techniques, designs, and management practices to prevent or reduce the pollution of Waters of the State and to control erosion (Erosion Control BMPs) and sedimentation (Sedimentation Control BMPs). BMPs also include treatment requirements, operating procedures, and practices to control Site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

Common Plan of Development or Sale - Means a “subdivision” as defined in Title 30-A M.R.S. §§ 4401 *et seq.* (the Maine Subdivision statute) and in _____ of the Municipality’s code of ordinances.

Construction Activity – Means any activity on a Parcel that results in Disturbed Area.

Discharge - Means any spilling, leaking, pumping, pouring, emptying, dumping, disposing, or other addition of pollutants to the Waters of the State located within the Municipality’s Urbanized Area and not including groundwater.

Disturbed Area - Means all land areas of a Parcel that are stripped, graded, grubbed, filled, or excavated at any time during the Site preparation or removing vegetation for, or construction of, a project. Cutting of trees, without grubbing, stump removal, disturbance, or exposure of soil is not considered Disturbed Area. Disturbed Area does not include routine maintenance but does include redevelopment and new Impervious Areas. “Routine maintenance” is maintenance performed to maintain the original line and grade, hydraulic capacity, and original purpose of the facility. Paving impervious gravel surfaces provided that an applicant or permittee can prove the original line and grade and hydraulic capacity shall be maintained and original purpose of the gravel surface remains the same is considered routine maintenance. Replacement of a building is not considered routine maintenance of the building and is therefore considered Disturbed Area.

Enforcement Authority – The _____, and their designee, are authorized to enforce this Ordinance. The use of Enforcement Authority in this Ordinance is synonymous with “Enforcement Authority or their designee”.

General Permit – Means the General Permit for the Discharge of Stormwater from Small Municipal Separate Storm Sewer Systems (MS4) approved October 15, 2020 and modified November 23, 2021 and any amendment or renewal thereof.

Impervious Area - Means the total area of a Parcel covered with a low-permeability material that is highly resistant to infiltration by water, such as asphalt, concrete, or rooftop, and areas such as gravel roads and unpaved parking areas that will be compacted through design or use to reduce their permeability. Common Impervious Areas include, but are not limited to, rooftops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and macadam or other surfaces which similarly impede the natural infiltration of stormwater. Pervious pavement, pervious pavers, pervious concrete, and underdrained artificial turf fields are all considered impervious.

Municipal Separate Storm Sewer Systems (MS4) - Means a conveyance or system of conveyances designed or used for collecting or conveying stormwater (other than a publicly owned treatment works (POTW), as defined at 40 CFR 122.2, or a combined sewer), including, but not limited to, roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, human-made channels or storm drains owned or operated by any municipality, sewer or sewage district, Maine Department of Transportation (MDOT), Maine Turnpike Authority (MTA), State agency or Federal agency or other public entity that Discharges to Waters of the State other than groundwater.

Municipality – Means the City/Town of _____.

Parcel - Means all contiguous land in the same ownership, except that lands located on opposite sides of a public or private road are considered each a separate tract or Parcel of land unless the road was established by the owner of land on both sides of the road after September 22, 1971.

Permitting Authority - Means the Code Enforcement Officer, Building Inspector, Planning Board, or other official or body authorized by State law or the Municipality’s ordinances to approve development or redevelopment projects.

Person - Means an individual, firm, corporation, municipality, quasi-municipal corporation, state agency, federal agency, or other legal entity which creates, initiates, originates, or maintains a Discharge authorized or regulated by the General Permit.

Protected Natural Resource - Means coastal sand dunes, coastal wetlands, significant wildlife habitat, fragile mountain areas, freshwater wetlands, community public water system primary protection areas, great ponds, or rivers, streams or brooks as defined in the *Natural Resources Protection Act* at 38 M.R.S. §480-B.

Qualified Professional – Means a person who has been certified by Enviro-Cert International in erosion and sedimentation control practices or has been certified by completing the Maine Department of Environmental Protection Erosion and Sedimentation Control Practices Workshop, or is a Maine Professional Engineer with at least two years' experience in designing Erosion and Sedimentation Control BMPs.

Regulated Small MS4 - Means any Small MS4 authorized by the most recent, in-force MS4 General Permit or the general permits for the Discharge of stormwater from MDOT and MTA Small MS4s or state or federally owned or operated Small MS4s including all those located partially or entirely within an Urbanized Area.

Small MS4 - Means any MS4 that is not already covered by the Phase I MS4 stormwater program including municipally owned or operated storm sewer systems, state or federally owned systems, such as colleges, universities, prisons, military bases and facilities, and transportation entities such as MDOT and MTA road systems and facilities. See also 40 CFR 122.26(b)(16).

Site - Means the portion(s) of a Parcel upon which Construction Activity subject to this Ordinance is located.

Urbanized Area - Means the area of the Municipality so defined by the inclusive sum of the 2000 decennial census and the 2010 decennial census by the U.S. Census Bureau.

Waters of the State – Means Waters of the State as defined in 38 M.R.S. §361-A (7).

Section 3 Applicability

This Ordinance applies to Construction Activity on a Parcel or Common Plan of Development or Sale commencing after the effective date of this Ordinance, with stormwater Discharges to the Regulated Small MS4 within the Municipality's Urbanized Area, that results in:

- a. Disturbed Area of one or more acres of land, or
- b. Disturbed Area that is less than one acre of land if the Construction Activity creating Disturbed Area less than one acre of land is part of a larger Common Plan of Development or Sale that as approved or amended would create Disturbed Area of one acre or more, or
- c. 2,000 square feet of new Impervious Area regardless of total Disturbed Area.

Section 4 Procedure

4.1 Erosion and Sedimentation Control Plan Required

No Person shall commence Construction Activity subject to the Applicability Section of this Ordinance without first preparing and obtaining approval for an Erosion and Sedimentation Control Plan in accordance with this Ordinance.

4.2 Submission

When Construction Activity is subject to subdivision, site plan, or other review under the Municipality's planning, zoning, and land use ordinances which includes a review for erosion and

sedimentation control, an Erosion and Sedimentation Control Plan meeting these requirements shall be submitted to the Permitting Authority concurrently with that review. When a concurrent review is not otherwise required, an Erosion and Sedimentation Control Plan shall be submitted to the Enforcement Authority.

4.3 Review

The Erosion and Sedimentation Control Plan shall be reviewed by the Enforcement Authority or incorporated into the municipal review of a subdivision, site plan, or other review under the Municipality's planning, zoning, and land use ordinances by the Permitting Authority, in accordance with subsection 4.2 above. The Enforcement Authority and the Permitting Authority, as appropriate, will conduct the review under the standards of this Ordinance, and will accept and consider public comment provided as part of that review.

The Enforcement Authority or Permitting Authority, as appropriate, will review the Erosion and Sedimentation Control Plan for compliance with the standards of Section 5, Section 6, and Appendix 1 of this Ordinance and may provide comments where standards have not been met. Once an applicant has submitted an Erosion and Sedimentation Control Plan that the Enforcement Authority or Permitting Authority finds is in compliance with the standards of Section 5, Section 6, and Appendix 1 of this Ordinance, the Enforcement Authority or Permitting Authority shall provide written confirmation to the applicant. The Enforcement Authority or Permitting Authority may approve the Erosion and Sedimentation Control Plan, approve it with conditions, or deny the Erosion and Sedimentation Control Plan, and that decision shall be in writing and supported by findings of fact and conclusions of law. Appeals from decisions of the Enforcement Authority regarding the Erosion and Sedimentation Control Plan may be taken within 30 days of the date of decision to the Board of Appeals as provided under the Municipality's Zoning Ordinance; appeals from decisions of the Permitting Authority regarding the Erosion and Sedimentation Control Plan may be taken within 30 days of the date of decision in the same manner as appeals are taken under the Municipality's subdivision or site plan ordinance, as appropriate.

4.4 Pre-Construction Meeting

At least ten (10) days prior to commencing Construction Activity, the applicant shall request a pre-construction meeting with the Enforcement Authority. At a minimum, attendance at the meeting is required by the Enforcement Authority and the applicant or their representative in charge of construction. If the representative in charge of construction is not the primary earthwork contractor, a representative of the earth work contractor must also attend the pre-construction meeting. Meeting minutes must be prepared by the Municipality's representative and distributed to all attendees and the Municipality's Planner.

4.5 Compliance with Requirements

The applicant shall implement and comply with the Erosion and Sedimentation Control Plan as approved throughout all phases of Construction Activity.

4.6 Notice of Permanent Stabilization

The applicant shall provide notice to the Enforcement Authority when permanent stabilization of the Site has been achieved to allow for final inspection per Section 7 of this Ordinance.

Section 5 Submission Requirements

5.1 Project Contacts and Qualifications

The applicant shall provide contact information (i.e., name, company if applicable, phone number, physical address, and email address) as described below:

- Applicant,
- Qualified Professional, and
- Contractor (if applicable)

5.2 Erosion and Sedimentation Control Plan Content

The Erosion and Sedimentation Control Plan shall be prepared in accordance with the performance standards contained in Appendix 1.

The Erosion and Sedimentation Control Plan shall consist of a graphic representation of the Site at a scale no smaller than 1 inch = 100 feet showing:

- Parcel boundaries,
- Locations of Protected Natural Resources,
- Locations of all potential sources of authorized and unauthorized non-stormwater discharges,
- Locations of all Erosion and Sedimentation Control BMPs to be used,
- Topography for Site pre-and post-construction conditions as 2-foot elevation contours,
- Details for all Erosion and Sedimentation Control BMPs to be used,
- Details and timing associated with phasing of Construction Activity in Disturbed Areas at the Site, and phasing of installation and stabilization of Erosion and Sedimentation Control BMPs (if applicable),
- Erosion and Sedimentation Control BMPs Notes with construction standards,
- A narrative description of the timing, inspections, and Erosion and Sedimentation Control BMPs to be used,
- Example inspection form,
- Dewatering plan if necessary, and
- Locations of areas not to be disturbed by Construction Activity, including trees, vegetation, and areas intended for infiltration.

The Erosion and Sedimentation Control Plan shall also include documentation of any variances or releases provided by the Maine Department of Environmental Protection from Chapter 500 performance standards.

Section 6 Requirements and Standards

The Enforcement Authority shall determine if the following standards are met in accordance with Appendix 1.

- a. **Qualified Professional.** The Erosion and Sedimentation Control Plan has been prepared by a Qualified Professional.

- b. **Timing of Installation and Maintenance.** The Erosion and Sedimentation Control Plan requires that Sedimentation Control BMPs shall be in place before construction begins, additional Erosion and Sedimentation Control BMPs shall be installed as needed and shall be phased in if phasing is used, and shall be maintained until permanent stabilization is achieved.
- c. **Inspection.** The Erosion and Sedimentation Control Plan provides for inspection of the Site by the applicant to confirm that Erosion and Sedimentation Control BMPs are in place and functioning. The Erosion and Sedimentation Control Plan also provides for corrective action if erosion is occurring or there is a discharge of sediment or turbid water from the construction Site.
- d. **Spill Prevention.** The Erosion and Sedimentation Control Plan includes measures that prevent construction Site pollution and spills from entering stormwater.
- e. **Groundwater Protection.** The Erosion and Sedimentation Control Plan restricts the storage or handling of liquid petroleum products and other hazardous materials that may drain to an “infiltration area.”
- f. **Fugitive Sediment and Dust.** The Erosion and Sedimentation Control Plan includes provisions to prevent erosion of soils, tracking or migration of soils into the right of way, discharge of sediment from the Site, and fugitive dust emissions during or after construction.
- g. **Debris.** The Erosion and Sedimentation Control Plan includes provisions to minimize the exposure of construction materials and waste to stormwater runoff and prevent them from migrating off-Site.
- h. **Excavation Dewatering.** The Erosion and Sedimentation Control Plan must include provisions to remove or properly disperse the collected water in a manner that prevents sediment from entering stormwater.
- i. **Non-stormwater Discharges.** The Erosion and Sedimentation Control Plan minimizes non-stormwater discharges and, if non-stormwater discharges are allowed, they are identified in the Erosion and Sedimentation Control Plan with appropriate pollution measures for discharge.

Section 7 Inspection

The Enforcement Authority will inspect the Site as follows at a minimum:

- a. Once before any disturbance begins and after all Erosion and Sedimentation Control BMPs specified in the Erosion and Sedimentation Control Plan are in place
- b. Three times during the active earth moving phase of construction
- c. Once at project completion to ensure the Site has reached permanent stabilization and all temporary erosion and sedimentation controls have been removed

Additional inspection requirements to be completed by the applicant during construction are contained in Appendix 1.

Section 8 Enforcement

It shall be unlawful for any Person to violate any provision of or to fail to comply with any of the requirements of this Ordinance. Whenever the Enforcement Authority believes that a Person has violated this Ordinance, the Enforcement Authority may enforce this Ordinance in accordance with 30-A M.R.S. § 4452 and this Section.

Section 8.1 Right of Entry

In order to determine compliance with this Ordinance, the Enforcement Authority may enter upon the Parcel at reasonable hours with the consent of the owner, occupant, agent, or contractor to inspect the Parcel for compliance with this Ordinance.

Section 8.2 Notice of Violation

Whenever the Enforcement Authority finds that a Person has violated this Ordinance, the Enforcement Authority may order compliance with this Ordinance by written notice of violation to that Person indicating the nature of the violation(s), a statement of the Ordinance provision(s) alleged to have been violated, including a statement of the penalties for violation, and ordering the action necessary to correct it, including, without limitation:

- a. The abatement of violations and the cessation of practices or operations in violation of this Ordinance;
- b. At the Person's expense, compliance with or repair of the Erosion and Sedimentation Control BMPs required as a condition of approval of the Erosion and Sedimentation Control Plan, and/or the restoration of any affected portion(s) of the Parcel;
- c. The payment of fines, of the Municipality's remediation costs and of the Municipality's reasonable administrative costs and attorneys' fees and costs;
- d. If abatement of a violation, compliance with the Erosion and Sedimentation Control Plan, repair of Erosion and Sedimentation Control BMPs, and/or restoration of affected portions of the Parcel is required, the notice shall set forth a deadline within which such abatement, compliance, repair, and/or restoration must be completed.

Section 8.3 Stop Work Notice

The Enforcement Authority may issue a Stop Work Notice whenever:

- a. A Person has not acted on a notice of violation issued pursuant to this Ordinance within the time set forth in the notice, or
- b. A Person subject to the applicability section of this Ordinance undertakes Construction Activity without first submitting an application for and obtaining approval of an Erosion and Sedimentation Control Plan.

The Enforcement Authority will attempt to deliver the Stop Work Notice to the applicant, the Person performing the Construction Activity, or the owner or occupant of the Parcel, as appropriate, by any means reasonable calculated to effectuate delivery.

Once the Stop Work Notice has been delivered, no further Construction Activity at the Site may proceed other than as is necessary to correct the non-compliance. Construction Activity may resume only when the Enforcement Authority provides written notice that the Person may resume that Construction Activity.

Section 8.4 Penalties/Fines/Injunctive Relief

Any Person who violates this Ordinance, including, but not limited to the Erosion and Sedimentation Control Plan, shall be subject to fines, penalties, and orders for injunctive relief and shall be responsible for the Municipality's attorney's fees and costs, all in accordance with 30-A M.R.S. § 4452. Each day that such violation continues shall constitute a separate violation. Moreover, any

Person who violates this Ordinance also shall be responsible for any and all fines, penalties, damages, and costs, including, but not limited to attorneys' fees and costs, incurred by the Municipality for enforcement of violation(s) of Federal and State environmental laws and regulations caused by or related to that Person's violation of this Ordinance; this responsibility shall be in addition to any penalties, fines, or injunctive relief imposed under this Section.

Section 8.5 Consent Agreement

The Enforcement Authority may, with the approval of the municipal officers, enter into a written consent agreement with the violator to address timely abatement of the violation(s) of this Ordinance for the purposes of eliminating violations of this Ordinance and of recovering fines, costs, and fees without court action.

Section 8.6 Appeal of Notice of Violation

Any Person receiving a Notice of Violation or Stop Work Notice may appeal the determination of the Enforcement Authority to the Zoning Board of Appeals. The notice of appeal must be received within 30 days from the date of receipt of the Notice of Violation. The Board of Appeals shall hold a de novo hearing on the appeal within 30 days from the date of receipt of the notice of appeal. A party aggrieved by the decision of the Board of Appeals may appeal that decision to the Maine Superior Court within 45 days of that date of the Board of Appeals decision pursuant to Rule 80B of the Maine Rules of Civil Procedure.

Section 8.7 Enforcement Measures

If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal to the Board of Appeals, within 45 days of a decision of the Board of Appeals affirming or modifying the Enforcement Authority's decision, then the Enforcement Authority may recommend to the municipal officers that the Municipality's attorney file an enforcement action in a Maine court of competent jurisdiction under Rule 80K of the Maine Rules of Civil Procedure.

Section 9 Severability and Conflicts

The provisions of this Ordinance are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this Ordinance or the application thereof to any Person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions, clauses, sentences, or paragraphs or application of this Ordinance.

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

Section 10 Waivers

Where the Enforcement Authority finds that there are special circumstances of a particular Erosion and Sedimentation Control Plan that make a particular submission requirement or standard inapplicable, a waiver may be granted, provided that such waiver will not have the effect of nullifying the intent and purpose of this Ordinance. The applicant shall submit, in writing, the reason for the requested waiver. In

granting waivers or modifications, the Enforcement Authority may require such conditions that will substantially secure the objectives of the standards so waived or modified.

Section 11 Authority

The Municipality enacts this Erosion and Sedimentation Control Ordinance pursuant to 30-A M.R.S. §§3001 et seq. (municipal home rule ordinance authority), 38 M.R.S. §413 (the Wastewater Discharge Law), 33 USC §§1251 et seq. (the Clean Water Act), and 40 CFR Part 122 (US Environmental Protection Agency's regulations governing the National Pollution Discharge Elimination System (NPDES)). The Maine Department of Environmental Protection, through its promulgation of the General Permit for the Discharge of Stormwater from Small Municipal Separate Storm Sewer Systems has listed the Municipality as having a Regulated Small MS4; under this General Permit, listing as a Regulated Small MS4 necessitates enactment of elements of this Ordinance as part of the Municipality's stormwater management program in order to satisfy the minimum control measures for Construction Site Stormwater Runoff Control.

Appendix 1 – Erosion and Sedimentation Control Standards

The following are the mandatory minimum standards for Construction Activity subject to this Ordinance. The Erosion and Sedimentation Control Plan required under this Ordinance shall be developed and implemented to include these mandatory minimum standards, which are based upon the Maine Department of Environmental Protection's 06-096 CMR Chapter 500 Stormwater Management Rule Appendices A, B, and C.

Where not otherwise specified in this Appendix, the Erosion and Sedimentation Control BMPs shall be designed using Performance Standards specified in the Maine Erosion and Sediment Control BMPs Manual for Designers and Engineers developed by the Maine Department of Environmental Protection (October 2016 or most current version).

Erosion and Sedimentation Control BMPs that require design to accommodate specific storm events shall be designed using precipitation data from either the Northeast Regional Climate Center (<http://precip.eas.cornell.edu>), Extreme Precipitation Tables, or the NOAA Atlas 14 precipitation data (https://hdsc.nws.noaa.gov/hdsc/pfds/pfds_map_cont.html).

The Erosion and Sedimentation Control Plan shall be prepared by a Qualified Professional as defined in this Ordinance.

General Timing of Installation and Maintenance until Permanent Stabilization

Sedimentation Control BMPs must be in place before Construction Activity begins.

- Additional Erosion and Sedimentation Control BMPs must be phased in as appropriate.
 - Erosion and Sedimentation Control BMPs must remain in place and functional until the Site is permanently stabilized.
 - Adequate and timely maintenance of Erosion and Sedimentation Control BMPs must be conducted until permanent stabilization is achieved.
1. Pollution Prevention: Minimize Disturbed Area and protect natural downgradient buffer areas, and any areas where stormwater may flow off-Site to the extent practicable. Control stormwater volume and velocity within the Site to minimize soil erosion. Minimize the disturbance of steep slopes. Control stormwater Discharges, including both peak flow rates and volume, to minimize erosion at outlets. The Discharge shall not result in erosion of any open drainage channels, swales, stream channels or stream banks, upland, or coastal or freshwater wetlands off the project Site.
 - a. Whenever practicable, no disturbance activities shall take place within 50 feet of any Protected Natural Resource.
 - b. If it is not practicable to maintain the 50-foot buffer of no disturbance, the Erosion and Sedimentation Control Plan must include redundant (at least two) perimeter control measures that are appropriate for the soil and slope.
 2. Sediment Barriers: Prior to construction, properly install sediment barriers at the downgradient edge of any area to be disturbed and adjacent to any drainage channels within the Disturbed Area. Sediment barriers shall be installed downgradient of soil and sediment stockpiles and stormwater must be prevented from running onto the stockpile. Maintain the sediment barriers by removing accumulated sediment, or removing and replacing the barrier, until the Disturbed Area is

permanently stabilized. Where a Discharge to a storm drain inlet occurs, you must install and maintain protection measures that remove sediment from the Discharge. [Storm drain inlet protection must include effective curb inlet or “back throat” protection, where applicable.](#)

3. Stabilized Construction Entrance: Prior to construction, properly install a stabilized construction entrance (SCE) at all points of egress from the Site. The SCE is [typically a stabilized pad of aggregate, underlain by a geotextile filter fabric, or an engineered track out control mat which has been approved by Maine DEP which is used to prevent traffic from tracking material away from the Site onto public ROWs. Maintain the SCE until all Disturbed Areas are stabilized. If an alternate SCE has been approved by Maine DEP, provide proof of this with the Plan or application.](#)
4. Temporary Stabilization:
 - a. Within 7 days of the cessation of Construction Activities in an area that will not be worked for more than 7 days, stabilize any exposed soil with mulch, or other non-erodible cover.
 - b. Stabilize areas within 75 feet of a wetland or waterbody within 48 hours of the initial disturbance of the soil or prior to any storm event, whichever comes first.
5. Removal of Temporary Measures: Remove any temporary control measures, such as silt fence, within 30 days after permanent stabilization is attained. Remove any accumulated sediments and stabilize.
6. Permanent Stabilization: If the Site or a portion of the Site will not be worked for more than one year or has been brought to final grade, then permanently stabilize the area within 7 days by planting vegetation, seeding, sod, or through the use of permanent mulch, or riprap, or road sub-base. If using vegetation for stabilization, select the proper vegetation for the light, moisture, and soil conditions; amend the Disturbed Area subsoils with topsoil, compost, or fertilizers; protect seeded areas with mulch or, if necessary, erosion control blankets; and schedule sodding, planting, and seeding so to avoid die-off from summer drought and fall frosts. Newly seeded or sodded areas must be protected from vehicle traffic, excessive pedestrian traffic, and concentrated runoff until the vegetation is well-established with 90% cover by healthy vegetation. If necessary, areas must be reworked and restabilized if germination is sparse, plant coverage is spotty, or topsoil erosion is evident. Permanent Stabilization Definitions are as follows:
 - a. Seeded Areas: For seeded areas, permanent stabilization means a 90% cover of the Disturbed Area with mature, healthy plants with no evidence of washing or rilling of the topsoil.
 - b. Sodded Areas: For sodded areas, permanent stabilization means the complete binding of the sod roots into the underlying soil with no slumping of the sod or die-off.
 - c. Permanent Mulch: For mulched areas, permanent mulching means total coverage of the exposed area with an approved mulch material. Erosion control mix may be used as mulch for permanent stabilization according to the approved application rates and limitations.
 - d. Riprap: For areas stabilized with riprap, permanent stabilization means that slopes stabilized with riprap have an appropriate backing of a well-graded gravel or approved geotextile to prevent soil movement from behind the riprap. Stone must be sized appropriately. It is recommended that angular stone be used.
 - e. Paved Areas: For paved areas, permanent stabilization means the placement of the compacted gravel subbase is completed, provided it is free of fine materials that may runoff with a rain event.

- f. Ditches, Channels, and Swales: For open channels, permanent stabilization means the channel is stabilized with a 90% cover of healthy vegetation, with a well-graded riprap lining, turf reinforcement mat, or with another non-erosive lining such as concrete or asphalt pavement. There must be no evidence of slumping of the channel lining, undercutting of the channel banks, or down-cutting of the channel.
7. Winter Construction: Winter construction is Construction Activity performed during the period from November 1 through April 15. If Disturbed Areas are not stabilized with permanent measures by November 1 or new soil disturbance occurs after November 1, but before April 15, then these areas must be protected and runoff from them must be controlled by the following additional winter construction measures and restrictions:
 - a. Site Stabilization: Hay mulch is applied at twice the standard temporary stabilization rate. At the end of each construction day, areas that have been brought to final grade must be stabilized. Mulch may not be spread on top of snow.
 - b. Sediment Barriers: All areas within 75 feet of a Protected Natural Resource must be protected with a double row of sediment barriers.
 - c. Ditch Lines: Ditch lines must be stabilized with an appropriate stone lining backed by an appropriate gravel bed or geotextile unless specifically released from this standard by the Maine DEP. If release from Maine DEP has been granted, provide proof of this with the Plan or application.
 - d. Slopes: Mulch netting must be used to anchor mulch on all slopes greater than 8% unless erosion control blankets or erosion control mix is being used on these slopes. Unvegetated slopes less than 8% must be protected with an erosion control blanket, erosion control mix, or riprap.
8. Stormwater Channels: Each channel shall be constructed in sections so that the section's grading, shaping, and installation of the permanent lining can be completed the same day. If a channel's final grading or lining installation must be delayed, then diversion berms must be used to divert stormwater away from the channel, properly-spaced check dams must be installed in the channel to slow the water velocity, and a temporary lining installed along the channel to prevent scouring.
9. Sediment Basins: Sediment basins that will be used to control sediment during construction activities must be designed to provide storage for either the calculated runoff from a 2-year, 24-hour storm or provide for 3,600 cubic feet of capacity per acre draining to the basin. Outlet structures must discharge water from the surface of the basin whenever possible. Erosion controls and velocity dissipation devices must be used if the discharging waters are likely to create erosion. Accumulated sediment must be removed as needed from the basin to maintain at least half of the design capacity of the basin. [Clearly visible staking must be installed with marks showing the elevation of half design capacity for easier inspection.](#)

The use of cationic treatment chemicals in Sediment Basins, such as polymers, flocculants, or other chemicals that contain an overall positive charge designed to reduce turbidity in stormwater may only be used if proof of approval by Maine DEP is provided.

10. [Phasing Plan Requirements: No phasing plan is required if contractor will limit Disturbed Area to a maximum of 5 acres of disturbance across the Site at any time. If the Construction Activity will result](#)

in more than 5 acres of Disturbed Area at any one time, the Contractor shall provide a phasing plan showing:

- a. the initial 5-acre area to be disturbed;
- b. which portions of the initial disturbance will be stabilized, and what temporary or permanent stabilization methods will be used;
- c. which areas will be subsequently disturbed and what temporary or permanent stabilization methods will be used; and
- d. each phase of disturbance and stabilization must clearly show the total areas in square feet or acres such that the 5-acre Disturbed Area limit at any one time is met throughout the entire project.

Inspection, Maintenance and Corrective Action by Applicant On-Site Personnel During Construction

During construction, the following are the inspection, maintenance, and corrective action requirements which must be implemented by the applicant or their on-Site representative:

1. Inspection: Disturbed and Impervious Areas, Erosion and Sedimentation Control BMPs, materials storage areas that are exposed to precipitation, and locations where vehicles enter or exit the Site are inspected at least once a week as well as before and within 24 hours after a storm event (rainfall), and prior to completing permanent stabilization measures. A Qualified Professional shall conduct the inspections.
2. Maintenance and Corrective Action: If Erosion or Sedimentation Control BMPs need to be maintained, or repaired or enhanced (corrective action), the work shall be initiated upon discovery of the problem but no later than the end of the next workday. If additional Erosion or Sedimentation Control BMPs or significant repair of Erosion or Sedimentation Control BMPs are necessary, implementation must be completed prior to any storm event (rainfall) and within 7 calendar days of identification. All measures must be maintained in effective operating condition until areas are permanently stabilized.
3. Documentation: A log (report) summarizing the inspections and any repairs or enhancements (corrective actions) added must be maintained by the applicant. The log must include the name(s) and qualifications of the person making the inspections, the date(s) of the inspections, and major observations about the operation and maintenance of erosion and sedimentation controls, materials storage areas, and vehicles access points to the Parcel. Major observations must include Erosion and Sedimentation Control BMPs that need maintenance, Erosion and Sedimentation Control BMPs that failed to operate as designed or proved inadequate for a particular location, and location(s) where additional Erosion and Sedimentation Control BMPs are needed. The log must document each Erosion and Sedimentation Control BMP requiring maintenance, Erosion and Sedimentation Control BMP needing replacement, and location needing additional Erosion and Sedimentation Control BMPs, as well as the corrective action taken and when it was taken. The log shall be maintained for at least three years from the completion of permanent stabilization.

Housekeeping Requirements

1. Spill Prevention: Controls must be used to prevent pollutants from construction and waste materials stored on-Site from entering stormwater, which includes storage practices to minimize exposure of the materials to stormwater. The Site contractor or operator must develop, and

implement as necessary, appropriate spill prevention, containment, and response planning measures.

2. **Groundwater Protection:** During construction, liquid petroleum products and other hazardous materials with the potential to contaminate groundwater may not be stored or handled in areas of the Site draining to an infiltration area. An infiltration area is any area of the Site that by design or as a result of soils, topography, and other relevant factors accumulates runoff that infiltrates into the soil. Dikes, berms, sumps, and other forms of secondary containment that prevent discharge to groundwater may be used to isolate portions of the Site for the purposes of storage and handling of these materials.
3. **Fugitive Sediment and Dust:** Actions must be taken to ensure that activities do not result in noticeable erosion of soils or fugitive dust emissions during or after construction. Oil may not be used for dust control, but other water additives may be considered as needed. A stabilized construction entrance shall be included to minimize tracking of mud and sediment. If off-Site tracking occurs, public roads shall be swept immediately and no less than once a week and prior to significant storm events. Operations during dry months, that experience fugitive dust problems, shall wet down unpaved access roads once a week or more frequently as needed with a water additive to suppress fugitive sediment and dust.
4. **Debris and Other Materials:** Minimize the exposure of construction debris, building and landscaping materials, trash, fertilizers, pesticides, herbicides, detergents, sanitary waste, and other materials to precipitation and stormwater runoff. These materials must be prevented from becoming a pollutant source. [Sediment generated by concrete or mortar mixing, brick cutting & saw cutting activities must be contained \(e.g., sausage boom, straw bales, etc.\) and cleaned up using dry methods \(i.e., sweeping or vacuuming\) to prevent it from entering drainage structures or water resources. These activities shall be done on vegetated areas whenever possible and away from drainage structures and water resources.](#)
5. **Excavation Dewatering:** Excavation dewatering is the removal of water from trenches, foundations, coffer dams, ponds, and other areas within the construction area that retain water after excavation. In most cases the collected water is heavily silted and hinders correct and safe construction practices. The collected water removed from the ponded area, either through gravity or pumping, must be spread through natural wooded buffers or otherwise treated to collect the maximum amount of sediment possible, like a coffer dam sedimentation or sediment filter bag. Avoid allowing the water to flow over Disturbed Areas of the Site. [If the Maine DEP has approved equivalent measures, provide proof of approval. Note that discharge of excavation dewater fluids from the Site must be visually clear \(no visible suspended or settleable solids\).](#)
6. **Washout from Concrete, Stucco, Paint, Curing Compounds, or Other Construction Materials:** [If washout/cleanout is to be completed on the Site, a designated area\(s\) shall be established and marked on the Erosion and Sedimentation Control Plan. This area shall be a minimum of 50 feet from all drainage structures, ditches, waterbodies, and resource areas, as well as property boundaries. The area shall not have an outlet to discharge wastes or flows. No detergents shall be used or vehicles washed in this location. A leak-proof pit or container shall be established in the washout area\(s\), to which washings shall be directed. This area shall be used for washout containment and dewatering by evaporation only. The pit shall not allow infiltration to occur. To prevent clean water from entering the pit, the washout area shall be covered during](#)

precipitation events. Inspections of the pit shall be conducted daily to ensure no leaks are present and no discharge is occurring.

7. Authorized Non-stormwater Discharges: Identify and prevent contamination by non-stormwater Discharges. Where allowed non-stormwater Discharges exist, they must be identified, and steps shall be taken to ensure the implementation of appropriate pollution prevention measures for the non-stormwater component(s) of the Discharge. Authorized non-stormwater Discharges are:
 - a. Discharges from firefighting activity
 - b. Hydrant flushing if dechlorinated to 0.05 mg/l or less
 - c. Vehicle wash water if detergents are not used and washing is limited to the exterior of vehicles (engine, undercarriage, and transmission washing is prohibited)
 - d. Dust control runoff if it does not cause erosion
 - e. Routine external building washdown, not including surface paint removal, that does not involve detergents
 - f. Pavement wash water (where spills/leaks of toxic or hazardous materials have not occurred, unless all spilled material had been removed) if detergents are not used
 - g. Uncontaminated air conditioning or compressor condensate
 - h. Uncontaminated groundwater or spring water
 - i. Foundation or footer drain-water where flows are not contaminated
 - j. Uncontaminated excavation dewatering per item 5 Excavation Dewatering
 - k. Potable water including waterline flushings
 - l. Landscape irrigation
8. Unauthorized Non-stormwater Discharges: The following Discharges are prohibited:
 - a. Wastewater from the washout or cleanout of concrete, stucco, paint, form release oils, curing compounds, or other construction materials;
 - b. Fuels, oils, or other pollutants used in vehicle and equipment operation and maintenance;
 - c. Soaps, solvents, or detergents used in vehicle and equipment washing; and
 - d. Toxic or hazardous substances from a spill or other release.

Alternate Appendix 1 – Erosion and Sedimentation Control Standards

The Erosion and Sedimentation Control Plan required under this Ordinance shall be developed and implemented to conform to the Maine Department of Environmental Protection's 06-096 CMR Chapter 500 Stormwater Management Rule Appendices A, B, and C as mandatory minimum standards with the following additional standards (shown as underlined text and deletions shown as strikethrough text).

Where not otherwise specified in this Appendix, the Erosion and Sedimentation Control BMPs shall be designed using Performance Standards specified in the Maine Erosion and Sediment Control BMPs Manual developed by the Maine DEP (October 2016 or most current version).

Erosion and Sedimentation Control BMPs that require design to accommodate specific storm events shall be designed using precipitation data from either the Northeast Regional Climate Center (<http://precip.eas.cornell.edu>), Extreme Precipitation Tables, or the NOAA Atlas 14 precipitation data (https://hdsc.nws.noaa.gov/hdsc/pfds/pfds_map_cont.html).

The Erosion and Sedimentation Control Plan shall be prepared by a Qualified Professional as defined in this Ordinance.

Chapter 500 Appendix A. Erosion and Sedimentation Control:

Erosion and Sedimentation Control BMPs must be in place before Construction Activity begins.

- Additional Erosion and Sedimentation Control BMPs must be phased in as appropriate.
 - BMPs must remain in place and functional until the Site is permanently stabilized.
 - Adequate and timely maintenance of Erosion and Sedimentation Control BMPs must be conducted until permanent stabilization is achieved. ~~And temporary and permanent stabilization measures must be taken.~~
1. Pollution Prevention: Minimize Disturbed Areas and protect natural downgradient buffer areas, and any areas where stormwater may flow off-Site to the extent practicable. Control stormwater volume and velocity within the Site to minimize soil erosion. Minimize the disturbance of steep slopes. Control stormwater Discharges, including both peak flow rates and volume, to minimize erosion at outlets. The Discharge may not result in erosion of any open drainage channels, swales, stream channels or stream banks, upland, or coastal or freshwater wetlands off the project Site.
 - a. Whenever practicable, no disturbance activities shall take place within 50 feet of any Protected Natural Resource.
 - ~~b. If disturbance activities take place between 30 feet and 50 feet of any protected natural resource, and stormwater discharges through the disturbed areas toward the protected natural resource, perimeter erosion controls must be doubled. If disturbance activities take place less than 30 feet from any protected natural resource, and stormwater discharges through the disturbed areas toward the protected natural resource, perimeter erosion controls must be doubled and disturbed areas must be temporarily or permanently stabilized within 7 days.~~
 - c. If it is not practicable to maintain the 50-foot buffer of no disturbance, the Erosion and Sedimentation Control Plan must include redundant (at least two) perimeter control measures that are appropriate for the soil and slope.

2. Sediment Barriers: Prior to construction, properly install sediment barriers at the downgradient edge of any area to be disturbed and adjacent to any drainage channels within the Disturbed Area. Sediment barriers shall be installed downgradient of soil and sediment stockpiles and stormwater must be prevented from running onto the stockpile...

And Add to end: Storm drain inlet protection must include effective curb inlet or "back throat" protection, where applicable.

3. Stabilized Construction Entrance: Prior to construction, properly install a stabilized construction entrance (SCE) at all points of egress from the Site. The SCE is typically a stabilized pad of aggregate, underlain by a geotextile filter fabric, or an engineered track out control mat which has been approved by Maine DEP which is used to prevent traffic from tracking material away from the Site onto public ROWs. Maintain the SCE until all Disturbed Areas are stabilized. If an alternate SCE has been approved by Maine DEP, provide proof of this with the Plan or application.
7. Winter Construction: Add to item c. Ditch: If release from Maine DEP has been granted, provide proof of this with the Plan or application.
9. Sediment Basins: Add to end of first paragraph: Clearly visible staking must be installed with marks showing the elevation of half design capacity for easier inspection.

Items 10, 11, 12 and 13 of Chapter 500 Appendix A do not apply to ESC requirements during construction and are therefore not applicable to this Model Ordinance

10. Add: Phasing Plan Requirements: No phasing plan is required if contractor shall limit disturbance to a maximum of 5 acres of Disturbed Area across the Site at any time. If the Site shall result in more than 5 acres of Disturbed Area at any one time, the contractor shall provide a phasing plan showing:
 - a. the initial 5-acre area to be disturbed
 - b. which portions of the initial disturbance shall be stabilized, and what temporary or permanent stabilization methods shall be used
 - c. which areas shall be subsequently disturbed and what temporary or permanent stabilization methods shall be used
 - d. each phase of disturbance and stabilization shall clearly show the total areas in square feet or acres such that the 5-acre Disturbed Area limit at any one time is met throughout the entire project

Chapter 500 Appendix B Inspection and Maintenance

1. During Construction:

- a. Inspection and Corrective Action: Add: A Qualified Professional shall conduct the inspections.
 - b. Maintenance: If Erosion or Sedimentation Control BMPs need to be repaired or enhanced, the repair work shall be initiated upon discovery of the problem but no later than the end of the next workday.
- 2. Post-construction, 3. Re-certification, 4. Duration of Maintenance:** these sections of Chapter 500 Appendix B do not apply to ESC requirements during construction and are therefore not applicable to this Model Ordinance

Chapter 500 Appendix C Housekeeping

4. Debris & Other Materials: Minimize the exposure of construction debris, building and landscaping materials, trash, fertilizers, pesticides, herbicides, detergents, sanitary waste, and other materials to precipitation and stormwater runoff. These materials must be prevented from becoming a pollutant source. Sediment generated by concrete or mortar mixing, brick cutting & saw cutting activities must be contained (e.g., sausage boom, straw bales, etc.) and cleaned up using dry methods (i.e., sweeping or vacuuming) to prevent it from entering drainage structures or water resources. These activities shall be done on vegetated areas whenever possible and away from drainage structures and water resources.
5. Excavation Dewatering: Excavation dewatering is the removal of water from trenches, foundations, coffer dams, ponds, and other areas within the construction area that retain water after excavation. In most cases the collected water is heavily silted and hinders correct and safe construction practices. The collected water removed from the ponded area, either through gravity or pumping, must be spread through natural wooded buffers or otherwise treated to collect the maximum amount of sediment possible, like a coffer dam sedimentation basin. Avoid allowing the water to flow over Disturbed Areas of the Site. ~~Equivalent measures may be taken if approved by the Department.~~ If the Maine DEP has approved equivalent Erosion and Sedimentation Control BMPs, provide proof of approval. Note that Discharge of excavation dewater fluids from the Site must be visually clear (no visible suspended or settleable solids).
6. Authorized Non-SW Discharges change only item b:
 - b. Fire hydrant flushing if dechlorinated to 0.05 mg/l or less
9. Add New item: Washout from concrete, stucco, paint, curing compounds, or other construction materials: If washout/cleanout is to be completed on-Site, a designated area(s) shall be established and marked on the Erosion and Sedimentation Control Plan. This area shall be a minimum of 50 feet from all drainage structures, ditches, waterbodies, and resource areas, as well as property boundaries. The area shall not have an outlet to Discharge wastes or flows. No detergents shall be used or vehicles washed in this location. A leak-proof pit or container shall be established in the washout area(s), to which washings shall be directed. This area shall be used for washout containment and dewatering by evaporation only. The pit shall not allow infiltration to occur. To prevent clean water from entering the pit, the washout area shall be covered during precipitation events. Inspections of the pit shall be conducted daily to ensure no leaks are present and no Discharge is occurring.

2022-27 MS4 General Permit Ordinance Change Checklist - Option 1 embed standards in your ordinance	Date of Checklist: 4/21/2022	
<p>Purpose of Checklist: This checklist was developed by the Southern Maine Stormwater Working Group and the Interlocal Stormwater Working Group to assist Planners and Planning Boards in updating ordinances to reflect the requirements of the 2022 General Permit (GP) for Stormwater Discharges from Small Municipal Separate Storm Sewer Systems (MS4) dated 10/15/2020, and to consider related optional recommendations from the 2020 Maine Climate Council (MCC) and the 2017 Maine Municipal Climate Adaptation Series (MCAS).</p>		
2022-27 MS4 General Permit - MCM 4 - Construction Site Stormwater Runoff Control Requirements for "ordinance or other regulatory mechanism"	Existing Municipal Ordinance or Policy Requirements (provide citation either summary or quote of existing requirement)	Recommended Changes or additions
<p>MS4 Permittee must implement: "An ordinance or other regulatory mechanism that requires the use of erosion and sediment control best management practices (BMPs) at construction sites consistent with the minimum standards outlined in Appendix C, Erosion and Sedimentation Control, Inspections and Maintenance and Housekeeping of this GP. Also see the Department's website for a guidance document entitled Maine Erosion and Sediment Control Practices Field Guide For Contractors to assist contractors and municipalities in developing BMPs for the ordinance or other regulatory mechanism. Permittees who have an existing ordinance must evaluate the ordinance and update it as needed within one (1) year of the effective date of this GP (7/1/2023) to provide the permittee with the necessary enforcement authority. Those permittee's without an existing ordinance must develop an ordinance within one (1) year (7/1/2023) of the effective date of this GP and have an approved ordinance in place with the necessary enforcement authority within two (2) years (7/1/2024) of the effective date of this GP."</p>		
<p>Threshold: Erosion and Sediment Control BMPs must be used at construction sites which disturb one or more acres of land, and at smaller sites that are part of a larger common plan of development or sale that would disturb one acre or more.</p>		
<p>MCAS (Site Plan Review) Recommendation: Include a smaller threshold: any site which results in _____ square feet of new impervious cover. (MCAS recommends using 2,000 square feet within a 3-year period).</p>		
<p>MCAS (Site Plan Review) Recommendation: Require that the Erosion and Sediment Control Plan be prepared by a Maine-licensed professional engineer or CPESC and implemented in accordance with Maine Erosion and Sediment Control BMPs, Maine Department of Environmental Protection, (October 2016 or most current version), that describes and shows the locations, elevations, installation schedule and construction or planting details of all proposed pre- and post-construction erosion and sediment control measures. (Note municipalities may want to replace requirement to use a PE or CPESC with some standard BMPs for small sites).</p> <p>Design all BMPs in accordance with precipitation data from the Northeast Regional Climate Center website (http://precip.eas.cornell.edu), Extreme Precipitation Tables. Maine DEP Chapter 500 requires use of these data tables.</p> <p>OR</p> <p>Design all BMPs in accordance with precipitation data from the NOAA Atlas 14 tables (https://hdsc.nws.noaa.gov/hdsc/pfds/pfds_map_cont.html). MCAS recommends use of NOAA Atlas 14 precipitation data.</p>		

2022-27 MS4 General Permit - MCM 4 - Construction Site Stormwater Runoff Control Requirements for " <i>ordinance or other regulatory mechanism</i> "	Existing Municipal Ordinance or Policy Requirements (provide citation either summary or quote of existing requirement)	Recommended Changes or additions






2022-27 MS4 General Permit - MCM 4 - Construction Site Stormwater Runoff Control Requirements for "ordinance or other regulatory mechanism"	Existing Municipal Ordinance or Policy Requirements (provide citation either summary or quote of existing requirement)	Recommended Changes or additions
MS4 REQUIRED APPENDIX C: EROSION & SEDIMENT CONTROL		
<p>Erosion and sediment control measures must be in place before construction activity begins. Measures must remain in place and functional until the site is permanently stabilized. Adequate and timely maintenance and temporary and permanent stabilization measures must be taken.</p> <p>Applicant shall request a pre-construction meeting 10 days before construction activity begins. (added 10/26/2021)</p> <p>Applicant shall provide notice of permanent stabilization to allow for final municipal inspection. (added 10/26/2021)</p>		
<p>1. Pollution Prevention: Minimize disturbed areas and protect natural downgradient buffer areas, and any areas where stormwater may flow off-site to the extent practicable. Control stormwater volume and velocity within the site to minimize soil erosion. Minimize the disturbance of steep slopes. Control stormwater discharges, including both peak flow rates and volume, to minimize erosion at outlets. The discharge may not result in erosion of any open drainage channels, swales, stream channels or stream banks, upland, or coastal or freshwater wetlands off the project site.</p> <p>Whenever practicable, no disturbance activities should take place within 50 feet of any protected natural resource. If disturbance activities take place between 30 feet and 50 feet of any protected natural resource, and stormwater discharges through the disturbed areas toward the protected natural resource, perimeter erosion controls must be doubled. If disturbance activities take place less than 30 feet from any protected natural resource, and stormwater discharges through the disturbed areas toward the protected natural resource, perimeter erosion controls must be doubled and disturbed areas must be temporarily or permanently stabilized within 7 days, or before the next rain event, whichever comes sooner.</p> <p>If it is not practicable to maintain the 50-foot buffer of no disturbance, the ESC Plan must include redundant (at least two) perimeter control measures that are appropriate for the soil and slope.</p>		
<p>2. Sediment barriers: Prior to construction, properly install sediment barriers at the downgradient edge of any area to be disturbed and adjacent to any drainage channels within the disturbed area. Sediment barriers should be installed downgradient of soil or sediment stockpiles and stormwater must be prevented from running onto the stockpile. Maintain the sediment barriers by removing accumulated sediment, or removing and replacing the barrier, until the disturbed area is permanently stabilized. Where a discharge to a storm drain inlet occurs, you must install and maintain protection measures that remove sediment from the discharge. Storm drain inlet protection must include effective curb inlet or "back throat" protection, where applicable.</p>		
<p>3. Stabilized construction entrance: Prior to construction, properly install a stabilized construction entrance (SCE) at all points of egress from the site. The SCE is typically a stabilized pad of aggregate, underlain by a geotextile filter fabric, or an engineered track out control mat which has been approved by Maine DEP; which is used to prevent traffic from tracking material away from the site onto public ROWs. Maintain the SCE until all disturbed areas are stabilized. If an engineered track out control mat has been approved by Maine DEP, provide proof of this with the Plan or application. (added 10/26/2021)</p>		
<p>4. Temporary stabilization: Within 7 days of the cessation of construction activities in an area that will not be worked for more than 7 days, stabilize any exposed soil with mulch, or other non-erodible cover. Stabilize areas within 75 feet of a wetland or waterbody within 48 hours of the initial disturbance of the soil or prior to any storm event, whichever comes first.</p>		
<p>5. Removal of temporary measures: Remove any temporary control measures, such as silt fence, within 30 days after permanent stabilization is attained. Remove any accumulated sediments and stabilize.</p>		

2022-27 MS4 General Permit - MCM 4 - Construction Site Stormwater Runoff Control Requirements for "ordinance or other regulatory mechanism"	Existing Municipal Ordinance or Policy Requirements (provide citation either summary or quote of existing requirement)	Recommended Changes or additions
<p>6. Permanent stabilization: If the area will not be worked for more than one year or has been brought to final grade, then permanently stabilize the area within 7 days by planting vegetation, seeding, sod, or through the use of permanent mulch, or riprap, or road sub-base. If using vegetation for stabilization, select the proper vegetation for the light, moisture, and soil conditions; amend areas of disturbed subsoils with topsoil, compost, or fertilizers; protect seeded areas with mulch or, if necessary, erosion control blankets; and schedule sodding, planting, and seeding so to avoid die-off from summer drought and fall frosts. Newly seeded or sodded areas must be protected from vehicle traffic, excessive pedestrian traffic, and concentrated runoff until the vegetation is well-established with 90% cover by healthy vegetation. If necessary, areas must be reworked and restabilized if germination is sparse, plant coverage is spotty, or topsoil erosion is evident. Permanent Stabilization Definitions are as follows:</p> <p>a. Seeded areas. For seeded areas, permanent stabilization means a 90% cover of the disturbed area with mature, healthy plants with no evidence of washing or rilling of the topsoil.</p> <p>b. Sodded areas. For sodded areas, permanent stabilization means the complete binding of the sod roots into the underlying soil with no slumping of the sod or die-off.</p> <p>c. Permanent mulch. For mulched areas, permanent mulching means total coverage of the exposed area with an approved mulch material. Erosion Control Mix may be used as mulch for permanent stabilization according to the approved application rates and limitations.</p> <p>d. Riprap. For areas stabilized with riprap, permanent stabilization means that slopes stabilized with riprap have an appropriate backing of a well-graded gravel or approved geotextile to prevent soil movement from behind the riprap. Stone must be sized appropriately. It is recommended that angular stone be used.</p> <p>e. Paved areas. For paved areas, permanent stabilization means the placement of the compacted gravel subbase is completed, provided it is free of fine materials that may runoff with a rain event</p> <p>f. Ditches, channels, and swales. For open channels, permanent stabilization means the channel is stabilized with a 90% cover of healthy vegetation, with a well-graded riprap lining, turf reinforcement mat, or with another non-erosive lining such as concrete or asphalt pavement. There must be no evidence of slumping of the channel lining, undercutting of the channel banks, or down-cutting of the channel.</p>		
<p>7. Winter construction: "Winter construction" is construction activity performed during the period from November 1 through April 15. If disturbed areas are not stabilized with permanent measures by November 1 or new soil disturbance occurs after November 1, but before April 15, then these areas must be protected and runoff from them must be controlled by additional measures and restrictions.</p> <p>a. Site stabilization: For winter stabilization, hay mulch is applied at twice the standard temporary stabilization rate. At the end of each construction day, areas that have been brought to final grade must be stabilized. Mulch may not be spread on top of snow.</p> <p>b. Sediment barriers: All areas within 75 feet of a protected natural resource must be protected with a double row of sediment barriers.</p> <p>c. Ditch: All vegetated ditch lines that have not been stabilized by November 1, or will be worked during the winter construction period, must be stabilized with an appropriate stone lining backed by an appropriate gravel bed or geotextile unless specifically released from this standard by the Department. If release from Maine DEP has been granted, provide proof of this with the Plan or application.</p> <p>d. Slopes: Mulch netting must be used to anchor mulch on all slopes greater than 8% unless erosion control blankets or erosion control mix is being used on these slopes.</p>		
<p>8. Stormwater channels: Each channel should be constructed in sections so that the section's grading, shaping, and installation of the permanent lining can be completed the same day. If a channel's final grading or lining installation must be delayed, then diversion berms must be used to divert stormwater away from the channel, properly-spaced check dams must be installed in the channel to slow the water velocity, and a temporary lining installed along the channel to prevent scouring.</p>		

2022-27 MS4 General Permit - MCM 4 - Construction Site Stormwater Runoff Control Requirements for "ordinance or other regulatory mechanism"	Existing Municipal Ordinance or Policy Requirements (provide citation either summary or quote of existing requirement)	Recommended Changes or additions
<p>9. Sediment basins: Sediment basins that will be used to control sediment during construction activities must be designed to provide storage for either the calculated runoff from a 2-year, 24-hour storm or provide for 3,600 cubic feet of capacity per acre draining to the basin. Outlet structures must discharge water from the surface of the basin whenever possible. Erosion controls and velocity dissipation devices must be used if the discharging waters are likely to create erosion. Accumulated sediment must be removed as needed from the basin to maintain at least ½ of the design capacity of the basin. Clearly visible staking must be installed with marks showing the elevation of 1/2 design capacity for easier inspection.</p> <p>The use of cationic treatment chemicals, such as polymers, flocculants, or other chemicals that contain an overall positive charge designed to reduce turbidity in stormwater may only be used if proof of approval by Maine Department of Environmental Protection is provided.</p>		
<p>10. Phasing Plan requirements: No phasing plan is required if contractor will limit disturbance to a maximum of 5 acres of disturbance across the entire project at any time. If the site will result in more than 5 acres of disturbance at any one time, the contractor will provide a phasing plan showing:</p> <ul style="list-style-type: none"> a. the initial 5 acre area to be disturbed b. which portions of the initial disturbance will be stabilized, and what temporary or permanent stabilization methods will be used c. which areas will be subsequently disturbed and what temporary or permanent stabilization methods will be used. d. each phase of disturbance and stabilization will clearly show the total areas in square feet or acres such that the 5-acre disturbance limit at any one time is met throughout the entire project. 		
MS4 REQUIRED APPENDIX C: INSPECTION & MAINTENANCE		
<p>1. During construction</p> <p>a. Inspection & corrective action: Inspect disturbed and impervious areas, erosion control measures, materials storage areas that are exposed to precipitation, and locations where vehicles enter or exit the site. Inspect these areas at least once a week as well as before and within 24 hours after a storm event (rainfall), and prior to completing permanent stabilization measures. A person with knowledge of erosion and stormwater control, including the standards and conditions in the permit, shall conduct the inspections. (Submittal requirements shall include example inspection form to be used by applicant - added 10/26/2021).</p> <p>b. Maintenance: If best management practices (BMPs) need to be repaired or enhanced, the repair work should be initiated upon discovery of the problem but no later than the end of the next workday. If additional BMPs or significant repair of BMPs are necessary, implementation must be completed within 7 calendar days and prior to any storm event (rainfall). All measures must be maintained in effective operating condition until areas are permanently stabilized.</p> <p>c. Documentation: Keep a log (report) summarizing the inspections and any corrective action taken. The log must include the name(s) and qualifications of the person making the inspections, the date(s) of the inspections, and major observations about the operation and maintenance of erosion and sedimentation controls, materials storage areas, and vehicles access points to the parcel. Major observations must include BMPs that need maintenance, BMPs that failed to operate as designed or proved inadequate for a particular location, and location(s) where additional BMPs are needed. For each BMP requiring maintenance, BMP needing replacement, and location needing additional BMPs, note in the log the corrective action taken and when it was taken. Maintain records for at least three years from the completion of permanent stabilization.</p>		
MS4 REQUIRED APPENDIX C: HOUSEKEEPING		

2022-27 MS4 General Permit - MCM 4 - Construction Site Stormwater Runoff Control Requirements for "ordinance or other regulatory mechanism"	Existing Municipal Ordinance or Policy Requirements (provide citation either summary or quote of existing requirement)	Recommended Changes or additions
<p>1. Spill prevention: Controls must be used to prevent pollutants from construction and waste materials stored on site to enter stormwater, which includes storage practices to minimize exposure of the materials to stormwater. The site contractor or operator must develop, and implement as necessary, appropriate spill prevention, containment, and response planning measures.</p> <p>NOTE: any spill of toxics/HazMat's must be reported to DEP.</p>		
<p>2. Groundwater protection: During construction, liquid petroleum products and other hazardous materials with the potential to contaminate groundwater may not be stored or handled in areas of the site draining to an infiltration area. An "infiltration area" is any area of the site that by design or as a result of soils, topography and other relevant factors accumulates runoff that infiltrates into the soil. Dikes, berms, sumps, and other forms of secondary containment that prevent discharge to groundwater may be used to isolate portions of the site for the purposes of storage and handling of these materials. Any project proposing infiltration of stormwater must provide adequate pre-treatment of stormwater prior to discharge of stormwater to the infiltration area, or provide for treatment within the infiltration area, in order to prevent the accumulation of fines, reduction in infiltration rate, and consequent flooding and destabilization.</p>		
<p>3. Fugitive sediment & dust: Actions must be taken to ensure that activities do not result in noticeable erosion of soils or fugitive dust emissions during or after construction. Oil may not be used for dust control, but other water additives may be considered as needed. A stabilized construction entrance (SCE) should be included to minimize tracking of mud and sediment. If off-site tracking occurs, public roads should be swept immediately and no less than once a week and prior to significant storm events. Operations during dry months, that experience fugitive dust problems, should wet down unpaved access roads once a week or more frequently as needed with a water additive to suppress fugitive sediment and dust.</p>		
<p>4. Debris & other materials: Minimize the exposure of construction debris, building and landscaping materials, trash, fertilizers, pesticides, herbicides, detergents, sanitary waste and other materials to precipitation and stormwater runoff. These materials must be prevented from becoming a pollutant source. Sediment generated by concrete or mortar mixing, brick cutting & saw cutting activities must be contained (e.g.: Sausage boom, straw bales, etc.) and cleaned up using dry methods (i.e.: Sweeping or vacuuming) to prevent it from entering drainage structures or water resources. These activities should be done on vegetated areas whenever possible and away from drainage structures and water resources.</p> <p>NOTE: may require compliance with other DEP provisions (hazmat, solid waste, oil conveyance, etc.)</p>		
<p>5. Excavation dewatering: Excavation de-watering is the removal of water from trenches, foundations, coffer dams, ponds, and other areas within the construction area that retain water after excavation. In most cases the collected water is heavily silted and hinders correct and safe construction practices. The collected water removed from the ponded area, either through gravity or pumping, must be spread through natural wooded buffers or otherwise treated to collect the maximum amount of sediment possible, like a cofferdam sedimentation basin. Avoid allowing the water to flow over disturbed areas of the site. If the Maine DEP has approved equivalent measures, provide proof of approval. Note that discharge of excavation de-water fluids from the site must be visually clear (no visible suspended or settleable solids).</p> <p>NOTE: refer to dewatering controls in DEP ESC BMP guidance documents</p>		

2022-27 MS4 General Permit - MCM 4 - Construction Site Stormwater Runoff Control Requirements for "ordinance or other regulatory mechanism"	Existing Municipal Ordinance or Policy Requirements (provide citation either summary or quote of existing requirement)	Recommended Changes or additions
<p>6. Authorized Non-SW discharges: Identify and prevent contamination by non-stormwater discharges. Where allowed non-stormwater discharges exist, they must be identified and steps should be taken to ensure the implementation of appropriate pollution prevention measures for the non-stormwater component(s) of the discharge. Authorized non-stormwater discharges are:</p> <ul style="list-style-type: none"> a. Discharges from firefighting activity; b. Hydrant flushing if dechlorinated to 0.05 mg/l or less c. Vehicle wash water if detergents are not used and washing is limited to the exterior of vehicles (engine, undercarriage and transmission washing is prohibited); d. Dust control runoff if it does not cause erosion e. Routine external building washdown, not including surface paint removal, that does not involve detergents; f. Pavement wash water (where spills/leaks of toxic or hazardous materials have not occurred, unless all spilled material had been removed) if detergents are not used; g. Uncontaminated air conditioning or compressor condensate h. Uncontaminated groundwater or spring water i. Foundation or footer drain-water where flows are not contaminated j. Uncontaminated excavation dewatering per item 5 Excavation Dewatering k. Potable water including waterline flushings l. Landscape irrigation 		<p>There is some overlap with the Non-Stormwater Discharge Ordinance here, but that list needs to be updated to include the following missing items:</p> <ul style="list-style-type: none"> c. Vehicle wash water w/out detergents and no engine/undercarriage d. Dust control per (C)(3) e. External building washdown w/out detergents j. Uncontaminated excavation dewatering per (C)(5) <p>or the full list should be repeated for the construction standards with a reference to the Non-Stormwater Discharge Ordinance.</p>
<p>7. Unauthorized non-SW discharges: following discharges are prohibited</p> <ul style="list-style-type: none"> a. Wastewater from the washout or cleanout of concrete, stucco, paint, form release oils, curing compounds or other construction materials b. Fuels, oils or other pollutants used in vehicle and equipment operation and maintenance; c. Soaps, solvents, or detergents used in vehicle and equipment washing; and d. Toxic or hazardous substances from a spill or other release. 		<p>These items are covered by the NSDO, but may want to explicitly list these out as prohibited by construction operations.</p>
<p>9. Washout from concrete, stucco, paint, curing compounds or other construction materials: If washout/cleanout is to be completed on Site, a designated area(s) shall be established and marked on the Erosion and Sediment Control Plan. This area shall be a minimum of 50 feet from all drainage structures, ditches, waterbodies, and resource areas, as well as property boundaries. The area shall not have an outlet to discharge wastes or flows. No detergents shall be used or vehicles washed in this location. A leak-proof pit or container shall be established in the washout area(s), to which washings shall be directed. This area shall be used for washout containment and dewatering by evaporation only. The pit shall not allow infiltration to occur. To prevent clean water from entering the pit, the washout area shall be covered during precipitation events. Inspections of the pit shall be conducted daily to ensure no leaks are present and no discharge is occurring. (added 2/8/2022)</p>		
<p>9. Additional requirements: may be required on site-specific basis</p>		
<p>Additional Ordinance related Requirements</p>		
<p>MS4 - MCM 4 4.a.iv: Sediment and Erosion Control Plan must include waste control procedures for: discarded building materials, concrete washout, chemicals, litter & sanitary waste</p>		<p>These items are already listed in items 1 and 7 above.</p>
<p>MS4 - MCM 5 Post Construction Stormwater Ordinance must require that the owner or operator of a post construction BMP provide the permittee with an annual report completed <u>by a qualified inspector</u> documenting that all BMPs are adequately maintained and functioning as intended.</p>		
<p>MS4 - MCM 5 Post Construction Stormwater Ordinance - must require that if a post construction BMP needs maintenance, the owner or operator must document the deficiency and either correct it within 60 days of discovery or establish an expeditious schedule to correct it.</p>		
<p>MS4 Common audit finding: Urbanized Area Definition should reference the cumulative Urbanized Area defined by the 2000 and 2010 Census.</p>		

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Additional non-ordinance related MCM4 Requirements		
4.a.ii: site plan review procedures incorporating WQ impacts, EC, waste storage and ability for public comment		
4.a.iii: site developer/operator notification procedures for MCGP & Ch500 registration		
<p>4.a.v: construction activity documentation for 1ac or more disturbance</p> <p>a. Written site inspection & enforcement procedures of ESC BMPs with clearly defined responsibilities for inspection & enforcement which must include imposition of sanctions to ensure compliance.</p> <p>b. Inspections:</p> <p>i. Min 3 inspections during active earth-moving construction phase</p> <p>ii. Min 1 inspection annually until project completion</p> <p>iii. 1 of 3 inspections must be at project completion to verify permanent stabilization & removal of all temporary ESC BMPs</p> <p>iv. Documentation of inspections, enforcement actions & corrective actions</p>		
<p>Credits: This checklist was prepared by SMPDC, CCSWCD, and Integrated Environmental Engineering, Inc. Under award CZM NA20NOS4190064 to the Maine Coastal Program from the National Oceanic and Atmospheric Administration, U.S. Department of Commerce. The statements, findings, conclusions, and recommendations are those of the author(s) and do not necessarily reflect the views of NOAA or the Department of Commerce.</p> <div style="display: flex; justify-content: space-around; align-items: center;">      </div>		