

# **Stormwater Pollution Prevention Plan**

## **For:**

Commercial Street & Maple Street  
Mixed Use Development  
321 Commercial Street  
Portland, ME

## **Operator:**

Opechee Construction Corporation (OCC)  
11 Corporate Drive  
Belmont, NH 03220  
Office Phone: (603) 527-9090  
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## **SWPPP Contact:**

Opechee Construction Corporation (OCC)  
Steve Long  
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Belmont, NH 03220  
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## **SWPPP Preparation Date:**

10-22-12

## *Estimated Project Dates:*

Start of Construction: February 2013  
Completion of Construction: May 2014



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<b>SECTION 1</b>	<b>Project/Site Information</b>
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<b>1.1 - Project Name and Location: (Latitude, Longitude, or Address)</b>
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Commercial & Maple Street  
Mixed Use Development  
321 Commercial Street  
Portland, Cumberland County, ME  
Lat: 43° 39' 34.51" N  
Long: -070° 15' 04.29" W

<b>1.2 - Owner Name and Address:</b>
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J B Brown & Sons  
36 Danforth Street  
Portland, ME 04101

<b>1.3 - Operators Name, Address, Phone Number:</b>
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Opechee Construction Corporation  
Steve Long  
11 Corporate Drive  
Belmont, NH 03220  
Office Phone: (603) 527-9090  
Office Fax: (603) 527-9191  
Email: stevel@opechee.com

**Description of Operator's Control:**

Opechee Construction Corporation (OCC) has been hired by the applicant to design and permit the project and oversee all aspects of the construction phase of the project, including preparation and implementation of the SWPPP to meet Maine's Construction General Permit. OCC will be responsible for general oversight of the project and will retain operational control over construction plans and specifications, including review of the SWPPP and any amendments, inspection reports, corrective actions and changes to stormwater conveyance or control designs. OCC will implement and maintain the best management practices (BMPs) specified in Sections 2 and 3, conduct inspections (Section 5) and address stormwater over the entire site including all areas disturbed by construction activities, areas used for materials storage, discharge points, and construction exits.

#### 1.4 - Nature of Construction Activity:

J.B. Brown & Sons is proposing a mixed-use development at the corner of Maple Street and Commercial Street. The site is shown on the site plan which is attached to this application. The proposal includes a 131 room hotel, 7,000 sf of restaurant use, and 14 residences. The proposed development is located on the west side of Commercial Street on the site of an existing gravel surface parking lot (#311-331 Commercial Street). The site is bordered by Commercial Street to the east, Maple Street to the south, a commercial building and parking lot to the north and a parking lot to the west. The project site is identified on City of Portland tax maps as Map 40, Block E, Lot 3. The site is surrounded by a mix of business, commercial, and residential uses including; hotels, parking lots, restaurants, office space, apartments, condominiums and other commercial uses.

The project's on-site drainage system will discharge runoff into the City's municipal system located in Commercial Street. The drainage flows enter a manhole at the intersection of Maple and Commercial Street and are directed to Casco Bay. During large storm events overflow from the combined sewer system enters the drainage system via a sewer manhole with a weir. This manhole is located in front of the lumberyard entrance on Maple Street. Flows that go above the weir are diverted to the drain manhole located at the intersection of Commercial Street via two 15" RCP pipes. This manhole directs flows to Casco Bay.

Soil disturbing activities will include following: Demolition, minimal clearing & grubbing, excavation for sewer, storm drainage, underground utilities, building foundations, cuts and fills, grading, and preparation for final seeding and plantings.

#### 1.5 - Project Area:

The site is approximately 0.89 acres size and is currently a surface parking lot. This project proposes a six-story mixed-use building containing 7,460 sf of restaurant space, 84,280 sf of hotel space, and 14 residential units. The project will disturb approximately 1.3 acres.

#### 1.6 - Construction Site Estimates:

Total Project Area (area of parcel):	0.89 Acres
Construction Site Area to be disturbed (including right-of-way):	1.3 Acres
Impervious area before construction:	48,736 sq.ft.
Runoff coefficient before construction (SCS Method):	95
Impervious area after construction:	51,249 sq.ft.
Runoff coefficient after construction (SCS Method):	96

#### 1.7 - Receiving Waters:

The impervious surfaces of the site drain into the municipal system surrounding the site and then discharge into the Fore River near the entrance to Casco Bay (Atlantic Ocean).

### 1.8 - Sequence and Timing of Major Activities:

1. Clear & grub, and demolish as necessary to install a stabilized construction exit, and the sediment barriers as indicated in the construction details in the site plans.
2. Install stabilized construction exit, sediment barriers, and sediment traps as specified in the construction details.
3. Continue to clear & grub, and perform demolition as required.
4. Construct temporary drainage and/or erosion control facilities as necessary (i.e. sediment traps, and/or dandy sacks).
5. Strip and remove any loam, unsuitable materials, and unsuitable soils from the site. Then where necessary, replace with a clean backfill as specified by a Geotechnical Engineer.
6. Perform cuts and fills as required.
7. Temporary stabilize any exposed soils that will not be worked for more than 7 days with seed, mulch or other non-erodable cover. See Section 2.2 below for direction on temporary stabilization practices.
8. Construct any additional temporary sediment and erosion control facilities as required. (i.e. stone check dams and/or dandy sacks).
9. Begin constructing municipal sewer and drainage systems
10. Begin constructing building foundation.
11. Finishing constructing stormwater conveyance systems as required.
12. Finish constructing wastewater conveyance systems as required.
13. Install all other utilities as required.
14. Place bank run gravel course in areas to be paved.
15. Loam, and permanently seed (or sod) all areas that are not to be worked for more than one year or that has been brought to final grade. See Section 2.2 below for direction on permanent stabilization practices.
16. Place crush gravel and construct pads for exterior concrete flatwork and pavement areas.
17. Finish grade, construct, and place all areas of concrete and base course pavement.
18. Install catch basin inlet sediment traps (i.e. silt sacks).
19. Complete loaming, permanent seeding (or sod), and mulching. Reseed any areas that have not been established from prior seeding.
20. Complete final paving (wearing course).
23. When all construction activity is complete and the site is stabilized, remove temporary erosion control measures and reseed (or sod) any areas disturbed by their removal.

### 1.9 - Potential Sources of Pollution

Potential sources of sediment to stormwater runoff:

- Demolition
- Clearing and grubbing operations
- Topsoil stripping and stockpiling
- Grading and site excavation operations
- Vehicle tracking
- Landscaping operations

Potential pollutants and sources, other than sediment, to stormwater runoff:

- Combined Staging Area – small fueling activities, minor equipment maintenance, sanitary facilities, and hazardous waste storage.
- Materials Storage Area – general building materials, solvents, adhesives, paving materials, paints, aggregates, trash, and so on.
- Construction Activity – paving, curb installation, concrete pouring,/mortar
- Concrete Washout Area

Inventory of Potential construction site pollutants:

- |                     |                        |                      |
|---------------------|------------------------|----------------------|
| • Concrete          | • Wood Preservatives   | • Plaster            |
| • Detergents        | • Masonry block        | • Gasoline           |
| • Paints            | • Roofing Material     | • Diesel fuel        |
| • Metal Studs       | • Glue, adhesives      | • Kerosene           |
| • Steel Beams       | • Brick                | • Antifreeze/coolant |
| • Asphalt           | • Insulation           | • Sanitary toilets   |
| • Fertilizers       | • Curing compounds     |                      |
| • Pesticides        | • Hydraulic oil/fluids |                      |
| • Cleaning solvents | • Sheetrock            |                      |

#### 1.10 - Non-Stormwater Discharges:

It is expected that the following non-stormwater discharges will occur from the site during the construction period:

- Fire hydrant flushing;
- Potable water including uncontaminated water line flushing;
- Sprinkler testing;
- Pavement & concrete wash waters where spills or leaks of toxic or hazardous materials have not occurred (unless all spilled material has been removed) and where detergents are not used;
- Uncontaminated groundwater or spring water;
- Waters used to wash vehicles where detergents are not used;
- Water used to control dust;
- Uncontaminated air conditioning or compressor condensate;
- Uncontaminated excavation dewatering;
- Landscape irrigation;
- Foundation or footing drains where flows are not contaminated with process materials such as solvents.

All non-storm water discharges will be directed through sediment control measures before discharge.

#### 1.11 – Endangered Species Certification

The Maine Department of Inland Fisheries and Wildlife, US Fish and Wildlife Service, Maine Natural Areas Program databases were checked for records of rare species and exemplary natural communities near the project area. The species considered include those listed as threatened or endangered by either the State of Maine or the federal government. Currently there are no recorded occurrences for sensitive species near this project area. Please see Appendix C for supporting documentation.

## 1.12 - Applicable State, Tribal, or Local Programs

- Local City of Portland Planning Board Approval is required.
- A Certificate of Appropriateness is required from the Portland Historic Preservation Commission is required.
- The city of Portland is the designated authority for approval of Stormwater Management.

## 1.12 - Maps

Please see Appendix K – For the Demolition, Site, Grading and Erosion Control Plans

## SECTION 2 Erosion and Sediment Control BMPS

### 2.1 - Overview of the Stormwater Management System:

Stormwater runoff from the newly constructed impervious areas will be controlled and conveyed by the use of curbing, catch basins with sumps, and drainage manholes. This on-site drainage system will discharge the runoff into the City's municipal system located in Commercial Street. The drainage flows enter a manhole at the intersection of Maple and Commercial Street and are directed to Casco Bay. During large storm events overflow from the combined sewer system enters the drainage system via a sewer manhole with a weir. This manhole is located in front of the lumberyard entrance on Maple Street. Flows that go above the weir are diverted to the drain manhole located at the intersection of Commercial Street via two 15" RCP pipes. This manhole directs flows to Casco Bay.

The proposed project only slightly increase the on-site impervious cover. Thus detention of stormwater runoff for purposes of mitigating peak flow rates is not required.

Open space areas will be graded as per the site plan and will have permanent seeding or plantings. When construction is completed and the site is stabilized, all accumulated sediment and temporary erosion control devices will be removed from the site and be properly disposed of.

### 2.2 - Stabilization Practices:

• Temporary Stabilization measures shall be performed with mulch or other non-erodable cover any exposed soils that will not be worked for more than 7 days. Stabilize areas within 75 feet of a wetland or water body within 48 hours of the initial disturbance of the soil or prior to any storm event, whichever comes first.

If temporary seeding is being utilized, the mixture will vary based on time of seeding:

4/01 – 5/15	oats	2.0 lbs/1,000 sq.ft.
5/16 - 8/14	sudangrass	1.0 lbs/1,000 sq.ft.
5/16 - 8/14	annual ryegrass	2.0 lbs/1,000 sq.ft.
8/15 - 9/15	winter rye	2.5 lbs/1,000 sq.ft.
9/16 - 3/31	winter rye (protect w/ mulch cover)	2.5 lbs/1,000 sq.ft.

Prior to seeding, all stones and trash that will interfere with the seeding should be removed, the soil should be tilled to a depth of 3 inches (where feasible), and the area should be fertilized with a minimum 7 pounds per 1,000 sq.ft. of a 10-10-10 fertilizer. After seeding, the area is to be mulched with straw.

● Winter Stabilization is necessary when construction activity is performed during the period from November 1<sup>st</sup> through April 15<sup>th</sup>. If disturbed areas are not stabilized with permanent measures by November 1<sup>st</sup> or new soil disturbance occurs after November 1<sup>st</sup>, but before April 15<sup>th</sup>, then these areas must be protected and runoff from them must be controlled by additional measures and restrictions.

● Permanent Stabilization measures shall be performed if an 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, soil, and moisture 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 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. If necessary, areas must be seeded and mulched again if germination is sparse, plant coverage is spotty, or topsoil erosion is evident. One or more of the following may apply to a particular.

An area shall be considered permanently stable if:

- (a) *Seeded Areas* shall have a 90% cover of healthy plants with no evidence of washing or rilling of the topsoil.
- (b) *Sodded Areas* shall have a complete binding of the sod roots into the underlying soil with no slumping of the sod or die-off.
- (c) *Permanent Mulched* areas shall have a 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* used to stabilize slopes shall have an appropriate backing of well-graded gravel or approved geotextile to prevent soil movement from behind the stone. The stone must be sized appropriately. It is recommended that angular stone be used.
- (e) *Paved areas* shall have completed installing the compacted gravel subbase.
- (f) *Ditches, Channels, and Swales* shall have 90% cover of healthy vegetation, with a well-graded riprap lining, 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.

Use permanent seed mixes and rates between 5/15 and 9/30. Permanent lawn mixtures shall be as follows:

Sun areas:	7 to 9 pounds per 1,000 sq.ft.	50% fine fescue 20% perennial ryegrass 20% Kentucky bluegrass 10% Dutch white clover
Shade areas:	4 to 5 pounds per 1,000 sq.ft.	70% fine fescue 20% perennial ryegrass 10% Kentucky bluegrass * *(shade tolerant variety)



Prior to seeding, apply 100 lbs/1,000 sq.ft. of lime and till into the upper 3 inches of soil. Then rake a starter-type fertilizer into the upper inch of soil that delivers 1 lb. of actual Nitrogen per 1000 sq.ft. After seeding, areas shall be mulched with straw.

### 2.3 - Temporary Erosion Control Devices:

- Compost Filled Silt Socks are a type of contained compost filter berm. It is a mesh tube filled with composted material that is placed perpendicular to sheet-flow runoff to control erosion and retain sediment in disturbed areas. The filter sock can be used in place of a traditional sediment and erosion control tool such as a silt fence or straw bale barrier.
- Dandy Sacks are sediment trap devices to be used with catch basin grates to filter out all the sediment-laden stormwater. The suspended solids are allowed to settle out of the slowed flow and are captured by the sack after entering the catch basin inlet.
- Stabilized Construction Exit are a stone stabilized pad located where vehicles leave a construction site. They provide an area where mud can be dislodged from tires before the vehicle leaves the construction site to reduce the amount of mud transported onto paved roads.
- Dandy Curbs are sediment by-pass devices to be placed at an inlet to prevent sediment-laden stormwater from entering a stormwater device. The suspended solids will by-pass the stormwater planter.

### 2.4 - Schedule of Controls/Measures:

- Prior to construction, properly install the Stabilized Construction Exit
- Prior to construction, properly install sediment barriers at the edge of any down gradient disturbed area and adjacent to any drainage channels within the disturbed area.
- Prior to construction, properly install dandy sacks in inlets of any down gradient catch basins from the disturbed area.
- Maintain the sediment controls until the disturbed area is permanently stabilized.
- Once construction activity ceases permanently in an area, that area will be stabilized with permanent seed or mulch. After the entire site is stabilized, all accumulated sediment will be removed from any grassed swales, catch basins, riprap, and silt fences.
- Remove any temporary sediment control measures within 30 days after permanent stabilization is attained
- A log shall be kept to document the timing and description of grading and stabilization activities. Please see Appendix I for the Grading and Stabilization Activities Log.

## **SECTION 3                      Good Housekeeping BMPS**

### **3.1 - Waste Management:**

- **Construction waste materials**

All waste materials will be collected and stored securely in a metal dumpster rented from a local solid waste management company. The dumpster will meet all local and state solid waste management regulations. The dumpster will be emptied as necessary, and the trash will be hauled to the local dump or transfer center. No waste materials generated by construction will be buried onsite. All personnel will be instructed regarding the correct procedure for waste disposal. Notices stating these practices will be posted in the office trailer and the site superintendent managing the day-to-day site operations; will be responsible for seeing that these procedures are followed.

- **Hazardous waste**

All hazardous waste materials will be disposed of in the manner specified by local or state regulation or by the manufacturer. Site personnel will be instructed in these practices and the site superintendent will be responsible for seeing that these practices are followed.

- **Sanitary Waste**

A local licensed sanitary waste management contractor will collect all sanitary waste from the portable units.

### **3.2 - Offsite Vehicle Tracking:**

A stabilized construction entrance will be provided to help reduce vehicle tracking of sediments. The paved street into to the site entrance will be swept as necessary (could be as frequent as daily during heavy earth hauling operations) to remove any excess mud, dirt or rock tracked from the site. Dump trucks hauling material from the construction site will be covered with a tarpaulin.

### **3.3 - Concrete Washout Area:**

Concrete trucks shall only discharge washed out surplus concrete or drum wash water into an above grade concrete washout area. The temporary concrete washout area will be constructed with sufficient quantity and volume to contain all liquid and concrete waste generated by washout operations. The washout area shall be lined with plastic sheeting at least 10 mils thick and free of any holes or tears. Concrete mixer trucks and chutes will be washed in the designated area or concrete wastes will be properly disposed of off-site. The washout area will be cleaned out once the area is filled to 75 percent of the holding capacity or when the temporary washout area is no longer needed for the construction project. The concrete wastes will be allowed to harden; the concrete wastes will be broken up, removed and taken to a landfill for disposal. If the washout area is needed, the plastic sheeting will be replaced if tears occur during the removal of concrete wastes.

The wash water is alkaline and contains high levels of chromium, which can leach into the ground and contaminate groundwater. It can also migrate to a storm drain, which can increase the pH of area waters and harm aquatic life. Solids that are improperly disposed of can clog storm drain pipes and cause flooding. Installing concrete washout facilities not only prevents pollution but also is a matter of good housekeeping at your construction site.

### 3.4 – Spill Prevention:

- The following are material management practices that will be followed onsite during the construction project to reduce the risk of spills or other accidental exposures of material and substances to stormwater runoff.
  - An effort will be made to store only enough product required to do the job
  - All materials stored onsite will be stored in a neat, orderly manner in their appropriate containers and, if possible, under a roof or other enclosure
  - Products will be kept in their original containers with the original manufacturer's label
  - Substances will not be mixed with one another unless recommended by the manufacturer
  - Whenever possible, all of a product will be used up before disposing of the container
  - Manufacturer's recommendations for proper use and disposal will be followed
  - The site superintendent will inspect daily to ensure proper use and disposal of materials
  - Products will be kept in original containers unless they are not re-sealable
  - Original labels and material safety data will be retained; they contain important product information
  - If surplus product must be disposed of, manufacturers' or local and State recommended methods for proper disposal will be followed.
- The following product specific practices will be followed onsite:
  - Petroleum Products:  
All onsite vehicles will be monitored for leaks and receive regular preventive maintenance to reduce the chance of leakage. Petroleum products will be stored in tightly sealed containers which are clearly labeled. Any asphalt substances used onsite will be applied according to the manufacturer's recommendations.
  - Fertilizers:  
Fertilizers used will be applied only in the minimum amounts recommended by the manufacturer. Once applied, fertilizer will be worked into the soil to limit exposure to stormwater. Storage will be in a covered shed or trailer. The contents of any partially used bags of fertilizer will be transferred to a sealable plastic bin to avoid spills.
  - Paints:  
All containers will be tightly sealed and stored when not required for use. Excess paint will not be discharged to the storm sewer system but will be properly disposed of according to manufacturers' instructions or State and local regulations.
- In addition to the good housekeeping and material management practices discussed in the previous sections of this plan, the following practices will be followed for spill prevention and cleanup:
  - Manufacturers' recommended methods for spill cleanup will be clearly posted and site personnel will be made aware of the procedures and the location of the information and cleanup supplies.
  - Materials and equipment necessary for spill cleanup will be kept in the material storage area onsite. Equipment and materials will include but not be limited to brooms, dustpans, mops, rags, gloves, goggles, absorbent (i.e. clay kitty litter), sand, sawdust, and plastic and metal trash containers specifically for this purpose.
  - All spills will be cleaned up immediately after discovery.
  - The spill area will be kept well ventilated and personnel will wear appropriate protective clothing to prevent injury from contact with a hazardous substance.
  - Spills of toxic or hazardous material shall be reported to the appropriated state or local government agency, regardless of the size of the area involved or the quantity of material spilled.

- ## SECTION 4 Inspections

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- In absence of an Opechee Construction Corporation's on-site project manager, the SWPPP contact for the operator (OCC) will conduct inspections

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- Inspections of the site will be performed once every 14 days and within 24-hours of the end of a storm event of one-half inch or greater. The inspections will verify that all BMPs required in this SWPPP are implemented, maintained, and effectively minimizing erosion and preventing stormwater contamination from construction materials. For a copy of the inspection report, see Appendix J.

- The contractor shall remove all accumulated sediment and debris from the Dandy Pop panels and surface and vicinity of unit after each rain event or as directed by engineer/inspector. Dispose of unit no longer in use at an appropriate recycling or solid waste facility.
- Accumulated sediment shall be removed from the dandy sacks when the containment sack is one-third full. Remove the sacks with lifting straps and empty using dumping straps.
- The catch basin sumps will be inspected for sediment build-up and cleaned when sediment has accumulated within 12" of the outlet.
- Temporary and permanent seeding and planting will be inspected for bare spots, washouts and healthy growth
- A maintenance inspection report will be made after each inspection
- All necessary repairs to erosion control measures must be made as soon as possible.

Corrective Actions:

- If corrective actions are identified by OCC's on-site project manager during the inspection, they will notify and submit a copy of the inspection report to the OCC's project manager. For corrective actions identified, OCC's on-site project manager will be responsible for initiating the corrective action within 24-hours of the report and completing maintenance as soon as possible or before the next storm event. For any corrective actions requiring a SWPPP amendment or change to a stormwater conveyance or control design, OCC's on-site project manager will notify the project manager as soon as possible before initiating the corrective action.
- When corrective actions are completed, a log will be kept to describe the repair, replacement, and maintenance of BMPs undertaken as a result of the inspections and maintenance procedures described above. The log entry should reference the specific inspection report related to finding the deficiencies. Please see Appendix H for the Corrective Action Log.
- If changes and updates of the SWPPP are necessary, a log will be kept to describe any additions of new BMPs, replacement of failed BMPs, significant changes in the activities or their timing on the project, changes in personnel, changes in inspection and maintenance procedures, updates to site maps, and so on. Please see Appendix G for the Corrective Action Log.

4.3 – Post Construction Inspection Schedule and Procedures:

**Per Chapter 32 of the City of Portland Code of Ordinances:**

Any person owning, operating, or otherwise having control over a BMP required by a post construction stormwater management plan shall maintain the BMPs in accordance with the approved plan and shall demonstrate compliance with that plan as follows:

(a) *Inspections.* The owner or operator of a BMP shall hire a qualified post-construction stormwater inspector to at least annually, inspect the BMPs, including but not limited to any parking areas, catch basins, drainage manholes, pipes and related structures, in accordance with all municipal and state inspection, cleaning and maintenance requirements of the approved post-construction stormwater management plan.

(b) *Maintenance and repair.* If the BMP requires maintenance, repair or replacement to function as intended by the approved post-construction stormwater management plan, the owner or operator of the BMP shall take corrective action(s) to address the deficiency or deficiencies as soon as possible after the deficiency is discovered and shall provide a record of the deficiency and corrective action(s) to the department of public services ("DPS") in the annual report.

(c) *Annual report.* The owner or operator of a BMP or a qualified post-construction stormwater inspector hired by that person, shall, on or by June 30 of each year, provide a completed and signed certification to DPS in a form provided by DPS, certifying that the person has inspected the BMP(s) and that they are adequately maintained and functioning as intended by the approved post-construction stormwater management plan, or that they require maintenance or repair, including the record of the deficiency and corrective action(s) taken.

(d) *Filing fee.* Any persons required to file and annual certification under this section shall include with the annual certification a filing fee established by DPS to pay the administrative and technical costs of review of the annual certification.

(e) *Right of entry.* In order to determine compliance with this article and with the post-construction stormwater management plan, DPS may enter upon property at reasonable hours with the consent of the owner, occupant or agent to inspect the BMPs.

#### **Maintenance Schedule:**

- The dumpster area shall be inspected routinely for spillage and should be cleaned as necessary. All outside waste receptacles provided for public use should be routinely emptied.
- The catch basins and drain manholes shall be inspected at least twice annually and after major storm events to ensure they are functioning properly. At a minimum the catch basins on site shall be cleaned biannually. Sediment shall be removed when it approaches half of the sump depth. If floating hydrocarbons are observed during an inspection, the materials shall be removed immediately by skimming, absorbent materials, or other method and disposed in conformance with applicable state and federal regulations.
- The Stormwater Planter shall be inspected at least twice annually and after major storm events to ensure it is functioning properly. If the stormwater planter does not drain within 72-hours following a rainfall event, a qualified professional shall assess the condition of the facility to determine measures required to restore filtration function, including but not limited to removal of accumulated sediments or reconstruction of filter media. The highest maintenance burden occurs during the first two years of operation as the vegetation grows and the system begins to stabilize. Once vegetation is established, maintenance decreases and becomes very predictable, similar to what is required for standard landscaping. Common maintenance tasks include, raking, and pruning of vegetation.
- The preferred method of removing and cleaning the sediments, debris, and hydrocarbons from the drainage structures is by a vacuum truck. Other reasonable methods will be allowed.

#### **Inspection & Maintenance Overview:**

- All sediments and hydrocarbons shall be properly handled and disposed, in accordance with local, state and federal guidelines and regulations.
- The dumpster areas shall be inspected routinely for spillage and shall be routinely emptied. All outside waste receptacles provided for public use shall be routinely emptied.

<b>SECTION 5</b>	<b>CERTIFICATION AND NOTIFICATION</b>
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I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Name: Steve Long Title: Project Manager

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

## **SWPPP APPENDICES**

Attach the following documentation to the SWPPP:

**Appendix A –Maine Construction General Permit**

**Appendix B – General Map**

**Appendix C –Essential Habitat Inquiry Results**

**Appendix D – Delegation of Authority**

**Appendix E – Subcontractor Certifications/Agreements**

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**Appendix K – Demolition, Site, Grading and Erosion Control Plans**



## **Appendix A: Maine Construction General Permit**

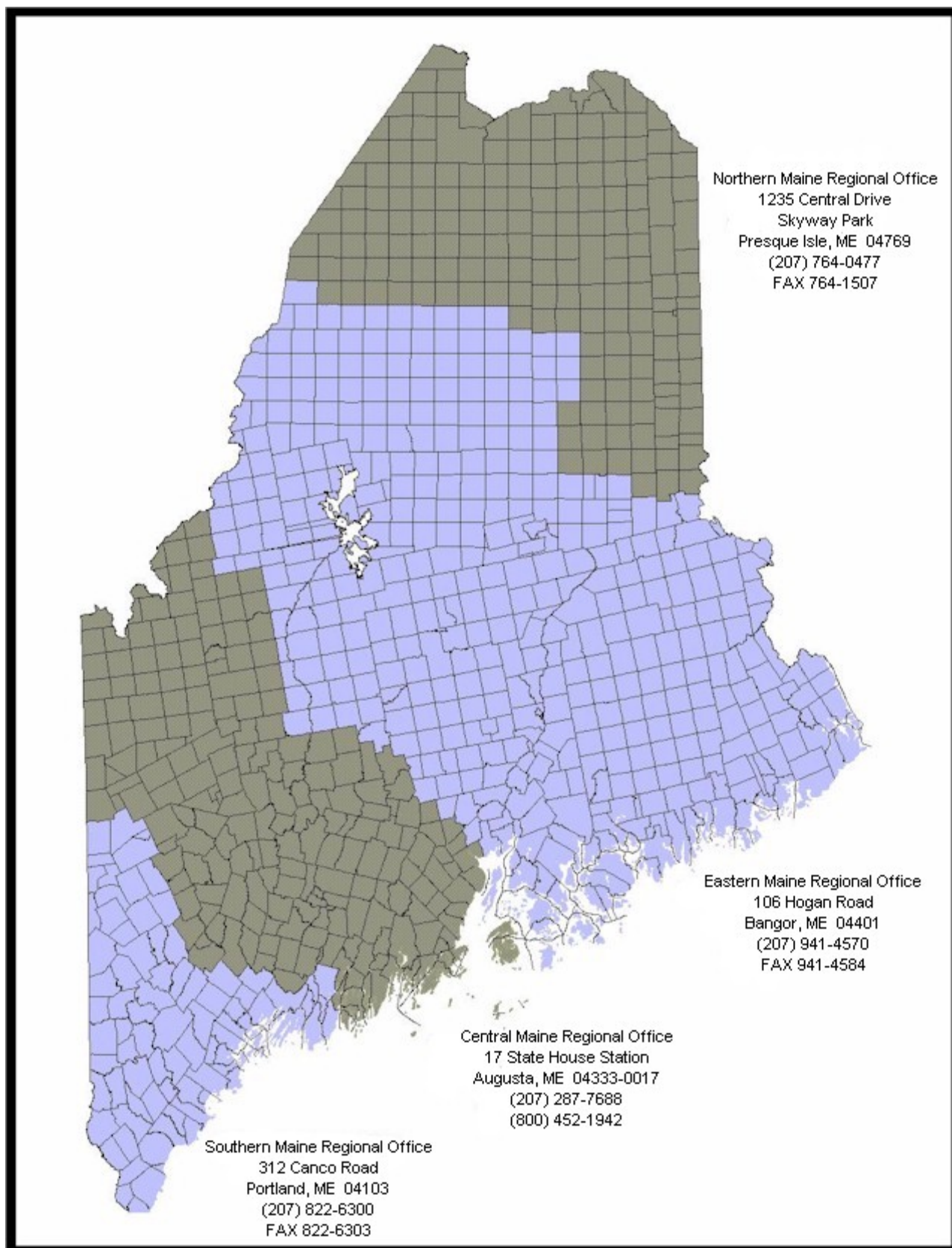
**Portland Maine is a delegated permitting authority for the  
EPA's NPDES Construction General Permit**

**STATE OF MAINE**  
**DEPARTMENT OF ENVIRONMENTAL PROTECTION**

**General Permit – Construction Activity**

**Maine Pollutant Discharge Elimination System (MPDES)**  
**With Basic Performance Standards Appendices**





## **GENERAL PERMIT -- CONSTRUCTION ACTIVITY**

### **Maine Pollutant Discharge Elimination System (MPDES)**

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## **PART I -- General Permit Coverage**

- A. General coverage of this permit.** This general permit authorizes the direct discharge (point source discharge) of stormwater associated with construction activity to waters of the state other than groundwater, provided that the discharge meets the requirements of this general permit and applicable provisions of Maine's waste discharge and water classification statutes and rules. This general permit also authorizes the direct discharge of stormwater from support activities. "Construction activity" is defined in Part II (page 2).

This general permit is effective July 21, 2006, and authorization to discharge under this general permit expires January 20, 2008. This general permit applies in those parts of the State of Maine for which the Department has received delegated authority under the federal NPDES program. See Part V (page 10), for a list of specific limitations on coverage of this general permit.

- B. Authority.** A permit is required for the direct or indirect discharge of pollutants to waters of the State.<sup>1</sup> A general permit may be issued for point discharges (direct discharges) of stormwater.<sup>2</sup> A violation of a condition or requirement of a general permit constitutes a violation of Maine's water quality laws and the federal Clean Water Act, and subjects the discharger to penalties under 38 M.R.S.A. § 349, and § 309 of the Clean Water Act. Nothing in this general permit is intended to limit the Department's authority under the waste discharge and water classification statutes or rules. This general permit does not affect requirements under other applicable Maine statutes such as Site Location of Development (Site Law), Stormwater Management, Land Use Regulation Commission (LURC), and Natural Resources Protection (NRPA).
- C. Continuation of expired General Permit.** If this permit is not reissued, revoked or replaced prior to the expiration date, it will be administratively continued in accordance with the Administrative Procedures Act and remain in force and effect. Any permittee who was granted permit coverage prior to the expiration date will automatically remain covered by the continued permit until the earlier of:

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<sup>1</sup> See 38 M.R.S.A. § 413.

<sup>2</sup> See 06-096 CMR 529(2)(a)(2)(i).

1. Reissuance or replacement of this general permit, at which time the permittee must comply with the notice of intent conditions of the new permit to maintain authorization to discharge; or
2. The permittee's submittal of a Notice of Termination; or
3. Issuance of an individual permit for the permittee's discharges; or
4. A formal permit decision by the Director not to reissue this general permit, at which time the permittee must seek coverage under an alternative general permit or individual permit.

This general permit does not prevent a municipality from adopting stricter standards than contained in this general permit, or in state or federal law.

## **PART II -- Definitions**

The following terms have the following meanings when used in this general permit. Additional definitions are found in 06-096 CMR 520 and in the waste discharge and classification laws.

**A. Construction activity.** "Construction activity" or "activity" means:

1. Construction activity including one acre or more of disturbed area, or activity with less than one acre of total land area that is part of a common plan of development or sale, if the common plan of development or sale will ultimately disturb equal to or greater than one acre; or
2. Any other construction activity designated by the Department based on the potential for contribution to a violation of a water quality standard or for significant contribution of pollutants to waters of the State.

Note: Based upon Maine's soils, topography, and extensive water resources, the Department has determined that the great majority of construction activities disturbing one acre or more will result in discernable concentrated flows (direct discharges) to waters of the state.

**B. Common plan of development or sale.** A "common plan of development or sale" means a subdivision as determined by the Land Use Regulation Commission (LURC), or a subdivision under municipal law as determined by the municipality where the subdivision is located.

**C. Department.** "Department" means the State of Maine Department of Environmental Protection.

**D. Direct discharge.** "Direct discharge" or "point source" means any discernible, confined and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation or vessel or other floating craft, from which pollutants are or may be discharged.<sup>3</sup>

**E. Direct watershed of a waterbody or wetland.** "Direct watershed of a waterbody or wetland" is the land area that drains, via overland flow, natural or man-made drainage systems, or waterbodies or wetlands, to a given waterbody or wetland without first passing through an upstream waterbody classified as GPA.

**F. Disturbed area.** "Disturbed area" is clearing, grading and excavation, which means all the land areas that are stripped, graded, grubbed, filled, or excavated at any time during the site preparation or removing vegetation for, or construction of, a project. "Disturbed area" does not include routine

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<sup>3</sup> 38 MRSA § 466(5) (definition of "direct discharge") and 06-096 CMR 520 (definition of "point source").

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 an impervious gravel surface while maintaining the original line and grade, hydraulic capacity and original purpose of the facility is considered *routine* maintenance. Cutting of trees, without grubbing, stump removal, disturbance or exposure of soil is not considered "disturbed area".

- G. Drainageway.** "Drainageway" is a natural or man-made channel or course within which and from which surface discharge of water may occur. Drainageways include, but are not limited to rivers, streams and brooks (whether intermittent or perennial), swales, ditches, pipes, culverts, and wetlands with localized discharge of water.
- H. Impaired waterbody.** An "impaired waterbody" means a waterbody that is not attaining water quality criteria or standards, as determined by the Department and listed in Chapter 502.<sup>4</sup>
- 1. Best currently available data.** The Department may use the best currently available data to determine the status of a waterbody, rather than relying upon the list published in Chapter 502, Direct Watersheds of Lakes Most at Risk from New Development, and Urban Impaired Streams, when the activity itself may have caused or contributed to the impairment, or when the Department reviews an application for a permit such as an individual Waste Discharge license or Site Law permit.
- I. Notice of Intent ("NOI").** "Notice of Intent or "NOI" means a notification of intent to seek coverage under this general permit made by the applicant to the Department on a notification form provided by the Department.
- J. Notice of Termination ("NOT").** "Notice of Termination" or "NOT" means a notification of intent to end coverage under this general permit on a form provided by the Department.
- K. Person.** "Person" means an individual, firm, corporation, municipality, quasi-municipal corporation, state agency, federal agency or other legal entity.<sup>5</sup>
- L. Stormwater.** "Stormwater" means the part of precipitation, including runoff from rain or melting ice and snow that flows across the surface as sheet flow, shallow concentrated flow, or in drainageways. "Stormwater" has the same meaning as "storm water".
- M. Stream.** "Stream" means a river, stream or brook as defined in the Natural Resources Protection Act at 38 M.R.S.A. § 480-B.
- N. Support activities.** "Support activities" means support activities associated with a construction activity (e.g. concrete or asphalt batch plants, equipment storage yards, material storage areas, excavated material disposal areas, borrow areas) provided the following requirements are met.
- 1. Direct relationship.** The support activity is directly related to a construction site that is required to have waste discharge permit coverage for discharges of storm water associated with construction activity.
- 2. Type of operation.** The support activity is not a commercial operation serving multiple unrelated construction projects by different persons, and does not operate beyond the completion of the construction activity at the last construction project it supports.

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<sup>4</sup> See 06-096 CMR 502

<sup>5</sup> See 38 M.R.S.A. § 361-A(4).

### **PART III -- Requirements**

Part III describes the requirements for obtaining authorization under this general permit. See Part IV for general submission requirements and procedures related to Notices of Intent (NOIs) and Notices of Termination (NOTs).

A person may not construct or cause to be constructed or operate or cause to be operated or, in the case of a common plan of development or sale (subdivision), sell or lease, offer for sale or lease or cause to be sold or leased any area affected by construction activity without obtaining approval from the Department. A person having an interest in or undertaking an activity on a parcel of land affected by this general permit may not act contrary to this general permit.

**A. Construction activity (other than a common plan of development or sale).** Construction activity including one acre or more of disturbed area on the parcel, or other construction activity designated by the Department, must meet the following requirements.

1. Submit NOI and NOT.
2. Meet the standards in Appendices A-C of this general permit.
3. Erosion and sedimentation control (ESC) plan development and maintenance. This plan demonstrates how the standards in Appendix A will be met. An ESC plan is required pursuant to the Site Law and this general permit, however additional requirements may apply pursuant to the Site Law. See Part III (D) concerning referencing a plan submitted as part of a Site Law application.

**B. Common plan of development or sale.** A common plan of development or sale must meet the following requirements.

1. **Site Law, Stormwater, or LURC.** A common plan of development or sale is considered to meet the requirements of this general permit if:
  - a. A Site Law, Stormwater (38 M.R.S.A. § 420-D), or LURC permit is required, and the requirements of Part III (A) are met; and
  - b. If a Stormwater permit is required, the requirements of Part III(A) are also met on all associated lots in the subdivision, as determined by the Department.

The Department will assume that one acre of disturbed area will be created per 3 lots (1/3 ac. per lot), unless the person proposing the common plan of development or sale provides information concerning actual disturbed area.

2. **Other.** If the project does not require a Site Law, Stormwater, or LURC permit, and is not located within an area subject to the jurisdiction of LURC, then the project must meet the standards of the Maine Erosion and Sedimentation Control Law. An NOI is not required.

A lot buyer or subsequent transferee within a common plan of development or sale must submit an individual NOI if he or she proposes a construction activity as defined at Part II (A), regardless of whether the developer has filed an NOI.

The standards apply to the lots in the subdivision as well as associated facilities such as roads, pads, and ponds.

Note: The LURC Development Law only applies to areas of the state administered by the Land Use Regulation Commission (LURC). The Maine Site Law (in regard to subdivisions), Erosion and Sedimentation Control Law, and Stormwater Management Law, apply to projects or portions of projects outside the jurisdiction of LURC.

- C. Total maximum daily load (TMDL).** If the waterbody to which a direct discharge drains is impaired and has an EPA approved TMDL, then the discharge must be consistent with any waste load allocation (WLA) contained in the TMDL and any implementation plan.
- D. ESC plan.** Material submitted with an application for a Site Law or Stormwater Management Law permit may be referenced to the extent it substantively addresses the standards in Appendix A. If all the standards are not addressed, supplementary material must be provided with the NOI. If an applicant wishes the Department to rely in whole or part on a submission that is part of a Site Law or Stormwater Management Law application, the applicant should submit a letter with the NOI describing the previous submission and the extent to which it should be relied upon, and listing the standards addressed by any supplementary material.

#### **PART IV. Procedure**

- A. Notice of Intent (NOI).** When the applicant submits a notification form, NOI, he or she agrees to comply with the standards and requirements of this general permit. An NOI must be submitted to the Department with the appropriate fee.

- 1. Processing of NOI.** An NOI must be reviewed and approved by the Department prior to beginning construction activity or causing soil disturbance except as provided in Part IV(K).

The NOI is deemed approved 14 calendar days after the Department receives the notification form, unless the Department approves the notification or finds the notification deficient prior to that date. Within the 14 day period, the Department may notify the applicant in writing or through verbal communication that the project is ineligible for coverage under this general permit, or that additional information is needed or further review is required.. If the DEP does not inform the applicant that the notification is unacceptable within this 14-day period, the notification is deemed accepted by the Department and the applicant may proceed to carry out the activity

Activities that require a permit under the Site Location of Development or the Storm Water Management Acts may not proceed until any required permit under those laws is obtained. Any NOI and supplementary information required by this subsection should be submitted at the same time as any required Stormwater Management or Site Law application for the activity in order to avoid delays in processing. The NOI may not be filed before these applications. The Department may consolidate application materials with these or other programs. When application materials are consolidated, the review period for the NOI is extended to coincide with the review period of the other program.

- 2. Submission.** Applicants for a Maine CGP must submit the notification form, fee and other information for the Department's review and approval. This information includes a location map, site plan, erosion and sedimentation plan, and photographs of the area to be developed. Also, if the project is located in Essential Habitat, approval from Department of Inland Fisheries and Wildlife will need to be submitted. A landowner or leasehold owner, or his or her authorized representative, must file the NOI using a form provided by the Department. The NOI must contain information specified by the Department that is listed in this subsection. The Department



may require the submission of additional information as necessary. Send the completed NOI form to the DEP office serving the area where the project is located. This general permit contains a map showing the municipalities served by the Department regional offices and the regional office mailing addresses.

- a. The legal name, address, telephone number, and any email address of the landowner or leasehold owner.
- b. The legal name, address, telephone number, and any email address of the agent or contractor.
- c. A narrative describing in detail how to get to and access the parcel and construction activities, and a USGS or similar map with the location marked.
- d. A narrative describing the project and its purpose.
- e. UTM Northing and UTM Easting (if known)
- f. The size of disturbed area proposed.
- g. Name of the receiving water(s) or if the discharge is through a municipal separate storm sewer system, the name of the municipal operator of the storm sewer.
- h. Signature of applicant (landowner or lessee) or authorized representative with documentation showing authorization. For signatory requirements, see 06-096 CMR 521(5).
- i. For any construction activity occurring within an essential habitat or that may violate protection guidelines, written approval of the activity from the Department of Inland Fisheries and Wildlife (IF&W). The applicant must follow any conditions stated in the IF&W approval.<sup>6</sup>

Note: Maps showing areas of essential habitat are available from the Department of Inland Fisheries and Wildlife regional headquarters, municipal offices, the Land Use Regulation Commission (or areas within LURC's jurisdiction) and DEP regional offices. If the activity is located in essential habitat, IF&W must be contacted to request and obtain a "certification of review and approval."

- B. Location map.** The Notification form must be accompanied by a photocopy of a portion of a 7.5 minute USGS topographic map or a DeLorme Atlas map showing the site's location and approximate property boundaries, if the size of the parcel and scale of the map allows it. A USGS topographic map can be useful for showing the general contour and topography of the project site.
- C. Site plan.** Submit a scaled plan showing, at a minimum, the locations of structures and roads, the extent of disturbed land, pre-construction site topography, post-construction site topography, on-site and adjacent surface waterbodies, and all erosion and sedimentation control measures to be used on the site. Such measures include, but are not limited to, sedimentation barriers, ditch lining, rip rap, and culvert inlet and outlet designs. Identify retained downgradient buffers, or explain in a narrative why such buffers will not be retained (see Pollution Prevention standard, Appendix A(1)). Identify protected natural resources, such as wetlands, streams, or high water line of ponds or coastal wetlands on the site plan. It is not necessary to have the plan professionally prepared. However, it must be legible and drawn to a scale that allows clear representation of distances and measurements on the plan.

An applicant may substitute the following information for surveyed pre-development and post-development site topography on the location plans:

1. the locations of high points on the site,
2. the locations of any ponds or other runoff storage depressions on the site,

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<sup>6</sup> A state agency may not license a project that will significantly alter habitat of any species designated as threatened or endangered, or violate protection guidelines, without a determination from IF&W. See 12 M.R.S.A. § 7755-A.

3. the locations and flow direction of any drainage ditches, brooks, or streams,
4. the locations of any catch basin inlets or culvert inlets, and
5. arrows showing the general direction(s) of overland drainage for the site.

**D. Erosion and Sedimentation Control plan.** In addition to a site plan, an erosion control plan must be included which contains, at a minimum, permanent stabilization measures to be taken (e.g. paving or planting vegetation), installation details of the erosion control measures proposed to be used, seeding and mulching rates, and a construction schedule with the proposed construction dates and timeframe for major earth moving and construction events. **This plan and its details may be included on the site plan instead of being a separate submission.**

An erosion and sedimentation control plan must be designed by a professional who is registered, licensed, or certified in a related land-use field, or by education, training, or experience is knowledgeable in erosion and sedimentation control, or has received specific training in erosion and sedimentation control at a department-sponsored erosion and sedimentation control workshop.

Note: A person who conducts, or causes to be conducted, an activity that involves filling, displacing or exposing soil or other earthen materials shall take measures to prevent unreasonable erosion of soil or sediment beyond the project site or into a protected natural resource as defined in 38 M.R.S.A. § 480-B. Sediment control measures must be in place before the activity begins. Measures must remain in place and functional until the site is permanently stabilized. Adequate and timely temporary and permanent stabilization measures must be taken. The site must be maintained to prevent unreasonable erosion and sedimentation. See 38 M.R.S.A § 420-C (in part). Other or additional standards may apply, under the Natural Resources Protection Act, to a project located in or adjacent to a protected natural resource.

**E. Photos.** Provide photographs of the project site that show the existing character and topography of the area proposed for development.

**F. Notice of Termination (NOT).** The permittee shall submit a Notice of Termination (NOT) on a form provided by the Department within 20 days of the completion of permanent stabilization or within 20 days of obtaining coverage under an alternative MEPDES permit. If the property is transferred and construction activity is ongoing, the permittee is not required to file an NOT if the new owner or lessee files an NOI to continue authorization under this general permit for a continuing discharge.

**1. Common plan of development or sale.** A person who has filed an NOI for a common plan of development or sale shall file an NOT as follows.

- a. For areas of the site over which the developer has control, the NOT must be filed after permanent stabilization has been completed.-
- b. For areas of the site over which the developer does not have control (ex. lots sold in an undeveloped or partially undeveloped state), the NOT must be filed after (i) temporary stabilization including perimeter controls for individual lots have been completed if the developer has done prep work (stripping or grading) on the lots, (ii) the developer has informed the lot buyers of the requirements of this general permit, and (iii) the developer has provided the buyers with copies of any erosion control plan, or portion of a plan applicable to the lots, required to be certified or provided to the Department under the requirements of this general permit.

A lot buyer within a common plan of development or sale is required to meet the standards of this general permit, except that residential lot buyers are not required to maintain inspection logs as provided in Appendix A(2).

2. **Timing.** A permittee's authorization to discharge under this permit terminates at midnight on the day the NOT is signed.
3. **Submission.** The NOT must include information specified by the Department, including the following:
  - a. The legal name, address, telephone number, and any email address of the landowner or leasehold owner.
  - b. The legal name, address, telephone number, of the agent or contractor.
  - c. Photographs showing the completed project and the affected area. Exception: a person filing an NOT for a common plan of development is not required to include photographs for disturbed areas created by lot buyers or lessees.
  - d. Signature of the permittee or authorized person together with documentation demonstrating authorization. If documentation has been previously submitted and is still current, it may be referenced.

**G. Mail/copy.** The notification forms must be sent to the DEP by certified mail (return receipt requested) or other service providing a record of DEP's receipt of the item to the sender, or hand delivered to the DEP and date stamped by the Department. The applicant must keep a copy of the notification forms and all materials provided to the Department.

#### **H. Retention of records**

1. **Documents.** The permittee shall retain copies of the ESC plan and any forms, submissions, reports, or other materials required by this general permit for a period of at least three years from the completion of permanent stabilization. This period may be extended by request of the Department.
2. **Accessibility.** Employees and agents of the Department may enter any property at reasonable hours in order to determine compliance.<sup>7</sup> The permittee shall retain a copy of the ESC plan and this general permit at the construction site or other location accessible to the Department, local government officials, and any operator of a municipal separate stormwater sewer receiving discharges from the site, from project initiation to permanent stabilization. The permittee shall ensure that a copy of the ESC plan and this general permit are available for the use of any contractors on the site undertaking work regulated by this general permit.

**I. Changes in the activity or owner/lessee.** Coverage under this general permit will be continued provided there are no changes in the discharge as described in the NOI and associated submissions. If any changes are proposed in the activity, the person having filed the NOI must notify the Department through the submission of updated information in writing, including submitting or obtaining certification for any revisions to an ESC plan required in Part III.

The updated information must be submitted with a new NOI if the permittee proposes to expand or relocate disturbed area of one acre or more beyond what was indicated in the original NOI, or to

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<sup>7</sup> See 38 M.R.S.A. § 347-C(in part).

change the waterbody to which the stormwater will be discharged. Information concerning other changes may be submitted in a letter.

If the owner or lessee of the land changes, the new owner or lessee must file an NOI if he or she wishes to continue coverage under this general permit. Materials submitted with an NOI by a prior owner or lessee may be referenced if they are still current. Exception: a lot buyer or subsequent transferee of a lot within a common plan of development or sale is not required to file an NOI unless he or she proposes a construction activity as defined in Part II(A).

**J. Request to be excluded.** A person may request that an activity be excluded from coverage under this general permit and apply for an individual waste discharge permit pursuant to the Department's rules. When an individual permit is issued to a person otherwise subject to this general permit, the applicability of this general permit to that person is automatically terminated on the effective date of the individual permit.

**K. Effect of prior approvals.**

**1. Construction activity including one acre or more of disturbed area.** This subsection applies for purposes of determining jurisdiction under the "one acre" threshold only.

- a. Persons disturbing less than 5 acres. A person with on-going construction activity as of July 21, 2006, who received authorization to discharge under a prior MCGP(s) and whose activity includes less than 5 acres of disturbed area and, that have not submitted a NOT do not have to submit a new NOI to obtain coverage under this general permit and are authorized under this general permit provided that the activity meets the standards of this general permit.
- b. Persons disturbing 5 or more acres. A person with on-going construction activity as of July 21, 2006, who received authorization to discharge for the activity under a prior MCGP(s) and have or will disturb five or more acres shall submit a new notice of intent (NOI) prior to or on October 20, 2006. The new NOI may reference information in prior NOI submissions to the extent it is still current.

**2. Common plan of development or sale.** This subsection applies for purposes of determining jurisdiction under the "common plan of development or sale" threshold only.

A common plan of development or sale (subdivision) is not required to meet the requirements of this general permit if it received approval from LURC or the municipality where it is located before March 10, 2003.

- a. If a subdivision that received municipal or LURC approval prior to March 10, 2003, is modified on or after the effective date of this permit so as to add three or more subdivision lots as determined by LURC or the municipality, this general permit applies to those lots and their associated facilities as provided in Part III.
- b. If a subdivision receives approval on or after March 10, 2003, then this general permit does not apply to lots transferred before March 10, 2003.

Note: A person subdividing land must still file an NOI if he or she will undertake construction activity on the parcel that includes one or more acres of disturbed area, as provided in Part III(A). Examples of such activity would be road or pad construction, or stripping and grading. A single NOI may be filed for both the common plan of development or sale and this disturbed area.

## **PART V -- Limitations on Coverage**

- A. Individual permit or other general permit.** This general permit does not authorize a stormwater discharge associated with construction activity that requires an individual waste discharge permit or is required to obtain coverage under another waste discharge general permit. See Part VI(A) for information on related waste discharge permits.

The Department may require any person with a discharge authorized by this general permit to apply for and obtain an individual permit.<sup>8</sup> When the DEP notifies an applicant that an individual permit is required, no work may be begun or continued unless and until the individual permit is obtained. Any interested person may petition the Department to take action under this paragraph. Examples of when an individual waste discharge permit may be required are specified in rule.<sup>9</sup>

- B. Compliance with this general permit.** This general permit does not authorize a stormwater discharge that is not in compliance with the requirements of this general permit. If the Department determines that the standards of this general permit have not been met, the Department shall notify the person and may:

1. Authorize coverage under this general permit after appropriate controls and implementation procedures designed to bring the discharge into compliance with this general permit and water quality standards have been implemented as determined by the Department;
2. Require an individual waste discharge permit; or
3. Inform the person that the discharge is prohibited.

Compliance with this subparagraph does not preclude any enforcement activity under Maine law for an underlying violation.

- C. Non-stormwater.** This general permit does not authorize a discharge that is mixed with a source of non-stormwater, other than those discharges in compliance with Appendix C(6).
- D. Total maximum daily load (TMDL).** This general permit does not authorize a direct discharge that is inconsistent with any EPA approved TMDL for the waterbody to which the direct discharge drains as provided in Part III(C).
- E. Discharge of hazardous substances, chemicals, or oil.** This general permit does not authorize the discharge of hazardous substances, chemicals, or oil resulting from an on-site spill.
- F. Violation of water quality standards.** This general permit does not authorize a discharge that may cause or contribute to a violation of a water quality standard.
- G. Related laws.** This general permit does not authorize stormwater discharges that are not in conformance with the terms and conditions of permits issued under Site Location of, 38 M.R.S.A. §§ 481-490; Stormwater Management, 38 M.R.S.A. § 420-D; Natural Resources Protection, 38 M.R.S.A. §§ 480-A - 480-Z; or the Land Use Regulation Commission §§ 481 *et. seq.*. This general permit does not authorize stormwater discharges that are not in conformance with the Maine Erosion and Sedimentation Control Law, 38 M.R.S.A. § 420-C.

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<sup>8</sup> See 06-096 CMR 529(2)(B)(3).

<sup>9</sup> 06-096 CMR 529(2)(b)(3)

- H. Post-construction discharges.** This general permit does not authorize stormwater discharges after the completion of permanent stabilization.
- I. Metallic mineral mining or advanced exploration.** This general permit does not authorize discharges from metallic mineral mining or advanced exploration. Stormwater and erosion and sedimentation standards related to construction are specified in the Site Location of Development permit and LURC permit and, if required, an individual waste discharge permit.
- J. Exemptions.** Certain exemptions apply and are specified in the Maine Waste Discharge Law. An exemption in a Maine law other than the Maine Waste Discharge Law, such as the Site Law or Maine Stormwater Management Law, does not create an exemption to the Maine Waste Discharge Law or the requirements of this general permit. Each law has its own set of statutory exemptions.
- K. Reopener.** This general permit may be modified or reopened as provided in 38 M.R.S.A. § 414-A(5).

## **Part VI -- Relationship to other programs**

An activity may include "construction activity" and also be regulated under other programs.

### **A. Related waste discharge permits**

- 1. Multi-sector.** A stormwater discharge requiring approval as an industrial activity other than 06-096 CMR 521(b)(14)(x) is not authorized under this general permit.
- 2. Waste discharge permit (surface water).** A waste discharge permit may be required for activities such as combined sewer overflows (CSOs), spray irrigation, process water treatment systems, metallic mine drainage, and other discharges inadequately covered by this general permit, as determined by the Department.
- 3. Waste discharge permit (groundwater).** A waste discharge permit may be required for the discharge of stormwater through any well or wells, including drywells and subsurface fluid distribution systems. For complete requirements, see 06-096 CMR 543.

A "subsurface fluid distribution system" is an assemblage of perforated pipes, drain tiles, or similar mechanisms intended to distribute fluids below the surface of the ground. A "well" is a bored, drilled, or driven shaft the depth of which is greater than the largest surface dimension, whether the shaft is typically dry or contains liquid; or a dug hole the depth of which is greater than the largest surface dimension; or a subsurface fluid distribution system. "Well injection" means the subsurface discharge of fluids into or through a well.

- B. Quarry or an excavation for borrow, clay, topsoil, or silt.** Clearing, grading or excavation activities conducted as part of the exploration and construction phase of a mineral mining operation must meet the requirements of this general permit, if they will result in the direct discharge of stormwater to waters of the state other than groundwater, will disturb one or more acres of land, and occur on or after March 10, 2003. These requirements do not apply to an area that is internally drained. Construction activity includes the building of site access roads and removal of overburden and waste rock to expose mineable materials. If the activity must meet the requirements of this general permit, the following exceptions apply.

1. **Stabilization deadlines.** The 14 day time limit for temporary stabilization in Appendix A(3), and the one-year time limit for permanent stabilization in Appendix A(5) do not apply.
2. **If under the Gravel Pit or Quarry Program -- may need to do an ESC plan.** If the clearing, grading, or excavation activity subject to this general permit is also required to meet the Performance Standards for Excavations for Borrow, Clay, Topsoil or Silt,<sup>10</sup> or Performance Standards for Quarries<sup>11</sup>, then the operator does not have to meet the requirements specified in Part III of this general permit, except for the ESC plan requirements in Part III(A)(2).

In some cases, an area that is not internally drained initially may become internally drained during construction. For an area that has become internally drained, it is not necessary to undertake stabilization as otherwise required under this general permit before filing the NOT.

- C. Other programs such as Site Law, Stormwater, and Waste.** The Department may combine application requirements for this general permit and other programs administered by the Department. Other programs may include facilities and projects regulated pursuant to programs such as 38 M.R.S.A. § 1310-N (Solid waste facility licenses), 1319-R (facility siting), 1319-X (criteria for development of waste oil facilities and biomedical facilities), 38 M.R.S.A. § 483-A (Site Location), 38 M.R.S.A. 420-C (Stormwater Management), and 12 M.R.S.A. § 685-A (LURC). In case of a conflict between the standards in Appendix A, B, and C and those adopted pursuant to any of these laws, the stricter standard applies, as determined by the Department. The review period for the NOI may be extended as provided in Part IV(A)(1)(b). The Department may waive the fee required with the NOI pursuant to this general permit for certain combined applications. Completing a stormwater Permit By Rule notification meets the requirements of this general permit.
- D. Silvicultural activities.** Authorization under this general permit is not required for non-point silvicultural activities as provided in 06-096 CMR 521(10).
- E. Maine Department of Transportation.** Construction activities conducted by the Maine Department of Transportation (MDOT) or the Maine Turnpike Authority (MTA) pursuant to a Memorandum of Agreement between the Department, and MDOT and MTA, are authorized under this general permit within the limits of coverage specified in this general permit. MDOT and MTA are considered qualifying state programs as provided in 40 CFR 122.44(s).

## **PART VII -- Standard Conditions**

- A. General restrictions.** A discharge covered by a General Permit may not:

1. Be to a body of water classified as Class GPA, AA, A or SA;<sup>12</sup>
2. Be to a body of water having a drainage area of less than 10 square miles;
3. Contain any pollutant, including toxic substances, in quantities or concentrations, which may cause or contribute to any adverse impact on the receiving water;

<sup>10</sup> 38 M.R.S.A. §§ 490-A et. seq.

<sup>11</sup> 38 M.R.S.A. §§ 490-W et. seq.

<sup>12</sup> This standard condition is required by 06-096 CMR 529(3), effective January 12, 2001. However, note that 38 M.R.S.A. 465-A(1)(C), 465(1)(C) allow discharge of stormwater to GPA, AA and SA waters if the discharge is in compliance with state and local requirements. For requirements applicable to discharges to Class A waters, see 38 M.R.S.A. 465(2)(C). The Department is proposing emergency legislation to allow certain stormwater discharges to Class A waters and to watersheds of less than 10 square miles. The statutory provisions control for purposes of this general permit.

4. Be to a receiving water which is not meeting its classification standard for any characteristic which may be affected by the discharge; or
  5. Impart color, taste, turbidity, radioactivity, settleable materials, floating substances or other properties that cause the receiving water to be unsuitable for the designated uses ascribed to its classification.
- B. Removed substances.** Pollutants removed or resulting from the treatment of wastewaters must be disposed of in a manner approved by the Department.
- C. Monitoring requirement.** The Department may require monitoring of an individual discharge as may be reasonably necessary in order to characterize the nature, volume or other attributes of that discharge or its sources.
- D. Other information.** When the permittee becomes aware that he or she failed to submit any relevant facts or submitted incorrect information in the Notice of Intent or in any other report to the Department, he or she shall promptly submit such facts or information.
- E. Other applicable conditions.** The conditions in 06-096 CMR 523(2) also apply to discharges pursuant to this general permit<sup>13</sup> and are incorporated herein as if fully set forth. These conditions address areas such as: duty to comply; need to reduce or halt activity not a defense; duty to mitigate; permit actions; property rights; duty to provide information; and inspection and entry.
- F. Duty to reapply.** If the permittee wishes to continue an activity regulated by this general permit after the expiration date of this general permit, the permittee must apply for and obtain a new permit.
- G. Severability.** The conditions of this general permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit shall not be affected thereby.

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<sup>13</sup> See 06-096 CMR 529(3)(i).



## APPENDICES -- BASIC PERFORMANCE STANDARDS

Appendix A. Erosion and sedimentation control.....	1
Appendix B. Inspection and maintenance .....	4
Appendix C. Housekeeping.....	4

### APPENDIX A. Erosion and sedimentation control

A person who conducts, or causes to be conducted, an activity that involves filling, displacing or exposing soil or other earthen materials shall take measures to prevent unreasonable erosion of soil or sediment beyond the project site or into a protected natural resource as defined in 38 MRSA § 480-B. Erosion control measures must be in place before the activity begins. Measures must remain in place and functional until the site is permanently stabilized. Adequate and timely temporary and permanent stabilization measures must be taken.

NOTE: The site must be maintained to prevent unreasonable erosion and sedimentation. See 38 M.R.S.A § 420-C (in part). A license is required for any stormwater discharge that the department "determines to contribute to a violation of a water quality standard or is a significant contributor of pollutants to waters of the State". 06-096 CMR 521(9)(a)(1)(v)(in part).

- (1) Pollution prevention.** Minimize disturbed areas and protect natural downgradient buffer areas to the extent practicable. The discharge may not result in erosion of any open drainage channels, swales, upland, or coastal or freshwater wetlands.

Note: Buffers improve water quality by helping to filter pollutants in run-off both during and after construction. Minimizing disturbed areas through phasing limits the amount of exposed soil on the site through retention of natural cover and by retiring areas as permanently stabilized. Less exposed soil results in fewer erosion controls to install and maintain. If work within an area is not anticipated to begin within two weeks time, consider leaving the area in its naturally existing cover.

- (2) Sediment barriers.** Prior to construction, properly install sediment barriers at the edge of any downgradient disturbed area and adjacent to any drainage channels within the disturbed area. Maintain the sediment barriers until the disturbed area is permanently stabilized.

- (3) Temporary stabilization.** Stabilize with mulch, or other non-erodable cover any exposed soils that will not be worked for more than 7 days. 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.

NOTE: For guidance on erosion and sedimentation controls, consult *the Maine Erosion and Sediment Control Handbook for Construction -- Best Management Practices* or *the Maine Erosion and Sedimentation Control Best Management Practices*.

- (4) 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.

NOTE: It is recommended that silt fence be removed by cutting the fence materials at ground level so as to avoid additional soil disturbance.

**(5) 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. If necessary, areas must be reworked and restabilized if germination is sparse, plant coverage is spotty, or topsoil erosion is evident. One or more of the following may apply to a particular site.

**(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) Agricultural use.** For construction projects on land used for agricultural purposes (e.g., pipelines across crop land), permanent stabilization may be accomplished by returning the disturbed land to agricultural use.

**(f) Paved areas.** For paved areas, permanent stabilization means the placement of the compacted gravel subbase is completed.

**(g) Ditches, channels, and swales.** For open channels, permanent stabilization means the channel is stabilized with mature vegetation at least three inches in height, with well-graded riprap lining, or with another non-erosive lining capable of withstanding the anticipated flow velocities and flow depths without reliance on check dams to slow flow. There must be no evidence of slumping of the lining, undercutting of the banks, or down-cutting of the channel.

**(6) Winter Construction.** "Winter construction" is construction activity performed during the period from November 1 through April 15. If areas within the construction activity are not stabilized with temporary or permanent measures outlined above by November 15, then the site must be protected with additional stabilization measures that are specific to winter conditions. No more than one acre of the site may be without stabilization at one time.

- (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.
- (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.** 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.
- (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.

NOTE: For guidance on winter construction standards, see the "Maine Erosion and Sediment Control BMPs", Maine Department of Environmental Protection.

- (7) **Stormwater channels.** Ditches, swales, and other open stormwater channels must be designed, constructed, and stabilized using measures that achieve long-term erosion control. Ditches, swales and other open stormwater channels must be sized to handle, at a minimum, the expected volume run-off. 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 the 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. Permanent stabilization for channels is addressed under Appendix A(5)(g) above.

NOTE: (1) The channel should receive adequate routine maintenance to maintain capacity and prevent or correct any erosion of the channel's bottom or side slopes. (2) When the watershed draining to a ditch or swale is less than 1 acre of total drainage and less than ¼ acre of impervious area, diversion of runoff to adjacent wooded or otherwise vegetated buffer areas is encouraged where the opportunity exists.

- (8) **Roads.** Gravel and paved roads must be designed and constructed with crowns or other measures, such as water bars, to ensure that stormwater is delivered immediately to adjacent stable ditches, vegetated buffer areas, catch basin inlets, or street gutters.

NOTE: (1) Gravel and paved roads should be maintained so that they continue to conform to this standard in order to prevent erosion problems. (2) The department recommends that impervious surfaces, including roads, be designed and constructed so that stormwater is distributed in sheet flow to natural vegetated buffer areas wherever such areas are available. Road ditches should be designed so that stormwater is frequently (at least every 100 to 200 feet) discharged via ditch turnouts in sheet flow to adjacent natural buffer areas wherever possible.

- (9) **Culverts.** Culverts must be sized to avoid unintended flooding of upstream areas or frequent overtopping of roadways. Culvert inlets must be protected with appropriate materials for the

expected entrance velocity, and protection must extend at least as high as the expected maximum elevation of storage behind the culvert. Culvert outlet design must incorporate measures, such as aprons or plunge pools, to prevent scour of the stream channel. Outlet protection measures must be designed to stay within the channel limits. The design must take account of tailwater depth.

**(10) Parking areas.** Parking areas must be constructed to ensure runoff is delivered to adjacent swales, catch basins, curb gutters, or buffer areas without eroding areas downslope. The parking area's subbase compaction and grading must be done to ensure runoff is evenly distributed to adjacent buffers or side slopes. Catch basins must be located and set to provide enough storage depth at the inlet so to allow inflow of peak runoff rates without by-pass of runoff to other areas.

**(11) Additional requirements.** Additional requirements may be applied on a site-specific basis.

## **APPENDIX B. Inspection and maintenance**

**(1) Inspection and maintenance.** Inspect disturbed and impervious areas, and erosion and stormwater control measures, areas used for storage 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 and before and after a storm event, and prior to completion of permanent stabilization measures. A person with knowledge of erosion and stormwater control, including the standards in this permit and any departmental companion document to this permit, must conduct the inspection. This person must be identified in the inspection log. If best management practices (BMPs) need to be modified or if additional 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.

**(2) Inspection log (report).** A log (report) must be kept summarizing the scope of the inspection, name(s) and qualifications of the personnel making the inspection, the date(s) of the inspection, and major observations relating to operation of erosion and sedimentation controls and pollution prevention measures. 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. The log must be made accessible to department staff and a copy must be provided upon request. The permittee shall retain a copy of the log for a period of at least three years from the completion of permanent stabilization.

## **APPENDIX C. Housekeeping**

These performance standards apply to all sites.

**(1) Spill prevention.** Controls must be used to prevent pollutants from construction and waste materials stored on-site, including storage practices to minimize exposure of the materials to

stormwater, and appropriate spill prevention, containment, and response planning and implementation.

- (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.

NOTE: Lack of appropriate pollutant removal best management practices (BMPs) may result in violations of the groundwater quality standard established by 38 M.R.S.A. §465-C(1). 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.

- (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.

Examples of BMPS -- Operations during wet months, that experience tracking of mud off the construction site onto public roads, should provide for sweeping of road areas at least once a week and prior to significant storm events. Where chronic mud tracking occurs, a stabilized construction entrance should be provided. Operations during dry months, that experience fugitive dust problems, should wet down the access roads once a week or more frequently if needed.

NOTE: Dewatering a stream without a permit from the department violates state water quality standards and the Natural Resources Protection Act.

- (4) **Debris and other materials.** Litter, construction debris, and construction chemicals exposed to stormwater must be prevented from becoming a pollutant source.

---

NOTE: To prevent these materials from becoming a source of pollutants, construction activities related to a project may be required to comply with applicable provision of rules related to solid, universal, and hazardous waste, including, but not limited to, the Maine solid waste and hazardous waste management rules; Maine hazardous waste management rules; Maine oil conveyance and storage rules; and Maine pesticide requirements.

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- (5) **Trench or foundation de-watering.** Trench 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 removed to areas that are specifically designed 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.

NOTE: For guidance on de-watering controls, consult the Maine Erosion and Sediment Control BMPs", Maine Department of Environmental Protection."

**(6) Non-stormwater 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:

- (i) Discharges from firefighting activity;
- (ii) Fire hydrant flushings;<sup>1</sup>
- (iii) Vehicle washwater if detergents are not used and washing is limited to the exterior of vehicles (engine, undercarriage and transmission washing is prohibited);
- (iv) Dust control runoff in accordance with permit conditions and Appendix (C)(3);
- (v) Routine external building washdown, not including surface paint removal, that does not involve detergents;
- (vi) Pavement washwater (where spills/leaks of toxic or hazardous materials have not occurred, unless all spilled material had been removed) if detergents are not used;
- (vii) Uncontaminated air conditioning or compressor condensate;
- (viii) Uncontaminated groundwater or spring water;
- (ix) Foundation or footer drain-water where flows are not contaminated; and
- (x) Uncontaminated excavation dewatering (see requirements in Appendix C(5)).
- (vi) Potable water sources including waterline flushings.<sup>2</sup>

Allowable non-stormwater discharges cannot be authorized under this permit unless they are directly related to and originate from a construction site or dedicated support activity (e.g., a pressure washing company cannot broadly use this general permit for their business operations, because general vehicle washing is not associated with a construction site). It is not necessary to list these sources of non-stormwater in the NOI.

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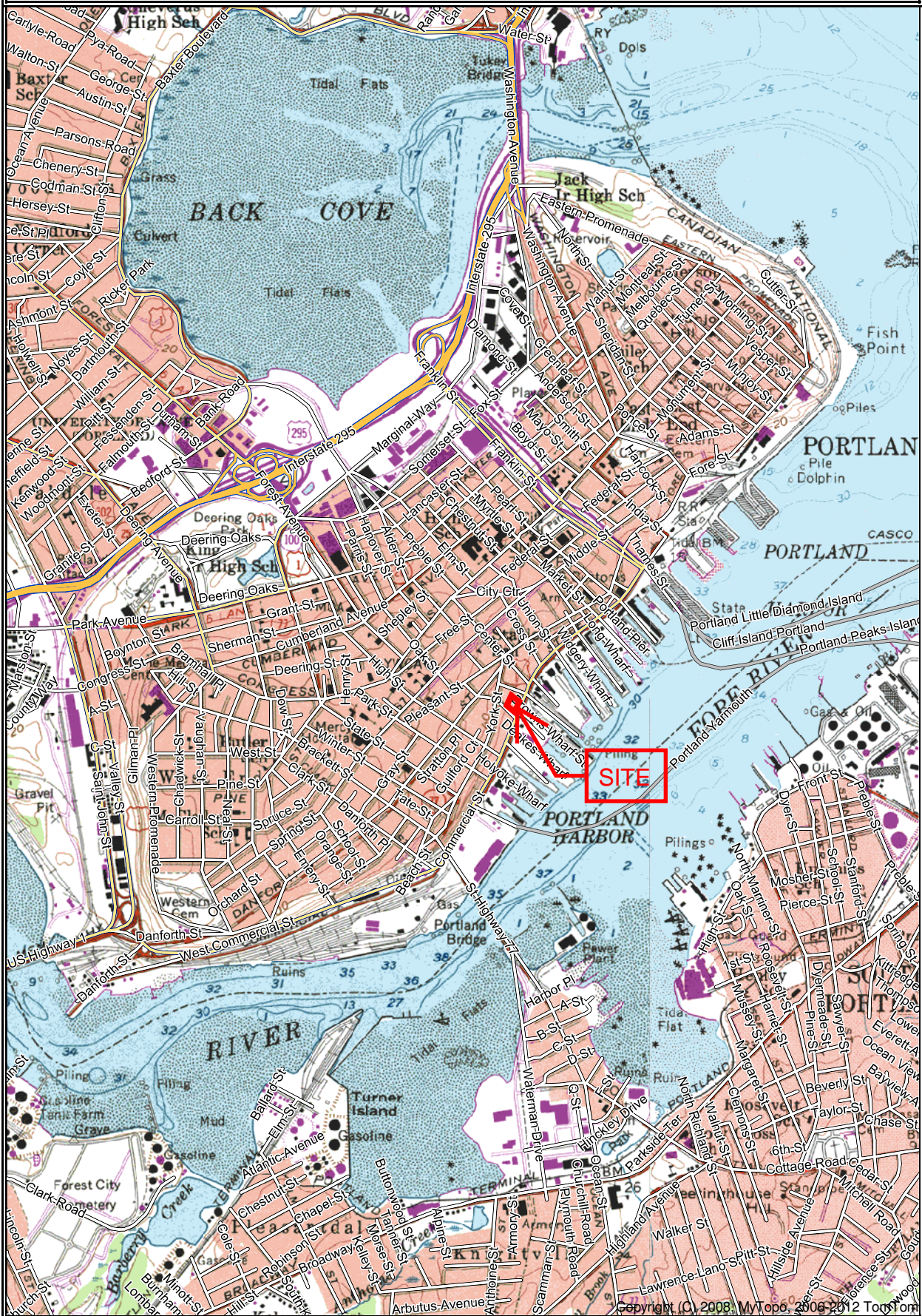
<sup>1</sup> This non-stormwater discharge is authorized under this general permit until the Department issues a separate general permit containing requirements specific to this type of discharge, which would replace this authorization.

<sup>2</sup> See previous footnote.

## **Appendix B - General Map**



Map Name: PORTLAND WEST      Scale: 1 inch = 2,000 ft.      Horizontal Datum: NAD83  
Print Date: 09/12/12      Map Center: 043° 39' 20.98" N 0



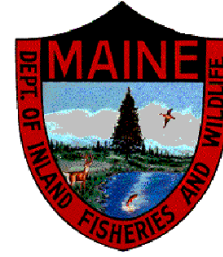


## **Appendix C: Essential Habitat Inquiry Results**



Maine Department of Inland  
Fisheries and Wildlife  
358 Shaker Road  
Gray, Maine 04039

Telephone: 207-657-2345 ext.113  
Fax: 207-657-2980  
Email: brian.lewis @maine.gov



Paul R.. LePage, Governor

Chandler E. Woodcock,  
Commissioner

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September 17, 2012

Steve Long  
Opechee Construction Corporation  
11 Corporate Drive  
Belmont, NH 03220

RE: Marriott Courtyard, Portland

Dear Steve Long,

I have reviewed your request for fishery resource information, and there are no known threatened/endangered fish species or habitat in the vicinity of the proposed project. There are also no known inland fisheries resources within the proposed project area. However, the proposed project area is adjacent to Portland harbor which is tidal in nature. The Maine Department of Marine Resources should be contacted for concerns regarding projects near tidal waters. Our regional riparian buffer policy is outlined below.

Stream systems are vulnerable to environmental impacts associated with increased development and encroachment. If present, this project should be sensitive to these resource issues by including provisions for riparian buffers and minimizing any other potential stream impacts. Our regional buffer policy requests 100 foot undisturbed buffers along both sides of any stream or stream-associated wetlands. Buffers should be measured from the upland wetland edge of stream-associated wetlands, and if the natural vegetation has been previously altered then restoration may be warranted. This buffer requirement improves erosion/sedimentation problems; reduces thermal impacts; maintains water quality; supplies leaf litter and woody debris for the system; and provides valuable wildlife habitat. Protection of these important riparian functions insures that the overall health of the stream habitat is maintained.

Stream crossings must include provisions for adequate fish passage, and any in-stream work needs to be done between the first of July and the first of October. Project design should minimize the number of stream crossings. If you have any additional questions or concerns then feel free to contact us.

Sincerely,

Brian Lewis  
Fishery Specialist  
MDIFW



STATE OF MAINE  
DEPARTMENT OF CONSERVATION  
93 STATE HOUSE STATION  
AUGUSTA, MAINE  
04333-0093

PAUL R. LEPAGE  
GOVERNOR

WILLIAM H. BEARDSLEY  
COMMISSIONER

September 26, 2012

Steve Long  
Opechee Construction Corporation  
11 Corporate Drive  
Belmont, NH 03220

Re: Rare and exemplary botanical features in proximity to: Marriott Courtyard, Commercial Street,  
Portland, Maine

Dear Mr. Long:

I have searched the Natural Areas Program's Biological and Conservation Data System files in response to your request received September 12, 2012 for information on the presence of rare or unique botanical features documented from the vicinity of the project site in Portland, Maine. Rare and unique botanical features include the habitat of rare, threatened, or endangered plant species and unique or exemplary natural communities. Our review involves examining maps, manual and computerized records, other sources of information such as scientific articles or published references, and the personal knowledge of staff or cooperating experts.

Our official response covers only botanical features. For authoritative information and official response for zoological features you must make a similar request to the Maine Department of Inland Fisheries and Wildlife, 284 State Street, Augusta, Maine 04333.

According to the information currently in our Biological and Conservation Data System files, there are no rare botanical features documented specifically within the project area. Based on the information in our files and the landscape context of this project, there is a low probability that rare or significant botanical features occur at this project location.

This finding is available and appropriate for preparation and review of environmental assessments, but it is not a substitute for on-site surveys. Comprehensive field surveys do not exist for all natural areas in Maine, and in the absence of a specific field investigation, the Maine Natural Areas Program cannot provide a definitive statement on the presence or absence of unusual natural features at this site.

The Natural Areas Program is continuously working to achieve a more comprehensive database of exemplary natural features in Maine. We would appreciate the contribution of any information obtained should you decide to do field work. The Natural Areas Program welcomes coordination with individuals or organizations proposing environmental alteration, or conducting environmental assessments. If, however, data provided by the Natural Areas Program are to be published in any form, the Program should be informed at the outset and credited as the source.

Letter to Opechee  
Comments RE: Marriott Courtyard  
September 26, 2012  
Page 2 of 2

The Natural Areas Program has instituted a fee structure of \$75.00 an hour to recover the actual cost of processing your request for information. You will receive an invoice for \$150.00 for our services.

Thank you for using the Natural Areas Program in the environmental review process. Please do not hesitate to contact me if you have further questions about the Natural Areas Program or about rare or unique botanical features on this site.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Don Cameron', with a long, sweeping horizontal line extending to the right.

Don Cameron  
Ecologist  
Maine Natural Areas Program  
207-287-8041  
[don.s.cameron@maine.gov](mailto:don.s.cameron@maine.gov)

## Species Summary Table

Your name: Steve Long

Project name used in IPaC: Mixed Use Development 321 Commercial Street, Portland, ME

Date: 10-09-12

Step 2 Listed or candidate species that are likely present according to the Official Species List from IPaC?  “No Species” or IPaC species list  Bald eagle nests from Step 4.	Step 2 Is your action area in critical habitat (only for Canada lynx or Atlantic salmon)?  Yes or No	Step 3A Is suitable habitat for listed or candidate species present in your action area?  “suitable habitat present” “suitable habitat not present” “Don’t know”	Step 3B Does the species occur in your action area?  “Species present” “Species not present” “”	Step 4 Is your project likely to take or disturb eagles and require an Eagle Act permit?  “Will not disturb” “May disturb” “Don’t know”	Step 5 Determinations for the Endangered Species Act – <b>only Federal agencies complete this column</b>  “No effect” “May effect”	Notes and Documentation (provide additional information if needed)
Cottontail Rabbit		suitable habitat not present	Don’t know		No effect	Project action area is a gravel parking lot in an urban area
Bald Eagle				Will not disturb	No effect	

Notes:

## **Appendix D: Delegation of Authority**

Delegation of Authority:

I, Gregory R. Kirsch, hereby designate the person or specifically described position below to be a duly authorized representative for the purpose of overseeing compliance with environmental requirements, including the Maine Construction General Permit, at the Mixed Use Redevelopment at Fore, Middle and India Streets, Portland, ME construction site. The designee is authorized to sign any reports, stormwater pollution prevention plans and all other documents required by the permit.

Person: Steve Long

Address: Opechee Construction Corporation, 11 Corporate Drive, Belmont, NH 03220

Phone: 603-527-9090

By signing this authorization, I confirm that I meet the requirements to make such a designation as set forth in Appendix A, Maine's Construction General Permit (MCGP), and that the designee above meets the definition of a "duly authorized representative" as set forth in Appendix A.

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Name: Gregory R. Kirsch

Company: Opechee Construction Corporation

Title: Vice President & General Counsel

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

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

## **Appendix E: Subcontractor Certifications/Agreements**



## Appendix E – Subcontractor Certifications/Agreements

### SUBCONTRACTOR CERTIFICATION STORMWATER POLLUTION PREVENTION PLAN

Project Name: Commercial Street & Maple Street

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Operator(s): Opechee Construction Corporation, Steve Long

---

As a subcontractor, you are required to comply with the Stormwater Pollution Prevention Plan (SWPPP) for any work that you perform on-site. Any person or group who violates any condition of the SWPPP may be subject to substantial penalties or loss of contract. You are encouraged to advise each of your employees working on this project of the requirements of the SWPPP. A copy of the SWPPP is available for your review at the office trailer.

Each subcontractor engaged in activities at the construction site that could impact stormwater must be identified and sign the following certification statement:

**I certify under the penalty of law that I have read and understand the terms and conditions of the SWPPP for the above designated project and agree to follow the BMPs and practices described in the SWPPP.**

This certification is hereby signed in reference to the above named project:

Company:

---

Address:

---

Telephone Number:

---

Type of construction service to be provided:

---

---

---

Signature:

---

Title:

---

Date:

---

## **Appendix F: SWPPP Amendment Log**

## Appendix F – SWPPP Amendment Log

**SWPPP Contact: Steve Long, Opechee Construction Corporation**

[illegible]

## **Appendix G: Corrective Action Log**

## Appendix G – Corrective Action Log

**SWPPP Contact:** Steve Long, Opechee Construction Corporation

[illegible]

## **Appendix H: Grading and Stabilization Activities Log**

## Appendix H –Grading and Stabilization Activities Log

**SWPPP Contact: Steve Long, Opechee Construction Corporation**

[illegible]

## **Appendix I: Inspection Form**



## Stormwater Construction Site Inspection Report

General Information			
<b>Project Name</b>	Mixed Use Development Portland, ME		
<b>NPDES Tracking No.</b>		<b>Location</b>	
<b>Date of Inspection</b>		<b>Start/End Time</b>	
<b>Inspector's Name(s)</b>			
<b>Inspector's Title(s)</b>			
<b>Inspector's Contact Information</b>			
<b>Inspector's Qualifications</b>			
<b>Describe present phase of construction</b>			
<b>Type of Inspection:</b> <input type="checkbox"/> Regular <input type="checkbox"/> Pre-storm event <input type="checkbox"/> During storm event <input type="checkbox"/> Post-storm event			
Weather Information			
<b>Has there been a storm event since the last inspection?</b> <input type="checkbox"/> Yes <input type="checkbox"/> No <b>If yes, provide:</b> Storm Start Date & Time:                      Storm Duration (hrs):                      Approximate Amount of Precipitation (in):			
<b>Weather at time of this inspection?</b> <input type="checkbox"/> Clear <input type="checkbox"/> Cloudy <input type="checkbox"/> Rain <input type="checkbox"/> Sleet <input type="checkbox"/> Fog <input type="checkbox"/> Snowing <input type="checkbox"/> High Winds <input type="checkbox"/> Other:    Temperature:			
<b>Have any discharges occurred since the last inspection?</b> <input type="checkbox"/> Yes <input type="checkbox"/> No <b>If yes, describe:</b>			
<b>Are there any discharges at the time of inspection?</b> <input type="checkbox"/> Yes <input type="checkbox"/> No <b>If yes, describe:</b>			

### Site-specific BMPs

- *Number the structural and non-structural BMPs identified in your SWPPP on your site map and list them below (add as many BMPs as necessary). Carry a copy of the numbered site map with you during your inspections. This list will ensure that you are inspecting all required BMPs at your site.*
- *Describe corrective actions initiated, date completed, and note the person that completed the work in the Corrective Action Log.*

	BMP	BMP Installed?	BMP Maintenance Required?	Corrective Action Needed and Notes
1	Dandy Sack CB 1	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	
2	Dandy Sack CB 2	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	
3	Dandy Sack CB 3	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	
4	Dandy Pop CB 4	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	
5	Dandy Pop Ex CB at Baxter Building	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	

	<b>BMP</b>	<b>BMP Installed?</b>	<b>BMP Maintenance Required?</b>	<b>Corrective Action Needed and Notes</b>
6	Dandy Sack Ex CB at Maple Street	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	
7	Dandy Sack Ex CB at Baxter Building	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	
8	Dandy Sack Ex CB at Ex. Parking Lot entrance	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	
9	Dandy Curb at Stormwater Planter	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	

### **Overall Site Issues**

*Below are some general site issues that should be assessed during inspections. Customize this list as needed for conditions at your site.*

	<b>BMP/activity</b>	<b>Implemented?</b>	<b>Maintenance Required?</b>	<b>Corrective Action Needed and Notes</b>
1	Are all slopes and disturbed areas not actively being worked properly stabilized?	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	
2	Are natural resource areas (e.g., streams, wetlands, mature trees, etc.) protected with barriers or similar BMPs?	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	
3	Are perimeter controls and sediment barriers adequately installed (keyed into substrate) and maintained?	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	
4	Are discharge points and receiving waters free of any sediment deposits?	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	
5	Are storm drain inlets properly protected?	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	
6	Is the construction exit preventing sediment from being tracked into the street?	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	
7	Is trash/litter from work areas collected and placed in covered dumpsters?	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	
8	Are washout facilities (e.g., paint, stucco, concrete) available, clearly marked, and maintained?	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	

	<b>BMP/activity</b>	<b>Implemented?</b>	<b>Maintenance Required?</b>	<b>Corrective Action Needed and Notes</b>
9	Are vehicle and equipment fueling, cleaning, and maintenance areas free of spills, leaks, or any other deleterious material?	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	
10	Are materials that are potential stormwater contaminants stored inside or under cover?	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	
11	Are non-stormwater discharges (e.g., wash water, dewatering) properly controlled?	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	
12	(Other)	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	

#### **Non-Compliance**

Describe any incidents of non-compliance not described above:

#### **CERTIFICATION STATEMENT**

“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

**Print name and title:** \_\_\_\_\_

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

**Appendix J - Chapter 32 of the City of Portland Code of Ordinances**

## CHAPTER 32 STORM WATER

**Art. I. Prohibited Discharges, §§ 32-1--32-15**

**Art. II. Prohibited Discharges, §§ 32-16--32-35**

**Art. III. Post-Construction Stormwater Management, §§32-36--32-40**

### ARTICLE I. IN GENERAL

#### Sec. 32-1. Definitions.

For the purposes of this article, the terms listed below are defined as follows:

*Applicant.* "Applicant" means a person with requisite right, title or interest or an agent for such person who has filed an application for a development project that requires a post-construction stormwater management plan under this article.

*Best management practices ("BMP").* "Best management practices" or "BMPs" means schedules or activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the state. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

*Clean Water Act.* "Clean Water Act" means the federal Water Pollution Control Act (33 U.S.C. § 1251 *et seq.*, also known as the "Clean Water Act"), and any subsequent amendments thereto.

*Discharge.* "Discharge" means any spilling, leaking, pumping, pouring, emptying, dumping, disposing or other addition of pollutants to "waters of the state." "Direct discharge" or "point source" means any discernable, confined and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation or vessel or other floating craft, from which pollutants are or may be discharged.

*Enforcement authority.* "Enforcement authority" means the person(s) or department authorized under section 32-3 of this article to administer and enforce this article.

*Exempt person or discharge.* "Exempt person or discharge" means any person who is subject to a multi-sector general permit for industrial activities, a general permit for construction activity, a general permit for the discharge of storm water from the Maine department of transportation and the Maine turnpike authority

municipal separate storm sewer systems, or a general permit for the discharge of storm water from state or federally owned authority municipal separate storm sewer system facilities; and any non-storm water discharge permitted under a NPDES permit, waiver, or waste discharge license or order issued to the discharger and administered under the authority of the U.S. environmental protection agency ("EPA") or the Maine department of environmental protection ("DEP").City of Portland

*Municipality.* "Municipality" means the city of Portland.

*Municipal separate storm sewer system, or MS4.* "Municipal separate storm sewer system" or "MS4," means conveyances for storm water, including, but not limited to, roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, human-made channels or storm drains (other than publicly owned treatment works and combined sewers) owned or operated by any municipality, sewer or sewage district, fire district, state agency or federal agency or other public entity that discharges directly to surface waters of the state.

*National pollutant discharge elimination system (NPDES) storm water discharge permit.* "National pollutant discharge elimination system (NPDES) storm water discharge permit" means a permit issued by the EPA or by the DEP that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

*Non-storm water discharge.* "Non-storm water discharge" means any discharge to an MS4 that is not composed entirely of storm water.

*Person.* "Person" means any individual, firm, corporation, municipality, quasi-municipal corporation, state agency or federal agency or other legal entity which creates, initiates, originates or maintains a discharge of storm water or a non-storm water discharge.

*Pollutant.* "Pollutant" means dredged spoil, solid waste, junk, incinerator residue, sewage, refuse, effluent, garbage, sewage sludge, munitions, chemicals, biological or radiological materials, oil, petroleum products or by-products, heat, wrecked or discarded equipment, rock, sand, dirt and industrial, municipal, domestic, commercial or agricultural wastes of any kind.

*Post-construction stormwater management plan.* "Post-construction stormwater management plan" means BMPs employed by a development project to meet the stormwater standards of Section V of the department of planning and urban development's Technical and Design Standards and Guidelines.

*Premises.* "Premises" means any building, lot, parcel of land, or portion of land, whether improved or unimproved, including adjacent sidewalks and parking strips, located within the municipality from which discharges into the storm drainage system are or may be created, initiated, originated or maintained.

*Qualified post-construction stormwater inspector.* "Qualified post-construction stormwater inspector" means a person who conducts post-construction stormwater best management practice inspections for compensation and who has received the appropriate training for the same from DEP or otherwise meets DEP requirements to perform said inspections.

*Regulated small MS4.* "Regulated small MS4" means any small MS4 regulated by the State of Maine "general permit for the discharge of storm water from small municipal separate storm sewer systems" dated July 1, 2008 ("general permit") or the general permits for the discharge of storm water from the Maine department of transportation and Maine turnpike authority small MS4s or state or federally owned or operated small MS4s, including all those located partially or entirely within an urbanized area (UA).

*Small municipal separate storm sewer system, or small MS4.* "Small municipal separate storm sewer system", or "small MS4," means any MS4 that is not already covered by the phase I MS4 storm water program including municipally owned or operated storm sewer systems, state or federally-owned systems, such as colleges, universities, prisons, Maine department of transportation and Maine turnpike authority road systems and facilities, and military bases and facilities.

*Storm drainage system.* "Storm drainage system" means the City of Portland's regulated small MS4 and other conveyances for storm water located in areas outside the UA that drain into the regulated small MS4.

*Storm water.* "Storm water" means any storm water runoff, snowmelt runoff, and surface runoff and drainage; "Stormwater" has the same meaning as "storm water".

*Urbanized area ("UA").* "Urbanized area" or "UA" means the areas of the State of Maine so defined by the latest decennial (2000) census by the U.S. Bureau of Census.  
(Ord. No. 85-08/09, 10-20-08; Ord. No. 35-09/10, 8-17-09)

**Sec. 32-2.       Reserved.**

**Sec. 32-3.       Reserved.**

**Sec. 32-4.       Reserved.**

<b>Sec. 32-5.</b>	<b>Reserved.</b>
<b>Sec. 32-6.</b>	<b>Reserved.</b>
<b>Sec. 32-7.</b>	<b>Reserved.</b>
<b>Sec. 32-8.</b>	<b>Reserved.</b>
<b>Sec. 32-9.</b>	<b>Reserved.</b>
<b>Sec. 32-10.</b>	<b>Reserved.</b>
<b>Sec. 32-11.</b>	<b>Reserved.</b>
<b>Sec. 32-12.</b>	<b>Reserved.</b>
<b>Sec. 32-13.</b>	<b>Reserved.</b>
<b>Sec. 32-14.</b>	<b>Reserved.</b>
<b>Sec. 32-15.</b>	<b>Reserved.</b>

## **ARTICLE II. PROHIBITED DISCHARGES**

### **Sec. 32-16. Applicability.**

This Article shall apply to all persons discharging storm water and/or non-storm water discharges from any premises into the storm drainage system.

(Ord. No. 85-08/09, 10-20-08; Ord. No. 35-09/10, 8-17-09)

### **Sec. 32-17. Responsibility for administration.**

The department of public services is the enforcement authority who shall administer, implement, and enforce the provisions of this article.

(Ord. No. 85-08/09, 10-20-08; Ord. No. 35-09/10; 8-17-09)

### **Sec. 32-18. Prohibition of non-storm water discharges.**

(a) *General prohibition.* Except as allowed or exempted herein, no person shall create, initiate, originate or maintain a non-storm water discharge to the storm drainage system. Such non-storm water discharges are prohibited notwithstanding the fact that the city may have approved the connections, drains or conveyances by which a person discharges un-allowed non-storm water discharges to the storm drainage system.

(b) *Allowed non-storm water discharges.* The creation, initiation, origination and maintenance of the following non-storm water discharges to the storm drainage system is allowed:

- (1) Landscape irrigation; diverted stream flows; rising ground waters; uncontaminated flows from foundation drains; air conditioning and compressor condensate; irrigation water; flows from uncontaminated springs; uncontaminated water from crawl space pumps; uncontaminated flows from footing drains; lawn watering runoff; flows from riparian habitats and wetlands; residual street wash water (where spills/leaks of toxic or hazardous materials have not



occurred, unless all spilled material has been removed and detergents are not used); hydrant flushing and fire fighting activity runoff; water line flushing and discharges from potable water sources; individual residential car washing; and de-chlorinated swimming pool discharges.

- (2) Discharges specified in writing by the enforcement authority as being necessary to protect public health and safety.
- (3) Dye testing, with verbal notification to the enforcement authority prior to the time of the test.

(c) *Exempt person or discharge.* This article shall not apply to an exempt person or discharge, except that the enforcement authority may request from exempt persons and persons with exempt discharges copies of permits, notices of intent, licenses and orders from the EPA or DEP that authorize the discharge(s).

(Ord. No. 85-08/09, 10-20-08; Ord. No. 35-09/10, 8-17-09)

#### **Sec. 32-19. Suspension of access to the city's small MS4.**

The enforcement authority may, without prior notice, physically suspend discharge access to the storm drainage system to a person when such suspension is necessary to stop an actual or threatened non-storm water discharge to the storm drainage system which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the storm drainage system, or which may cause the city to violate the terms of its environmental permits. Such suspension may include, but is not limited to, blocking pipes, constructing dams or taking other measures, on public ways or public property, to physically block the discharge to prevent or minimize a non-storm water discharge to the storm drainage system. If a person fails to comply with a suspension order issued in an emergency, the enforcement authority may take such steps as deemed necessary to prevent or minimize damage to the storm drainage system, or to minimize danger to persons.

(Ord. No. 85-08/09, 10-20-08; Ord. No. 35-09/10, 8-17-09)

#### **Sec. 32-20. Monitoring of discharges.**

In order to determine compliance with this article, the enforcement authority may enter upon and inspect premises subject to this article at reasonable hours to inspect the premises and connections thereon to the storm drainage system; and to conduct monitoring, sampling and testing of the discharge to the storm drainage system.

(Ord. No. 85-08/09, 10-20-08; Ord. No. 35-09/10, 8-17-09)

**Sec. 32-21. 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 article. Whenever the enforcement authority believes that a person has violated this article, the enforcement authority may enforce this article in accordance with 30-A M.R.S.A. § 4452.

- (a) *Notice of violation.* Whenever the enforcement authority believes that a person has violated this article, the enforcement authority may order compliance with this article by written notice of violation to that person indicating the nature of the violation and ordering the action necessary to correct it, including, without limitation:
  - (1) The elimination of non-storm water discharges to the storm drainage system, including, but not limited to, disconnection of the premises from the MS4.
  - (2) The cessation of discharges, practices, or operations in violation of this article.
  - (3) At the Person's expense, the abatement or remediation (in accordance with best management practices in DEP rules and regulations) of non-storm water discharges to the storm drainage system and the restoration of any affected property; and/or
  - (4) The payment of fines, of the city's remediation costs and of the city's reasonable administrative costs and attorneys' fees and costs. If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such abatement or restoration must be completed.
- (b) *Penalties/fines/injunctive relief.* In addition to the imposition of any other costs or penalties provided for herein, any person who violates this section shall be subject to fines, penalties and orders for injunctive relief and shall be responsible for the city's attorney's fees and costs, all in accordance with 30-A M.R.S.A. § 4452. Each day such violation continues shall constitute a separate violation. Moreover, any person who violates this section 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 city for violation of federal and State environmental laws and

regulations caused by or related to that person's violation of this article; this responsibility shall be in addition to any penalties, fines or injunctive relief imposed under this section.

- (c) *Consent agreement.* The enforcement authority may, with the approval of the city manager, enter into a written consent agreement with the violator to address timely abatement of the violation(s) of this article for the purposes of eliminating violations of this article and of recovering fines, costs and fees without court action.
- (d) *Appeal of notice of violation.* Any person receiving a notice of violation or suspension notice may appeal the determination of the enforcement authority to the city manager or his or her designee. The notice of appeal must be received within 30 days from the date of receipt of the notice of violation. The city manager shall hold a hearing on the appeal within 30 days from the date of receipt of the notice of appeal, except that such hearing may be delayed by agreement of the city manager and the appellant. The city manager may affirm, reverse or modify the decision of the enforcement authority. A suspension under Section 32-5 of this article remains in place unless or until lifted by the city manager or by a reviewing court. A party aggrieved by the decision of the city manager may appeal that decision to the Maine superior court within 45 days of the date of the city manager's decision pursuant to Rule 80B of the Maine Rules of Civil Procedure.
- (e) *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 city manager, within 45 days of a decision of the city manager affirming the enforcement authority's decision, then the enforcement authority may recommend that the corporation counsel's office file an enforcement action in a Maine court of competent jurisdiction under Rule 80K of the Maine Rules of Civil Procedure.
- (f) *Ultimate responsibility of discharger.* The standards set forth herein are minimum standards; therefore this article does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants into waters of the U.S. caused by said person. This article shall not create liability on the part of the city, or any officer agent or employee thereof for any damages that

result from any person's reliance on this article or any administrative decision lawfully made hereunder.

(Ord. No. 85-08/09, 10-20-08; Ord. No. 35-09/10, 8-17-09)

#### **Sec. 32-22. Severability.**

The provisions of this article are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this article 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 article.

(Ord. No. 85-08/09, 10-20-08; Ord. No. 35-09/10, 8-17-09)

**Sec. 32-23. Reserved.**  
**Sec. 32-24. Reserved.**  
**Sec. 32-25. Reserved.**  
**Sec. 32-26. Reserved.**  
**Sec. 32-27. Reserved.**  
**Sec. 32-28. Reserved.**  
**Sec. 32-29. Reserved.**  
**Sec. 32-30. Reserved.**  
**Sec. 32-31. Reserved.**  
**Sec. 32-32. Reserved.**  
**Sec. 32-33. Reserved.**  
**Sec. 32-34. Reserved.**  
**Sec. 32-35. Reserved.**

### **ARTICLE III. POST-CONSTRUCTION STORMWATER MANAGEMENT.**

#### **Sec. 32-36. Applicability.**

This article applies to all development projects that require a stormwater management plan pursuant to section V of the department of planning and urban development's Technical and Design Standards and Guidelines.

(Ord. No. 35-09/10, 8-17-09)

#### **Sec. 32-37. Post-construction stormwater management plan approval.**

Notwithstanding any ordinance provision to the contrary, no applicant for a development project to which this article is applicable shall receive approval for that development project unless the applicant also receives approval for its post-construction stormwater management plan and for the best management practices ("BMPs") for that development project.

(Ord. No. 35-09/10, 9-17-09)

**Sec. 32-38. Post-construction stormwater management plan compliance.**

Any person owning, operating, or otherwise having control over a BMP required by a post construction stormwater management plan shall maintain the BMPs in accordance with the approved plan and shall demonstrate compliance with that plan as follows:

- (a) *Inspections.* The owner or operator of a BMP shall hire a qualified post-construction stormwater inspector to at least annually, inspect the BMPs, including but not limited to any parking areas, catch basins, drainage swales, detention basins and ponds, pipes and related structures, in accordance with all municipal and state inspection, cleaning and maintenance requirements of the approved post-construction stormwater management plan.
- (b) *Maintenance and repair.* If the BMP requires maintenance, repair or replacement to function as intended by the approved post-construction stormwater management plan, the owner or operator of the BMP shall take corrective action(s) to address the deficiency or deficiencies as soon as possible after the deficiency is discovered and shall provide a record of the deficiency and corrective action(s) to the department of public services ("DPS") in the annual report.
- (c) *Annual report.* The owner or operator of a BMP or a qualified post-construction stormwater inspector hired by that person, shall, on or by June 30 of each year, provide a completed and signed certification to DPS in a form provided by DPS, certifying that the person has inspected the BMP(s) and that the year adequately maintained and functioning as intended by the approved post-construction stormwater management plan, or that they require maintenance or repair, including the record of the deficiency and corrective action(s) taken.
- (d) *Filing fee.* Any persons required to file an annual certification under this section shall include with the annual certification a filing fee established by DPS to pay the administrative and technical costs of review of the annual certification.
- (e) *Right of entry.* In order to determine compliance with this article and with the post-construction stormwater management plan, DPS may enter upon property at reasonable hours with the consent of the owner, occupant or agent to inspect the BMPs.

**Sec. 32-39. 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 article or of the post-construction stormwater management plan. Whenever the enforcement authority believes that a person has violated this article, DPS may enforce this article in accordance with 30-A M.R.S.A. § 4452. Each day on which a violation exists shall constitute a separate violation for purposes of this section.

- (a) *Notice of violation.* Whenever DPS believes that a person has violated this article or the post-construction stormwater management plan, DPS may order compliance by written notice of violation to that person indicating the nature of the violation and ordering the action necessary to correct it, including, without limitation:
  - (1) The abatement of violations, and the cessation of practices or operations in violation of this article or of the post-construction stormwater management plan;
  - (2) At the person's expense, compliance with BMPs required as a condition of approval of the development project, the repair of BMPs and/or the restoration of any affected property; and/or
  - (3) The payment of fines, of the City's remediation costs and of the City's reasonable administrative costs and attorneys' fees and costs.
  - (4) If abatement of a violation, compliance with BMPs, repair of BMPs and/or restoration of affected property is required, the notice shall set forth a deadline within which such abatement, compliance, repair and/or restoration must be completed.
- (b) *Penalties/fines/injunctive relief.* In addition to the imposition of any other costs or penalties provided for herein, any person who violates this section shall be subject to fines, penalties and orders for injunctive relief and shall be responsible for the city's attorney's fees and costs, all in accordance with 30-A M.R.S.A. § 4452. Each day such violation continues shall constitute a separate violation. Moreover, any person who violates this section 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 city for violation of federal and state environmental laws and regulations caused by or related to that person's violation of this article; this responsibility shall be in addition to any penalties, fines or injunctive relief imposed under this section.

- (c) *Consent agreement.* The enforcement authority may, without approval of the city manager, enter into a written consent agreement with the violator to address timely abatement of the violation(s) of this article for the purposes of eliminating violations of this article and of recovering fines, costs and fees without court action.
- (d) *Appeal of notice of violation.* Any person receiving a notice of violation or suspension notice may appeal the determination of the enforcement authority to the city manager or his or her designee. The notice of appeal must be received within 30 days from the date of receipt of the notice of violation. The city manager shall hold a hearing on the appeal within 30 days from the date of receipt of the notice of appeal, except that such hearing may be delayed by agreement of the city manager and the appellant. The city manager may affirm, reverse or modify the decision of the DPS. A party aggrieved by the decision of the city manager may appeal that decision to the Maine superior court within forty-five (45) days of the date of the city manager's decision pursuant to Rule 80B of the Maine Rules of Civil Procedure.
- (e) *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 city manager, within forty-five (45) days of a decision of the city manager affirming the enforcement authority's decision, then the enforcement authority may recommend that the corporation counsel's office file an enforcement action in a Maine court of competent jurisdiction under Rule 80K of the Maine Rules of Civil Procedure.

(Ord. No. 35-09/10, 8-17-09)

#### **Sec. 32-40. Severability.**

The provisions of this article are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this article 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 article.

(Ord. No. 35-09/10, 8-17-09)

## **Appendix K: Demolition, Site, Grading and Erosion Control Plans**