

## ARTICLE 1 General

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### § 120-104. Conflict with other provisions.

Whenever a provision of this chapter conflicts with or is inconsistent with another provision of this chapter or of any other Town ordinances, State or Federal regulations or statutes, the more restrictive provision shall control.

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**Commented [SP1]:** 120-104 Good catch all statement, but could be interpreted as municipal statutes not State, based on definition of legislative body below. rb

**Commented [SP2R1]:** The legislative body is the Town Council. We could include State and Federal references.

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**Commented [SP3]:** Impervious Area Def. Different then Ch 500. rb

**Commented [MB4R3]:** Revision matches Ch. 500 defined term.

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**Commented [MB5]:** This is a reference to Ch. 500, so should be revised to have an internal reference.

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## ARTICLE 3 Definitions

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**IMPERVIOUS AREA** — ~~The ratio of the horizontal area of all impervious surfaces on a lot to the total lot area, means the total area of a parcel covered with a low-permeability material that is highly resistant to infiltration by water, such as asphalt, concrete, or rooftop, and areas such as gravel roads and unpaved parking areas that will be compacted through design or use to reduce their permeability. Common impervious areas include, but are not limited to, rooftops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and macadam or other surfaces which similarly impede the natural infiltration of stormwater. Pervious pavement, pervious pavers, pervious concrete and underdrained artificial turf fields are all considered impervious. For the purpose of determining jurisdictional thresholds, the Department may, depending on the design, consider such facilities to provide alternative treatment as described in Section 4(B)(3)(e) of this Chapter.~~

**Commented [SP6]:** Landscape Green Area Different then Ch 500. rb

**Commented [MB7R6]:** Revision matches Ch. 500 defined term, however, it does not appear that this term is used elsewhere in Ch. 120.

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**LANDSCAPED GREEN AREA** — ~~An area of land which is landscaped with a ground cover of bark mulch, grass or other natural green plant material and which is then covered with trees or shrubs for all or part of its area. For the purposes of this chapter, the definition of a landscaped green area does not include materials such as concrete, asphalt, or hardscapes that have been painted green, means an area of land that has been disturbed and re-planted or covered with one or more of the following: grass or other herbaceous plants, shrubs, trees, or mulch; but not including area that has reverted to a natural, vegetated condition. An area of grass is considered landscaped if it is mowed more than twice per twelve-month period.~~

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**PARCEL** —

- A. A piece or area of land formally described and recorded with map, block and lot numbers, by metes and bounds, by ownership, or in such a manner as to specifically identify the dimensions and/or boundaries.

- B. Informally, as land in general. **[Amended at time of adoption of Code (see Ch.**

## 1, General Provisions, Art. I)]

~~B.C. is~~ Parcel shall be defined the same as "parcel of land" according to ~~in-DEP regulations rules adopted pursuant to the Site Location of Development Law, 38 M.R.S. §481 et seq.~~

...

PERSON — ~~means any individual, person, firm, association, partnership, trust, corporation, municipal or other local governmental entity, quasi-municipal entity, state agency, federal agency, educational or charitable organization or institution or other legal entity. Includes an individual, firm, association, organization, partnership, trust, company or corporation. Person shall also be is defined the same as in according to rules adopted pursuant to the Site Location of Development Law 38 M.R.S. §481 et seq.~~

~~Each person as defined in 48 M.R.S.A., Section 482 (4), shall be regarded as a separate and distinct entity, except that at combination of persons shall be treated as a person for the purpose of the Site Location Law if:~~

- ~~— Together they pursue a common scheme of development which is subject to the Site Location Law even though individual person in the combination own separate parcels which may not be subject to the Site Location Law if the parcels were developed separately; or~~
- ~~— One person engages in a transaction with another person with the intent to evade the intent and purpose of the Site Location Law.~~

~~SITE LAW – means the Site Location of Development Law, 38 M.R.S. §§ 481-490, as may be amended from time to time.~~

~~STORMWATER MANAGEMENT LAW – means the Storm Water Management Law, 38 M.R.S. § 420-D, as may be amended from time to time.~~

## ARTICLE 8 Site Plan

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### §120-802(A)

- (9) The cumulative development of an area equal to, or greater than, one acre within any ~~five-three-year period~~. The applicability of this subsection does not include the construction of streets that are reviewed as part of a subdivision application under the standards of Article 9 of this chapter.

...

### §120-805(A)(1)(c)

- (c) The establishment of a new nonresidential use, even if no buildings or structures are proposed, that involves the development of more than 25,000 square feet but less than one acre of ~~land~~.

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**Commented [SP8]:** Add to our definitions do not have this reference

**Commented [MB9R8]:** Definition is in 06-096 CMR Ch. 371, § 1(L).

**Commented [SP10]:** Person definition different in CH 500 and SLODA. RB

**Commented [MB11R10]:** I added the statutory definition from 38 M.R.S. § 482(4). I don't think it's necessary to reprint the definition from Ch. 371.

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**Commented [SP12]:** 120-802(A)(9) The three year period could conflict with Ch 500. rb

**Commented [MB13R12]:** Ch. 500 does not have any temporal limit. I would recommend removing as this could be abused.

**Commented [SP14R12]:** Check with Ryan Barnes, should be within a five-year period?

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**Commented [SP15]:** 120-805(A)(1)(c) This could conflict with Ch 500 if there is a cumulative effect. rb

(1) In making its determination to allow a waiver from the flooding standard due to insignificant increases in peak flow rates, the ~~Town~~Board shall consider cumulative impacts. If additional information is required to make a determination concerning increased flow.

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(2) The Town may consider cumulative impacts due to runoff from other projects when applying this standard to any wetland.

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(3) Discretionary authority. Notwithstanding compliance with the PBR requirements and standards set forth in this Section, the Town may require that an individual stormwater permit be obtained in any case where the Department determines that the activity:

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(a) May violate the standards of the Stormwater Management Law or this Chapter;

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(b) Could lead to significant environmental impacts, including cumulative impacts; or

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(c) Could have an unreasonable adverse impact on a protected natural resource.

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#### §120-807F(1)

(1) As part of the final site plan submission, the applicant shall state whether the following approvals are required and shall provide a copy of any such approval that the applicant has received, ~~unless the Board will be performing delegated review authority for the applicable permits (i.e., Site Law or Stormwater Law).~~ If the applicant has not received a required approval, it shall include the status of the pending approval and evidence of receipt of the required approval shall be included as a condition of Town approval. If the Board is unsure whether a permit or license from a federal, state or local agency is necessary, the applicant may be required to obtain a written opinion from the appropriate agency as to the applicability of their regulations. [Amended 6-16-2022 by Order No. 22-108; 10-24-2023 by Order No. 23-193]

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(a) Site Law permit~~Maine Department of Environmental Protection, under the Site Location of Development Act.~~<sup>37</sup>

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(b) Maine Department of Environmental Protection, under the Natural Resources Protection Act<sup>38</sup> or Stormwater Law ~~06-096-CMR Ch. 500, Stormwater Management~~, or if an MEPDES wastewater discharge license is needed.

(c) Maine Department of Transportation, for a traffic movement permit

and/or highway entrance/driveway access management permit outside of the Urban Compact.

**Commented [SP16]:** 120-807F(1) will need to be revised. rb

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§120-810C

- C. Consulting, review and construction observation fees. Notwithstanding any other provision(s) of this chapter, Articles 1 through 12 (the "code"), to the contrary, and in addition to such fees as are otherwise specified by the code, the Town shall assess fees to cover 100% of its costs related to independent geotechnical, hydrologic, engineering, planning, legal, and similar professional consulting services, ~~including Maine Department of Environmental Protection, under the Site Location of Development Act. and Maine Department of Environmental Protection, under the Natural Resources Protection Act<sup>38</sup> or Stormwater Law 06-096 CMR Ch. 500, Stormwater Management, or if an MEPDES wastewater discharge license,~~ incurred in the review and post-approval inspections of site plan applications, ~~including any review required associated with the Town's delegated authority under the Site Law, Stormwater Law, Maine Department of Environmental Protection, under the Site Location of Development Act. and Maine Department of Environmental Protection, under the Natural Resources Protection Act<sup>38</sup> or Stormwater Law 06-096 CMR Ch. 500, Stormwater Management, or if an MEPDES wastewater discharge license.~~ Such fees shall be subject to the following limitations:

**Commented [SP17]:** 120-810(c)Should this reference Ch 500 and SLODA Review. rb

§120-811B(2)(b)

- [4] At a minimum, engineering calculations used to determine drainage requirements for basins and ponds designed to control flows so as to meet the flooding standard must have with principal spillways capable of controlling runoff from 24-hour storms of the 2-year, 10-year, and 25-year frequencies. ~~determine drainage requirements based upon the twenty five-year, twenty four hour storm frequency.~~
- [5] ~~Methods of minimizing erosion and controlling sedimentation during and after construction. Erosion and sedimentation control plan. In addition to a site plan, a~~An erosion and sedimentation control plan ~~must be included that contains, at a minimum, permanent stabilization measures to be taken (e.g., paving or planting vegetation), installation details of the erosion control measures proposed, 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 ,and submission and must be fully compliant with the Stormwater Law.~~

**Commented [SP18]:** 120-811B(2)(b)Potential conflict with Ch 500. rb

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§120-812C(1)(d)

- (d) In parking lots utilizing a parking angle of 90°, ~~30% of the spaces shall be created with a stall width of 10 feet zero inches and a stall depth of 20 feet zero inches. Remaining~~ spaces shall be created with a stall width of at least nine feet zero inches and a stall depth of at least 18 feet zero inches.

**Commented [SP19]:** 120-812C(1)(d) This may conflict with the revisions to Ch 500. rb

**Commented [MB20R19]:** I don't see where in Ch. 500 parking stall size is regulated.

**Commented [SP21R19]:** That makes sense — aligning with the revised Ch. 500 and incorporating Low Impact Development (LID) standards will help manage stormwater runoff and reduce impervious surfaces. Limiting parking spaces to 9' x 18' strikes a balance between accommodating vehicles and minimizing environmental impact.

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§120-812E(1)

- (a) Stormwater management systems for minor and major site plans shall detain, retain, or result in the infiltration of stormwater from the twenty-four-hour storms of the two-year, ten-year, and twenty-five-year frequencies such that the peak flows of stormwater from the project site do not exceed the peak flows of stormwater prior to undertaking the project. ~~The project Stormwater systems shall be reviewed in for compliance with all applicable the stormwater standards included in the Maine Department of Environmental Protection Chapter 500, including basic, general, phosphorus, flooding, and other standards.~~ The Planning Board may waive the flooding standard in accordance with the following criteria:
- (f) Major site plans, regardless of size, shall submit a stormwater management plan that complies with Section 4C(2) and Section 4C(3) of the General Standards of the DEP Chapter 500, Stormwater Management, as amended.<sup>45</sup>

**Commented [SP22]:** 120-812E(1)(a) This address the Flood Standard but not Treatment or Phosphorous Stds. rb

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**Commented [SP23]:** 120-812E(1)(f) - This addresses treatment for major development. rb

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§120-812F

- (2) An erosion and sedimentation control plan shall show the use of erosion and sediment control best management practices (BMPs) at the construction site consistent with the minimum standards outlined in the Maine DEP Stormwater Rule Chapter 500 Appendix A – Erosion and Sediment Control, Appendix B – Inspections and Maintenance, Appendix C – Housekeeping. Erosion and Sedimentation Control. BMPs shall be designed, installed and maintained in accordance with the standards contained in the latest revisions of the following Maine DEP Documents:
- (a) Maine DEP Erosion and Sediment Control Best Management Practices (BMPs) Manual for Designers and Engineers.
- (b) Maine Erosion and Sediment Control Practices Field Guide for Contractors.
- (c) Applicants are required to utilize contractors who are certified in erosion and sedimentation control through the Maine Department of Environmental Protection's Voluntary Contractor Certification Program.

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§120-907B(4)(c)

- [4] Require qualified independent geotechnical, hydrogeologic, site evaluation, engineering, and similar professional consulting services to determine adherence to best practices in planning and engineering when any portion of the development is within the direct watershed of a lake most at risk from new development as designated in Chapter 502, Direct Watersheds of Lakes Most at Risk from New Development, and Urban Impaired Streams, of the Maine Department of Environmental Protection. The project shall be reviewed in compliance with the stormwater standards included in the Maine Department of Environmental Protection Chapter 500, including basic, general, phosphorus, flooding, and other standards.<sup>53</sup> The review shall also ensure compliance with performance standards contained in the general standards of Chapter 500, Section § 4(C), apply as described below in addition to the basic standards described in Chapter 500, Section § 4(B), and § 120-911C, D(2), H(1), and J of this chapter. The review shall include attendance at any scheduled Planning Board site walk. [Amended 3-26-2019 by Order 19-020]

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**Commented [SP25]:** 120-907B(4)(c)(4)Major Subdivision requires General Std rb

## ARTICLE 9 Subdivision

### §120-908. Waivers.

- C. Waiver of subdivision performance standards. The Planning Board may waive the requirements of § 120-911, Performance and design standards, unless prohibited by Maine statutes, where it finds that there are special circumstances of a particular parcel proposed to be subdivided, or that the application is simple and minor in nature. The applicant must demonstrate that the performance standards of these regulations and the criteria of the subdivision statute have been or will be met and the public health, safety and welfare are protected, and provided the waivers do not have the effect of nullifying the intent and purpose of this chapter. With regard to applications for which the Board is performing delegated review authority for applicable permits (i.e., Site Law or Stormwater Law), the waiver shall not result in noncompliance with any provision of the Site Law, Stormwater Law, or DEP regulations adopted pursuant to those laws.

**Commented [SP26]:** 120-908 MaineDEP typically doesn't like vague waiver language. rb

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**Commented [SP27]:** Per Mark Bower's suggestion for limiting the Planning Board's discretionary authority of performance standards waivers.

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§120-910B

- C. Minor subdivision final plan. The final plan submission shall include five-three (3) copies of the following information, including full-size plan sets, along with one electronic version of the entire submission. The Board may waive the submission information that is listed in § 120-910B(1)(c). With regard to applications for

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**Commented [SP28]:** 120-910B It appears the minor subdivisions may be exempt from Ch 500.

which the Board is performing delegated review authority for applicable permits (i.e., Site Law or Stormwater Law), the waiver shall not result in noncompliance with any provision of the Site Law, Stormwater Law, or DEP regulations adopted pursuant to those laws.

**Commented [SP29]:** Per Mark Bower's suggestion for limiting the Planning Board's discretionary authority of performance standards waivers.

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§120-910B(3)

- (c) A surface drainage plan or stormwater management plan with profiles and cross sections, showing the design of all facilities and conveyances necessary to meet the stormwater management standards set forth in Article 9 (Subdivision Review). The plan shall be drawn by a Maine licensed professional civil engineer and shall include a written statement indicating that the proposed subdivision will not create erosion, drainage or runoff problems either in the subdivision or on adjacent properties. Changes in runoff shall be calculated by using the TR-55 or TR-20 method or subsequent revisions and met comply with Maine DEP Chapter 500 Stormwater Law Section 4F Flooding Standards.
- (d) A soil erosion and sedimentation control plan prepared by a Maine licensed professional engineer or a certified professional in erosion and sediment control (CPESC) consistent with the requirements of § 120-911C, Erosion and sedimentation control, and which demonstrates that the erosion and sedimentation control, inspection and maintenance, and housekeeping standards specified in Maine DEP Chapter 500 Stormwater Rules, Appendices A, B, and C, respectively, are met, and that the grading or other construction activity will not impede or otherwise alter drainageways so as to have an unreasonable adverse impact on a wetland or waterbody, or an adjacent downslope parcel. [Amended 5-23-2023 by Order No. 23-092]

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**Commented [SP30]:** 120-910B(3)(c) Maine DEP won't like this waiver. It also doesn't reference a storm frequency on would only address the Flood Standard. rb

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**Commented [SP32]:** 120-910C(2)(x) Basic STD. rb

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**Commented [SP33]:** 120-910C(2)(y) General, Flood, Phosphorous. rb

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§120-910C(2)

- (x) An erosion and sedimentation control plan prepared in accordance with the requirements of § 120-911C, Erosion and sedimentation control and in compliance with Maine DEP Chapter 500 Stormwater Rules, § 4C (Basic standards), as amended from time to time. [Amended 5-23-2023 by Order No. 23-092]
- (y) A stormwater management plan, prepared by a Maine licensed professional engineer in accordance with the most recent edition of Stormwater Management for Maine: Best Management Practices Manual and Maine DEP Chapter 500 Stormwater Rules, § 4D (General standard), § 4D and (phosphorus standard)s and Section § 4F (Flooding standards standard), as amended from time to time. [Amended 5-23-2023 by Order No. 23-092]

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§120-910C(3)(f)

- [1] ~~In compliance with the procedures and requirements set forth in Maine DEP Chapter 500 Stormwater RulesMDEP Manual; "Stormwater Management for Maine Phosphorus Control in Lake Watersheds," published by the MDEP, January 2008, and subsequent revisions.~~ The analysis and control plan shall include all worksheets, engineering calculations, and construction specifications and diagrams for control measures, as required by ~~the Maine DEP Chapter 500 Stormwater Rules and the Phosphorus Design-Control Manual (March 2016), as amended from time to time.~~

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§120-911C Erosion and sedimentation control. [Amended 5-23-2023 by Order No. 23-092]

- (1) An erosion control plan showing the use of erosion and sediment control best management practices (BMPs) at the construction site consistent with the minimum standards outlined in the Maine DEP Stormwater Rule Chapter 500 Appendix A – Erosion and Sediment Control, Appendix B – Inspections and Maintenance, Appendix C – Housekeeping. ~~Erosion and Sedimentation Control.~~ BMPs shall be designed, installed and maintained in accordance with the standards contained in ~~the latest revisions of the following Maine DEP documents and complies with Maine DEP Chapter 500 Stormwater Rules, § 4C (bBasic standard)s,~~ as amended from time to time, and the following documents:

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§120-911J Stormwater

- (1) Stormwater management for subdivisions shall incorporate appropriate treatment measures for water quantity and quality to meet the requirements specified below for development of the lots as well as the infrastructure to support the project. Each application shall include, ~~for each lot,~~ maximum developed ~~area,~~ disturbed ~~area,~~ and impervious areas ~~for each lot based upon the definitions contained as those terms are defined in Section 3, Maine DEP Chapter 500, Stormwater Management, § 3.~~<sup>60</sup>
- (2) For subdivisions that ~~require a DEP are subject to~~ review under the Site ~~Location of Development Act (SLDA) Law~~<sup>61</sup> a stormwater management plan shall be submitted which complies with the ~~SLDA Site Law~~ permit and the requirements of ~~Maine DEP Chapter 500, Stormwater Management.~~
- (3) For subdivisions that do not require a ~~SLDA Site Law~~ permit but require a ~~DEP~~ permit under the Stormwater Law, a stormwater management plan shall be submitted which complies with the requirements of DEP Chapter 500, Stormwater Management.

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Commented [SP35]: 120-911C This addresses Basic Std for Major Sub. rb

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(5) For subdivisions within the watershed of a great pond that require neither a ~~DEP SLDA-Site Law~~ permit nor a ~~DEP~~ stormwater permit, a stormwater management plan shall be submitted that complies with Section 4B, Basic Standards, of DEP Chapter 500, Stormwater Management. In addition, the stormwater management plan shall comply with Section 4D, Phosphorous Standards, of DEP Chapter 500, Stormwater Management.

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**Commented [SP38]:** 120-911J(5)TShould this reference 502 instead? rb

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(6) For all subdivisions, regardless of size, a stormwater management plan shall be submitted that complies with Section 4E, Flooding Standard, of the DEP Chapter 500, Stormwater Management, as amended. ~~For a project that does not require a DEP SLDA permit, the Planning Board, upon a request by the applicant, may waive the flooding standard in the event that greater than 75% of the impervious and developed areas (as defined in Section 3 of DEP Chapter 500) for both the lots and infrastructure are treated through the use of buffers in accordance with DEP Chapter 500, Stormwater Management.~~ [Amended 5-23-2023 by Order No. 23-092]

**Commented [SP39]:** 120-911J(6) The MaineDEP won't like this waiver. rb

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