



Ordinance Committee – via Maureen O’Meara  
Cape Elizabeth Planner  
320 Ocean House Road  
Cape Elizabeth, Maine 04107

October 6, 2022

**Subject: Information for Ordinance Committee regarding Upcoming Ordinances Changes required by General Permit for Stormwater Discharges from Municipal Separate Storm Sewer Systems (2022 MS4 General Permit)**

Dear Ordinance Committee:

As you may be aware, Integrated Environmental Engineering has provided consulting assistance to the Town of Cape Elizabeth for many years for the MS4 General Permit. The Town of Cape Elizabeth and 29 other Maine communities are required by the Federal Clean Water Act to comply with the MS4 General Permit requirements. Every 5 years, a new permit is issued which includes requirements intended to reduce pollutants in stormwater. The 2022 MS4 General Permit requires that the Town make some adjustments to their Ordinances.

Most of the changes in Cape Elizabeth code will be to Chapter 25 Stormwater. However, some changes will need to be made to the Zoning Ordinance Chapter 19 Article IX Site Plan Review and to the Chapter 16 Subdivisions.

I am sorry I am not able to attend this first meeting, but I hope to be at others to assist in this process. This letter provides you with a summary of the changes and their current status for your consideration as you review the October 6, 2022 redlined draft of Chapter 25:

Summary of Stormwater (MS4) General Permit Requirement

There are three major concepts that need to be incorporated into the Town’s Code:

1. Erosion Sedimentation Control Updates: By 6/30/2023, The permittee must create or update an ordinance or other regulatory mechanism to control waste prevent erosion, and control sedimentation at construction sites consistent with the minimum performance standards contained in the Maine Department of Environmental Protection Chapter 500 Stormwater Management Rules Appendices A, B, and C.
  - a. These Technical Standards are proposed to be added as a new Article IV to Chapter 25.
  - b. The October 6, 2022 redline version of the Town’s Chapter 25 Stormwater contains proposed revision that are required in normal **redline**. The optional elements for consideration have been highlighted in **Blue**.
  - c. The MS4 Permit requires these performance standards apply to sites that disturb one or more acres of land, but because the Town requires Site Plan Review for sites that are smaller than that (New construction involving more than ten thousand (10,000) square feet of impervious surface, paving, clearing, or vegetative alteration, or any combination thereof), The Town may want to apply these standards to any site that triggers Site Plan Review. Advantages: easier tracking and consistent application of standards to all development sites in Town, likely better water quality protection. Disadvantages: More stringent standards for developers of medium sites that might not otherwise have to comply with all of the performance standards.

- d. The Zoning Ordinance and Subdivision Ordinance will also have some changes that we will work on when these performance standards are closer to final.
2. Low Impact Development Updates: The permittee must develop and submit to the Maine DEP a Model Low Impact Development Ordinance. The submittal is due to DEP 9/1/2022, and DEP will review and issue it for public comment and approve it on or before 11/1/2022. The permittee must then adopt an ordinance or regulatory mechanism that is at least as stringent as the required elements of the Model LID Ordinance or must incorporate all of its elements into the permittee's code of ordinances or other enforceable regulatory mechanism by 7/1/2024.
    - a. The Town provided the DEP with a submittal 9/1/2022, which went out for Clean Water Act public comment. Comments were received from Friends of Casco Bay which apply to all of the Portland Area regulated MS4 communities.
    - b. The October 6, 2022 redline version of the Town's Chapter 25 Stormwater contains proposed revisions reflecting the 9/1/2022 submittal in **redline**, but we have highlighted this entire section in **Yellow** and should not move forward on making these changes until the Maine DEP and FOCB resolve what ordinance changes we need to implement (expected 11/1/2022). We propose discussing these at a November Ordinance Committee meeting.
    - c. The Zoning Ordinance and Subdivision Ordinance will also have some changes that we will work on when these performance standards are closer to final.
  3. Other Minor Changes to ensure timely corrective actions are taken: By 6/30/2023 the Town must update Chapter 25 Stormwater to ensure that any illicit discharges are corrected within 60 days of identification of the source, and to ensure that any maintenance required on private storm water infrastructure be conducted within 60 days of identification.
    - a. These changes affect Article I Sections 25-1-8 and 25-1-9 which prohibit the discharge of pollutants into the Town's Storm Water Runoff System and Article II Post Construction Runoff Control.
    - b. The October 6, 2022 redline version of the Town's Chapter 25 Stormwater contains proposed revision that are required in normal **redline**.

My apologies again for not being able to make this meeting. I look forward to working with you moving forward.

If you have any questions about this information, please call me at 207-415-5830 or email [krabasca@integratedenv.com](mailto:krabasca@integratedenv.com).

Sincerely,

***Integrated Environmental Engineering, Inc.***



Kristie L. Rabasca, P.E.,