



Town of Veazie

Chapter 26 - Stormwater

Enacted:
August 23, 2021



A handwritten signature in black ink, appearing to be the name of the town official.

TRUE ATTESTED
COPY

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26.01 TITLE, PURPOSE AND GENERAL PROVISIONS

26.01.01 Title

This Ordinance shall be known as the "Stormwater" Ordinance for the Town of Veazie, Maine.

26.01.02 Authority

The Purpose of the Ordinance to authorize the Town Manager or his designee to enforce this Ordinance under the Clean Water Act (33 U.S.C. et 1251 seq) and the National Pollutants Discharge Elimination System (NPDES).

26.01.03 Purpose and Intent

The purpose and intent of this Ordinance is to:

26.01.03.01

Ensure the health and safety, and general welfare of citizens, and protect and enhance the water quality of watercourse and water bodies in a manner pursuant to and consistent with the Federal Clean Water Act (33 U.S.C. 1251 et seq) by reducing pollutants in stormwater discharges to the maximum extent practicable and prohibiting non-stormwater discharges to the storm drain system.

26.01.03.02

Establish minimum criteria to control and minimize the quantitative and qualitative impacts of stormwater runoff from development.

26.01.03.03

Encourage sustainable development. Prudent site planning should include special consideration for preserving natural drainage ways, maximizing infiltration, slowing stormwater runoff from individual sites enroute to streams by use of effective runoff management, structural and non-structural best management practices, drainage structures and stormwater facilities.

26.01.04 Applicability

The provisions of the Ordinance shall apply to all areas within the planning jurisdictional limits of the Town of Veazie, Maine. This Ordinance shall be permanently on file in the Town Office.

26.01.05 Exceptions to the Applicability

The following activities are excluded from under this Ordinance:

26.01.05.04

State-funded or conducted activities that are subject to the State Site Erosion Control and Stormwater Runoff Plan.

26.01.05.05

Agricultural land uses as defined in this Ordinance, except where the Stormwater Administrator determines that runoff from such uses is likely to occur which will threaten watercourses or other environmentally sensitive areas unless control measures are taken.

26.01.05.06

Small land disturbing activities such as gardens, minor landscaping modifications, and minor repair of sidewalks, paths, or driveways, except where the Stormwater

Administrator determines that erosion or runoff is likely to occur which will threaten watercourses or other environmentally sensitive areas unless control measures are taken.

26.01.06 Definitions

Agricultural stormwater runoff: Any stormwater runoff from orchards, cultivated crops, pastures, and other non-point source agricultural activities, but not discharges from concentrated animal feeding operations.

Best Management Practices (BMP): Schedules of activities prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of the MS4 and waters of the United States. BMPs include but are not limited to include treatment requirements, operating procedures, and practices to control plant site runoff, spillage, or leaks, of non-stormwater, sludge or waste disposal, or drainage from raw material storage.

BMP Construction: Activities subject to NPDES Construction Permits. Such activities include but are not limited to clearing and grubbing, grading, excavation and, demolition.

Construction Site: An area upon which one or more land disturbing construction activities occur, including areas that are part of a larger common plan of development or sale where multiple and distinct land disturbing construction activities may be taking place at different times on different schedules but under one plan.

Contaminated: Containing a harmful quantity of any substance.

Contamination: The presence of or entry into a public water supply system, the MS4, Waters of the State, or waters of the United States of any substance which may be deleterious to the public health and/or the quality of the water.

Discharge: Any addition or introduction of any pollutant, stormwater, or any other substance whatsoever into the municipal separate storm sewer system MS4 or into waters of the United States.

Discharger: Any person who caused, allows, permits, or is otherwise responsible for, a discharge, including, without limitation, any operator of a construction site or industrial facility.

Drainage Structures: Shall include swales, channels, storm sewers, curb inlets, yard inlets, culverts, and other structures designed to convey stormwater.

Erosion: The detachment and movement of soil, sediment particles or rock fragments by water, wind, ice, or gravity.

Excavation: Any act by which organic matter, earth, sand, gravel, rock, or any other similar material is cut into, dug, quarried, uncovered, removed, displaced, relocated, or bulldozed.

Existing Grade: The vertical location of the existing ground surface prior to excavation or filling.

Fill: Any act by which earth, sand, gravel, rock, or any other material is deposited, placed, replaced, pushed, dumped, pulled, transported, or moved by humans to a new location and shall include the resulting condition.

Final Stabilization: All lands disturbing construction activities at the construction site have been completed and that a uniform perennial vegetative cover has been established, with a density of at least 70% of the cover, for the unpaved areas and areas not covered by permanent structures, or employment of equivalent permanent stabilization measures.

Grading: Altering the elevation of the land surface by stripping, excavating, filling, or stockpiling of soil materials of any combination thereof, and shall include altering the elevation of the land from which the material was taken or upon which it was placed.

Harmful Quantity: The amount of any substance that will cause pollution of waters in the State, waters of the United States, or that will cause lethal or sub-lethal adverse effects on representative, sensitive aquatic monitoring organisms belonging to the Town of Veazie, Maine, upon their exposure to samples of any discharge into waters in the state, waters of the United States, or the MS4.

Hazardous Materials: Any material, including any substance, waste, or combination thereof, which, because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of. Or otherwise, managed.

Illegal Discharge: Any disposal, placement, emptying, dumping, spillage, leakage, pumping, pouring, or other discharge of any substance other than stormwater into a stormwater conveyance system, the waters of the state, or upon the land such that the substance is likely to reach a stormwater conveyance system or waters of the State constitutes an illegal discharge.

Illicit Connections: Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including but not limited to any conveyance system which allow any non-stormwater discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by a government agency. Any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records, and approved by the Town of Veazie, Maine.

MS4 (Municipal Separate Storm Sewer System): A conveyance or system of conveyances designed or used for conveying stormwater (other than a publicly owned treatment works (POTW) or a combined sewer), including, but not limited to, roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, human-made channels or storm drains owned or operated by any municipality, sewer or sewage district, Maine Department of Transportation (Maine DOT), Maine Turnpike Authority (MTA), State agency or Federal agency or other public entity that discharges directly to waters of the State other than groundwater.

National Pollutant Discharge Elimination System: The national program for issuing, modifying, revoking, and reissuing terminating, monitoring, and enforcing permits and imposing and enforcing pretreatment requirements.

Natural Drainage Way: An incised channel with a defined channel bed and banks that are part of the natural topography. Construction channels such as drainage ditches shall not be considered a natural drainage way unless the constructed channel was a natural drainage way that has been relocated, widened, or otherwise improved.

NOI: Notice of Intent

Non-point source: Any source of any discharge of a pollutant that is not a "point source".

Non-Stormwater Discharge: Any discharge to the storm drain system that is not composed entirely of stormwater.

NPDES: The National Pollutant Discharge Elimination System

Person: Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estates, governmental entity or any other legal entity, or their legal representatives, agents, or assigns. This definition includes all federal, state, and local government entities.

PH: The logarithm to the base 10 of the reciprocal of the concentration in grams per liter of hydrogen ions, a measure of the acidity or alkalinity of a solution, expressed in standard units.

Point Source: Any discernible, confined, and discrete conveyance, including by not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharged.

Pollutant: Anything, that causes or contributes to pollution. Pollutants may include but are not limited to: paints, varnishes, and solvents, oil, and other automotive fluids, non-hazardous liquid and solid waste and yard waste, refuse, rubbish, litter, or other discarded or abandoned objects, floatables, pesticides, herbicides, and fertilizers hazardous substance and wastes, untreated commercial car wash water and industrial discharges, contaminated fountains drains and cooling water, fecal coliform and pathogens, dissolved and particulate metals, animal waste dredged spoil solid waste incinerator residue, sewage, garbage, sewage sludge, filter backwash munitions, chemical waste, biological materials, toxic materials, radioactive materials, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, recreational, and agricultural waste discharged into water or onto the municipal separate sewer system.

Pollution: The alteration of the physical, thermal, or biological quality of, or the contamination of, any Waters of the State, or Waters of the United States, that renders the water harmful, detrimental, or injurious to human, animal life, vegetation, or property, or to the public health, safety, or welfare, or impairs the usefulness or the public enjoyment of the water for any lawful or reasonable purpose. The human-made or human-induced alterations of the quality of waters by waste to a degree which unreasonably affects, or has the potential to unreasonable affect, either the waters for beneficial uses or the facilities which serve these beneficial uses.

Premises: Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

Riparian Buffer: An area of trees, shrubs, or other vegetation that is adjacent to a natural drainage way. Riparian buffers reduce the impact of upland sources by trapping, filtering, and converting nutrients, sediments, and other chemicals, and maintain the integrity of the natural drainage way.

Release: Any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into groundwater, subsurface soils, subsurface soils, surface soils the municipal separate storm sewer system (MS4), the Waters of the State, the Waters of the United States.

State: The State of Maine

Storm Drain System: Publicly-owned facilities operated by the Town of Veazie by which stormwater is collected and/or conveyed, including but not limited to any roads with drainage systems, streets, gutters, curb, inlets, piped storm drains, pumping facilities, retention, and detention basins, natural and human –made or altered drainage channels, reservoirs, and other drainage structures.

Stormwater: Any surface flow, runoff, and drainage occurring during any form of precipitation, including snow melt.

Stormwater Administrator: The person designated by the Town of Veazie to have authority to review and approve Stormwater Permits and stormwater management plans. The Stormwater Administrator shall also be responsible for inspecting development and making sure the provisions of this Ordinance are being followed.

Stormwater Pollution Prevention Plan: A plan required by a permit to discharge stormwater associated with industrial activity, including construction, and which describes and ensures the implementation of practices that are to be used to reduce the pollutants in stormwater discharges associated with industrial activity at the facility.

SWPPP: Stormwater pollution prevention plan.

TSS (total suspended solids): Solids that either float on the surface, or are in suspension in water, wastewater, or other liquids, and which are generally removable by a laboratory filtration device.

Uncontaminated: Not containing a harmful quantity of any substance.

U.S.C.: United States Code.

Wastewater: Any water or other liquid, other than uncontaminated stormwater, discharged from a facility.

Waters in the State: Ground-water, percolating or otherwise, lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, wetlands, marshes, inlets, canals inside the territorial limits of the State of Maine and all other bodies of surface water, natural or artificial, navigable or non-navigable, and including the bed and banks of all watercourses and bodies

of surface water that are wholly or partially inside or bordering the state or inside the jurisdiction of the state.

Waters of the United States: All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, all interstate waters, including interstate wetlands, all other waters the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce, all impoundments of waters otherwise defined as water of the United States under this definition all tributaries of water identified in this definition all wetlands adjacent to waters identified in this definition and any waters within the federal definition of "waters of the United States".

Wetland: An area that is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

26.01.07 Interpretations

In interpretation and applying this Ordinance, the requirements are intended to be minimum requirements that are imposed and are to be conformed to, and not in lieu or, all other legal requirements.

This Ordinance shall not be deemed to interfere with or annul or otherwise affect in any manner whatsoever any ordinance, rules, regulations, permits, or easements, covenants, or other agreements between parties, provided however that, where this Ordinance imposes greater restrictions and controls with respect to stormwater management, the provisions of this Ordinance shall prevail.

26.01.08 Responsibility for Administration

The Stormwater Administrator of the Town of Veazie shall administer, implement, and enforce the provisions of this Ordinance. Any powers granted or duties imposed upon the Stormwater Administrator may be delegated in writing by the Stormwater Administrator to persons or entities acting in the beneficial interest of or in the employ of the Town of Veazie.

26.01.09 Variances

All applications for variance must be filed with and will be considered by the Board of Appeals of the Town of Veazie.

26.01.10 Severability

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

26.01.11 Regulatory Consistency

This Ordinance shall be construed to assure consistency with the requirements of the Clean Water Act and acts amendatory thereof or supplementary thereto, or any applicable regulations.

26.01.12 Stormwater Management

Reference: Stormwater Management Plan (SMP) for the Town of Veazie, submitted to the MDEP for the current issuance of the Municipal Separate Storm Sewer System (MS4) General Permit.

26.01.13 Ultimate Responsibility of Discharges

The standards set forth herein and promulgated pursuant to this Ordinance are minimum standards; therefore, this Ordinance does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, or unauthorized discharge or pollutants into waters of the State, or water of the United States, caused by said person. This Ordinance shall not create liability on the part of the Town of Veazie, or any agent or employee thereof for any damages that result from any discharger's reliance on this Ordinance, or any administrative decision lawfully made thereunder.

26.01.14 Prohibition of Illegal Discharges

No person shall discharge or cause to be discharged in the Town of Veazie storm drains of watercourses any materials, including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than stormwater. The commencement, conduct, or continuance of any illegal discharge to the storm drain system is prohibited except as described as follows:

Discharges from the following activities will not be considered as sources of pollutants to the storm drain system and to waters of the United States when properly managed to ensure that no potential pollutants are present, and therefore they shall not be considered illegal discharges unless determined to cause a violation of the provisions of this Ordinance: potable water line flushing, uncontaminated pumped groundwater and other discharges from potable water sources, landscape irrigation and lawn watering diverted stream flows, rising groundwater, ground water infiltration to the storm drain system, uncontaminated foundation and footing drains, uncontaminated water from crawl space pumps, air conditioning condensation, uncontaminated non-industrial roof drains, springs, individual residential and occasional non-commercial car washing, flows from riparian habitats and wetlands, dechlorinated swimming pool discharges, street wash waters, flows from firefighting, and fire hydrant flushing.

26.01.15 Prohibition of Illicit Connections

The construction, use, maintenance, or continued existent of illicit connections to the storm drain system is prohibited. This prohibition expressly includes, with limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

26.01.16 Waste Disposal Prohibitions

No person shall throw, deposit, leave, maintain, keep, or permit to be thrown, deposited, leave, or maintain, in or upon any public or private property, driveway, parking area, street, alley, sidewalk, components of the storm drain system, or waters of the State of Maine, water of the United States, any refuse, rubbish, garbage litter, or other discarded or abandoned object, articles, and accumulations, so that the same may cause or contribute to pollution. Waste deposited in streets in proper waste receptacles for the purpose of collection are exempted from this prohibition.

26.02 REGULATIONS AND REQUIREMENTS

26.02.01 Requirement to Prevent, Control and Reduce Stormwater Pollutants

26.02.01.01

The Town of Veazie will adopt requirements identifying the Best Management Practices for any activity, operation, or facility, that may cause or contribute to pollution or contamination of stormwater, the storm drain system, or waters of the U.S. as a separate BMP Guidance Series.

Where Best Management Practices requirement are promulgated by the Town of Veazie, or any Federal, or State Agency for any activity, operation, of facility which would otherwise cause the discharge of pollutants to the storm drain system or water of the U.S., every person undertaking such activity or operation, or owning or operating such facility shall comply with such requirements.

26.02.01.02

New Development and Redevelopment. The Town of Veazie has adopted the MDEP's Chapter 500 requirements identifying appropriate Best Management Practices to control the volume, rate, and potential pollutant load of stormwater runoff from new development and redevelopment projects as may be appropriate to minimize the generation, transport, and discharge of pollutants. The Town of Veazie shall incorporate such requirements in any land use entitlement and construction of building- related permit to be issued relative to such development or redevelopment. The owner and developer shall comply with the terms, provisions, and conditions of such land use entitlements and building permits as required in this Ordinance.

Responsibility to Implement Best Management Practices. Notwithstanding the presence or absence of requirements promulgated pursuant to (a) and (b), any person engaged in activities or operations, or owning facilities or property which will of may result in pollutants entering stormwater, the storm drain system, or waters of the U.S. shall implement Best Management Practices to the extent they are technologically achievable to prevent and reduce such pollutants the owner or operator of a commercial or industrial establishment shall provide reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourse. Facilities to prevent accidental discharges of prohibited materials of other wastes shall be provided and maintained at the owner or operator's expense.

26.02.02 Requirements to Eliminate Illegal Discharges

Notwithstanding the requirements of Section 1.13 herein, the Stormwater Administrator may require by written notice that a person responsible for an illegal discharge immediately, or by a specified date, discontinues the discharge and, if necessary, take measures to eliminate the source of the discharge to prevent the occurrence of future illegal discharges.

26.02.03 Requirement to Eliminate or Secure Approval for Illicit Connection

The Stormwater Administrator may require by written notice that a person responsible for an illicit connection to the stormwater drain system comply with the requirements of this ordinance to eliminate or secure approval for the connection by a specified date, regardless of whether the connection or discharges to it had been established or approved prior to the effective date of this ordinance.

26.02.04 Watercourse Protection

Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property reasonably free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing become a hazard to the use, function, or physical integrity of the

watercourse. The owner or lessee shall not remove healthy bank vegetation beyond what's necessary for maintenance, nor remove said vegetation in such a manner as to increase the vulnerability of the watercourse to erosion.

The property owner, or lessee shall be responsible for maintaining and stabilizing that portion of the watercourse that is within their property lines in order to protect against erosion and degradation of the watercourse originating or contributed from their property.

26.02.05 Notification of Spills

Any discharger who accidentally discharges into the stormwater, the storm drain system, or waters of the U.S. any substance other than stormwater runoff shall immediately inform the Town of Veazie concerning the discharge. If such information is given orally, a written report concerning discharge shall be filed with the Town of Veazie within five (5) days. The written report shall specify:

26.02.05.01

The composition of the discharge and the cause thereof.

26.02.05.02

The exact date, time, and estimated volume of discharge.

26.02.05.03

All measures taken to clean up the accidental discharge, and all measures proposed to be taken to reduce and prevent any recurrence.

26.02.05.04

The name and telephone number of the person making the report and the name of a person who may be contacted for additional information on the matter.

A properly reported accidental discharge shall be an affirmative defense to a civil infraction proceeding brought under this ordinance against a discharge for such discharge. It shall not, however, be a defense to a legal action brought to obtain an injunction, to obtain recovery of cost or to obtain other relief as a result of or arising out of the discharge. A discharge shall be considered properly only if the discharger complies with the requirements of this Ordinance.

26.02.06 Authority to Inspect

Whenever necessary to make an inspection to enforce any provision of this ordinance, or whenever the stormwater Administrator has cause to believe that there exist, or potentially exists, in or upon any premises any condition which constitutes a violation of this ordinance the Administrator may enter such premises at all reasonable times to inspect the same and to copy records related to stormwater compliance. In the event the owner or occupant refuses entry after a request to enter and inspect has been made, the Town of Veazie is empowered to seek assistance from any court of competent jurisdiction in obtaining such entry.

26.02.07 Record Keeping Requirements

Any person subject to this ordinance shall retain and preserve for no less than five (5) years all books, drawings, plans, prints, documents, memoranda, reports, correspondence, and records, including records on magnetic or electronic media and any and all summaries of such

records, relating to monitoring, sampling and chemical analysis of any discharge or stormwater runoff from any property.

26.03 ENFORCEMENT

26.03.01 Violations

Whenever there is a failure to follow an approved stormwater management plan or permit or whenever, by the provisions of this Ordinance, the performance of any act is required or prohibited, or any regulation or limitation is imposed on the use of any land, or the erection, use or change of use of any structure, a failure to comply with such provisions shall constitute a violation of this Ordinance.

Any owner, tenant or occupant of any land, structure or part thereof, and any architect, engineer designer, builder, contractor, consultant, agent or other person who, acting individually or in concert, designs or constructs any system, structure, or part thereof, or otherwise directs, assists, allows or participates, either directly or indirectly, in any conduct or activity which creates or maintains a situation that is contrary to the requirements contained in this Ordinance may be held responsible for the violation and therefore subject to the penalties and remedies contained herein.

26.03.02 Notice of Violation

Upon determining that a violation of this Ordinance has occurred, the Stormwater Administrator shall deliver a written notice to the person(s) responsible for the violation by personal service or by registered or certified mail, return receipt requested, indicating the nature of the violation, and ordering the action necessary to correct it. Such notice may require, without limitation:

26.03.02.01

The performance of monitoring, analyses, and reporting;

26.03.02.02

The elimination of all illicit connections, practices, operations, or discharges;

26.03.02.03

The abatement or rededication of stormwater pollution or contamination hazards and the restoration of any affected property;

26.03.02.04

Payment of a fine or civil penalty; and/or

26.03.02.05

The implementation of source control of treatment BMPs

The final notice of violation, which may also be the initial notice, shall in addition to the above include the words FINAL NOTICE OF VIOLATION in the heading, state the action the Town of Veazie intends to take if the violation is not corrected, and shall advise that the Stormwater Administrator's order may be appealed as provided in this Ordinance.

If abatement of a violation and/or rededication of affected property are required, the notice shall set forth a deadline by which such abatement and/or remediation must be completed.

26.04 APPEALS

26.04.01 Appeals and Variances

26.04.02 Board of Appeals

26.04.03 Organization

A Board of Appeals shall exist in accordance with Title 30-A M.R.S.A. 2691 and Article VI of the Veazie Town Charter, as amended. The members of the Board shall annually elect one (1) of their members as a chairperson to preside at all meetings of the Board and one (1) of their members to serve as secretary. A person shall forfeit their membership on said Board if they fail to attend three (3) meetings of the Board in any one calendar year without being excused by the Board.

26.04.04 Authority

The Board shall have the power to hear and decide matters as expressly authorized by this ordinance or the Town of Veazie Charter. The Board shall not assert jurisdictions over any matter unless the Town of Veazie has, by ordinance or charter, specified the precise subject matter that may be appealed to the board and the official or officials whose action or non-action may be appealed to the Board. No meeting of the Board shall be held without a quorum consisting of three (3) members or associate members authorized to vote. The Board shall act by majority vote of the members present and voting.

26.04.05 Applicability of Law

Except to the extent that they are inconsistent with the provisions of this ordinance or the Town of Veazie Charter, all the provisions of Title 30-A M.R.S.A. 2961 and 4353, as amended, shall apply to, and govern the organization, procedures, and jurisdiction of the Board of Appeals.

26.04.06 Variances

26.04.07 Authority

A variance may be granted by the Board of Appeals.

26.04.08 Appeals

Any person aggrieved by the action of any official charged with the enforcement of this Ordinance, as the result of the disapproval of a properly filed application for a permit, issuance of a written notice of violation, or an alleged failure to properly enforce the Ordinance regarding a specific application shall have the right to appeal the to the Board of Appeals of the Town of Veazie. The appeal shall be filed in writing within 30 days of the date of official transmittal of the final decision or determination to the applicant and shall clearly state the grounds on which the appeal is based. A non-refundable appeals fee will be collected at the time the appeal is submitted. The appeals fee will be provided for the cost of administration and management of the appeal process. The appeals fee shall be in accordance with a fee schedule set by the Town Council and may be amended from time to time.

26.04.09 Penalties

Any person violating any provisions of this Ordinance shall be subject to such fines, penalties, actions, and orders as are authorized by 30-A M.R.S.A. as same may be amended. A fine or penalty shall be imposed for separate offense of each violation. Each day of violation after notification shall constitute a separate offense with respect to each violation.

26.04.10 Effective Date

And be it further enacted that this Ordinance shall take effect on 08-23-2021. Developments without an approved stormwater management plan by the effective date of this Ordinance, shall be subject to the provisions of this Ordinance.

APPENDIX 1: POST CONSTRUCTION STORMWATER MANAGEMENT ORDINANCE**Section 1: Purpose**

The purpose of this "Post-Construction Stormwater Management Ordinance" (the "Ordinance") is to provide for the health, safety, and general welfare of the citizens of the Town of Veazie through review of post-construction stormwater management plans and monitoring and enforcement of compliance with such plans as required by federal and State law. This Ordinance establishes methods for post- construction stormwater management in order to comply with minimum control measures requirements of the federal Clean Water Act and State law.

Section 2: Objectives

This Ordinance seeks to meet the above purpose through the following objectives:

- A. Reduce the impact of post-construction discharge of stormwater on receiving waters; and
- B. Reduce stormwater runoff rates and volumes, soil erosion and nonpoint source pollution, wherever possible, through use of Best Management Practices as promulgated by the Maine Department of Environmental Protection pursuant to its Chapters 500 and 502 Rules and ensure that these management controls are properly maintained and pose no threat to public safety.

Section 3: Definitions

For the purpose of this Ordinance, the terms listed below are defined as follows:

- A. **Applicant:** A Person with requisite right, title or interest or an agent for such Person who has filed an application for Development that requires a Post-Construction Stormwater Management Plan under this Ordinance.
- B. **Best Management Practices ("BMP"):** Schedules of 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.
- C. **Clean Water Act:** 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.
- D. **Construction Activity:**
 - 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 subdivision, if the subdivision 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.

- E. **Discharge:** 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 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.
- F. **Development:** Any Construction Activity on Premises that results in Disturbed Area greater than or equal to one acre, and to Construction Activities on a lot, tract or parcel less than one acre in area where that lot, tract or parcel is part of a subdivision approved on or after the effective date of this Ordinance, provided, however, that if said subdivision receives approval under this Ordinance, then said lot, tract or parcel shall not require separate review and approval under this Ordinance, but shall comply with the post-construction stormwater management plan for that subdivision required under this Ordinance. The term "development" also includes "Redevelopment."
- G. **Disturbed Area:** Clearing, grading and excavation. Mere cutting of trees, without grubbing, stump removal, disturbance or exposure of soil is not considered "disturbed area." "Disturbed area" does not include routine maintenance but does include redevelopment. "Routine maintenance" is maintenance performed to maintain the original line and grade, hydraulic capacity, and original purpose of land or improvements thereon.
- H. **Enforcement Authority:** The Code Enforcement Officer, as the person(s) or department authorized by the Municipality to administer and enforce this Ordinance.
- I. **Municipality:** The Town of Veazie.
- J. **Municipal Permitting Authority:** The municipal official or body that has jurisdiction over the land use approval or permit required for a Development.
- K. **Municipal Separate Storm Sewer System, or MS4:** A conveyance or system of conveyances designed or used for conveying stormwater, (other than a publicly owned treatment works (POTW) or a combined sewer), including but not limited to, roads, with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, human-made channels or storm drains, owned or operated by any municipality, sewer or sewage district, Maine Department of Transportation (MDOT), Maine Turnpike Authority (MTA), State agency, Federal agency, or other public entity that discharges directly to waters of the State other than groundwater.
- L. **National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit:** 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.
- M. **Person:** Any individual, firm, corporation, municipality, quasi-municipal corporation, State agency or Federal agency or other legal entity.

- N. **Pollutant:** 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.
- O. **Premises:** 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.
- P. **Redevelopment:** [intentionally left open for discussion]
- Q. **Regulated Small MS4:** Any Small MS4 regulated by the State of Maine "General Permit for the Discharge of Stormwater from Small Municipal Separate Storm Sewer Systems" ("General Permit"), including all those located partially or entirely within an Urbanized Area (UA.)
- R. **Small MS4:** Any MS4 that is not already covered by the Phase I MS4 stormwater program including municipally owned or operated storm sewer systems, State, or federally owned systems, such as colleges, universities, prisons, Maine Department of Transportation and Maine Turnpike Authority Road systems and facilities, and military bases and facilities.
- S. **Storm Drainage System:** The Municipality's Regulated Small MS4.
- T. **Storm Water:** Any Storm Water runoff, snowmelt runoff, and surface runoff and drainage; "Stormwater" has the same meaning as "Storm Water."
- U. **Urbanized Area ("UA"):** The areas of the State of Maine so defined by the latest decennial census by the U.S. Bureau of the Census.

Section 4: Applicability

This Ordinance shall apply to all Development and any Construction Activity on Premises that results in Disturbed Area greater than or equal to one acre, and to Construction Activities on a lot, tract or parcel less than one acre in area where that lot, tract or parcel is part of a subdivision approved on or after the effective date of this Ordinance, provided, however, that if said subdivision receives approval under this Ordinance, then said lot, tract or parcel shall not require separate review and approval under this Ordinance, but shall comply with the post-construction stormwater management control requirements imposed upon that subdivision under this Ordinance within the Municipality.

Section 5: Post Construction Stormwater Management Plan Approval

- A. **General Requirements:** No Applicant for a building permit, subdivision approval, site plan approval or other zoning, planning or other land use approval for Development to which this Ordinance is applicable shall receive such permit or approval for that Development unless the Municipal Permitting Authority for that Development also determines that the Applicant's Post-Construction Stormwater Management Plan for that Development meets the requirements of this Ordinance.

B. Performance Standards

1. The Applicant shall make adequate provision for the management of the quantity and quality of all stormwater generated by the Development through a post-construction stormwater management plan. This post-construction stormwater management plan shall be designed to meet the standards contained in the Maine Department of Environmental Protection's Chapters 500 and 502 Rules and shall comply with the practices described in the most current issuance of the *Stormwater Management for Maine Manual*, published by the Maine Department of Environmental Protection.
2. The Applicant may meet the quantity and quality standards above either on-site or off-site, but where off-site facilities are used, the applicant must submit to the Municipality documentation demonstrating to the reasonable satisfaction of the Municipality's attorney that the Applicant has a sufficient property interest in the property where the off-site facilities are located -- by easement, covenant or other appropriate legal instrument -- to ensure that the facilities will be able to provide post- construction stormwater management for the Development and that the property will not be altered in a way that interferes with the off-site facilities.
3. Where the Applicant proposes to retain ownership of the stormwater management facilities shown in its post-construction stormwater management plan, the Applicant shall submit to the Municipality documentation demonstrating to the reasonable satisfaction of the Municipality's attorney that the Applicant, its successors, heirs, and assigns shall have the legal obligation and the resources available to operate, repair, maintain and replace the stormwater management facilities. Development requiring stormwater management facilities that will not be dedicated to the Municipality shall enter into a Maintenance Agreement with the Municipality. A sample of this Maintenance Agreement is attached as **Appendix 2** of this Ordinance.
4. Whenever elements of the stormwater management facilities are not within the right-of-way of a public street and the facilities will not be offered to the Municipality for acceptance as public facilities, the Municipal Reviewing Authority may require that perpetual easements not less than thirty (30) feet in width, conforming substantially with the lines of existing natural drainage and in a form acceptable to the Municipality's attorney, shall be provided to the Municipality allowing access maintenance, repair, replacement and improvement of the stormwater management facilities. When an offer of dedication is required by the Municipal Permitting Authority, the Applicant shall be responsible for the maintenance of these stormwater management facilities under this Ordinance until such time (if ever) as they are accepted by the Municipality.
5. In addition to any other applicable requirements of this Ordinance and the Municipality's land use ordinances, any Development which also requires a stormwater management permit from the Maine Department of Environmental Protection (DEP) under 38 M.R.S.A. 420-D shall comply with the rules adopted by DEP under 38 M.R.S.A. 420-D(1), as the same may be amended from time to time, and the applicant shall document such compliance to the Municipal Permitting Authority.

Where the standards or other provisions of such stormwater rules conflict with municipal ordinances, the stricter (more protective) standard shall apply.

6. Engineering and administrative fees. At the time of application, the Applicant shall pay an amount to the Municipal Reviewing Authority estimated to be sufficient to pay the engineering review costs and administrative costs incurred by the Municipality in review of the post-construction stormwater management plan. The Municipality shall deduct from this amount the engineering and administrative costs incurred by the city, based upon the hours of engineering review time and prevailing hourly rate for reimbursement of Municipal administrative costs. Any remaining engineering and administrative review costs owed by the Applicant shall be paid in full by the Applicant prior to the issuance of any temporary or permanent certificate of occupancy, and any unused balance remaining at that time shall be refunded to the Applicant.
7. Notice of BMP Discharge to Municipality's MS4. At the time of application, the Applicant shall notify the Municipal Reviewing Authority if its post-construction stormwater management plan includes any BMP(s) that will discharge to the Municipality's MS4 and shall include in this notification a listing of which BMP(s) will so discharge.

Section 6: Post Construction Stormwater Management Plan Compliance

- A. **General Requirements:** Any other Person owning, leasing, or having control over stormwater management facilities required by a post construction stormwater management plan under this Ordinance shall demonstrate compliance with that plan as follows:
 1. That Person shall, at least annually, inspect, clean, and maintain the stormwater management facilities, including but not limited to any parking areas, catch basins, drainage swales, pipes, and related structures.
 2. That Person shall repair any deficiencies found during inspection of the stormwater management facilities within 60 days of its identification. If 60 days is not possible, that Person must establish an expeditious schedule to complete and document the maintenance.
 3. That Person shall, on or by May, 1st of each year, provide a certification to the Enforcement Authority, certifying that a qualified inspector has inspected the stormwater management facilities, and any deficiencies identified during the annual inspection have been corrected.
 - 4.
- B. **Right of Entry:** In order to determine compliance with this Ordinance, the Enforcement Authority may enter upon property at reasonable hours with the consent of the owner, occupant, or agent to inspect the stormwater management facilities.

Section 7: Enforcement

It shall be unlawful for any Person to violate any provision of or to fail to comply with any of the requirements of this Ordinance or any approval under this Ordinance.

Whenever the Enforcement Authority believes that a Person has violated this Ordinance or any approval under this Ordinance, the Enforcement Authority may enforce this Ordinance 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 Ordinance or any approval under this Ordinance, the Enforcement Authority may order compliance with this Ordinance by written notice of violation to that Person indicating the nature of the violation 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 Ordinance;
 2. At the Person's expense, compliance with BMPs required as a condition of approval of the Development, the repair of stormwater management control facilities and/or the restoration of any affected property; and/or
 3. The payment of fines, of the Municipality's remediation costs and of the Municipality's reasonable administrative costs and attorneys' fees and costs.
- B. **Penalties/Fines/Injunctive Relief.** Any Person who violates this Ordinance or any approval under this Ordinance shall be subject to fines, penalties and orders for injunctive relief and shall be responsible for the Municipality's attorney's fees and costs, all in accordance with 30-A M.R.S.A. § 4452. Each day such violation continues shall constitute a separate violation. Moreover, any Person who violates this Ordinance also shall be responsible for any and all fines, penalties, damages and costs, including, but not limited to attorneys' fees and costs, incurred by the Municipality for violation of federal and State environmental laws and regulations caused by or related to that Person's violation of this Ordinance; this responsibility shall be in addition to any penalties, fines or injunctive relief imposed under this Section.
- C. **Agreement.** The Enforcement Authority may, with the approval of the municipal officers, enter into a written consent agreement with the violator to address timely abatement of the violation(s) of this Ordinance for the purposes of eliminating violations of this Ordinance and of recovering fines, costs, and fees without court action.
- 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 Board of in accordance with the provisions of Section 15.11 of the Veazie Land Use Ordinance" The notice of appeal must be received within 30 days from the date of receipt of the Notice of Violation.

The Board of Appeals shall hold a *de novo* hearing on the appeal within 30 days from the date of receipt of the notice of appeal. The Board of Appeals may affirm, reverse, or modify the decision of the Enforcement Authority. A party aggrieved by the decision of the Board of Appeals may appeal that decision to the Maine Superior Court within 45 days of the date of the Board of Appeals 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 Board of Appeals, within 45 days of a decision of the Board of Appeals affirming the Enforcement Authority's decision, then the Enforcement Authority may recommend to the municipal officers that the municipality's attorney file an enforcement action in a Maine court of competent jurisdiction under Rule 80K of the Maine Rules of Civil Procedure.

Section 8: Severability

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

Section 9: Basis

The Town of Veazie enacts this "Post-Construction Stormwater Management Control Ordinance" (the "Ordinance") pursuant to 30-A M.R.S.A. § 3001 (municipal home rule ordinance authority), 38 M.R.S.A. § 413 (the "Wastewater Discharge Law"), 33 U.S.C. § 1251 et seq. (the "Clean Water Act"), and 40 CFR Part 122 (U.S. Environmental Protection Agency's regulations governing the National Pollutant Discharge Elimination System ("NPDES")). The Maine Department of Environmental Protection, through its most recent promulgation of the "General Permit for the Discharge of Stormwater from Small Municipal Separate Storm Sewer Systems", has listed the Town of Veazie as having a Regulated Small Municipal Separate Storm Sewer System ("Small MS4"); under this General Permit, listing as a Regulated Small MS4 necessitates enactment of this Ordinance as part of the Municipality's Storm Water Management Program in order to satisfy the minimum control measures required by Part IV D 5 ("Post-construction stormwater management in new development and redevelopment").

Enacted this **23** day of **August 2021**

**APPENDIX 2: MAINTENANCE AGREEMENT FOR STORMWATER
MANAGEMENT FACILITIES**

This Stormwater Management Facilities Agreement ("Agreement") is made this _____ day of _____, 20 ____ by and between _____ (the "Developer") and the Town of Veazie, Maine ("the Town").

The Development Name is: _____ (the "Development")

The Development location is: _____, Veazie, Maine.

The Development's Tax Map and Lot Numbers are Tax Map # _____ Lot # _____

The Development is shown on a plan titled _____ dated _____ and most recently revised on _____, and approved by the Veazie Planning Board on _____ and recorded in the Penobscot County Registry of Deeds in Plan Book _____ Page _____.

WHEREAS the approval of the Development under the Town's Post Construction Stormwater Management Ordinance includes stormwater management facilities which require periodic maintenance and repair; and

WHEREAS approval of the Development under the Town's Post Construction Stormwater Management Ordinance requires that periodic maintenance and repair be performed on the stormwater management facilities.

NOW, THEREFORE, in consideration of the mutual benefits accruing from the approval of the project by the Town and the agreement of _____ to maintain the stormwater management facilities system, the parties hereby agree as follows:

1. Except as provided in paragraph 2 below, Developer, for itself, and its heirs, successors and assigns, agrees to the following:
 - (a). To inspect, maintain, repair, and clean the Development stormwater management facilities, including, to the extent they exist, parking areas, catch basin, drainage, swales, pipes, and related structures, at least annually, to prevent the buildup of storage and sediment in the system.
 - (b). To repair any deficiencies in the Development stormwater management facilities noted during the annual inspection.
 - (c). To provide a summary report on the inspection, maintenance, and repair activities performed annual to the Municipal Enforcement Authority; and
 - (d). To allow access by Town personnel for inspecting the Development stormwater management facilities for compliance with these requirements.

- 2. If the developer creates a homeowners' association for the purpose of owning the stormwater management facilities for the Development, then the homeowner's association documents shall provide that the homeowner's association shall assume the Developer's obligations under this Agreement.
- 3. This Agreement shall constitute a covenant running with the land, and the developer shall reference this Agreement in all deeds to lots and/or units within the Development.

 Witness

By _____
 Its _____

TOWN OF VEAZIE

 Witness

By _____
 Its _____

STATE OF MAINE

_____, ss.

Personally appeared the above name, _____
 the _____, of _____.

Before me,

 Notary Public / Attorney at Law

Print Name: _____