

Town of Windham
Env. & Sustainability Department

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MEMO

DATE: April 7, 2023

TO: Windham Town Council
THROUGH: Barry Tibbetts, Town Manager
FROM: Gretchen Anderson, Environmental & Sustainability Coordinator
CC: Amanda Lessard, Planning Director
Steve Puleo, Planner

RE: Ordinance Modifications in Compliance with Requirements of the General Permit for the Discharge of Stormwater from Municipal Separate Storm Sewer Systems (MS4) and Town of Windham Stormwater Management Plan (SWMP) - Measurable Goal 4.1a & 5.1b

The Town of Windham is subject to the General Permit for Discharge of Stormwater from Small Municipal Separate Storm Sewer Systems (MS4s), which was issued by the Maine Department of Environmental Protection (Maine DEP) with an effective date of July 1, 2022. The General Permit authorizes the direct discharge of stormwater from or associated with a regulated small MS4 to an MS4 or waters of the State other than groundwater.

Though the MS4 General Permit is a Clean Water Act Permit, it does not specify numeric effluent limitations (concentrations that a stormwater discharge must meet). Instead, the MS4 General Permit specifies narrative effluent limitations, in the form of Minimum Control Measures (MCMs). There are specific MCMs that require ordinance changes to accomplish the measurable goals laid out in the Town's Stormwater Management Plan (SWMP) by July 1, 2023. Specifically:

- MCM 4 – Construction Site Stormwater Runoff Control
 - Measurable Goal 4.1a requires Chapter 120 Land Use be updated to “reference that the Erosion and Sediment Control Plan meet a set of standards consistent with the applicable sections of Attachment C to the 2022 MS4 General Permit, (i.e., Maine DEP Stormwater Rule Chapter 500 Appendices A: Erosion and Sediment Control, B: Inspections and Maintenance, and C: Housekeeping).”

- MCM 5 – Post-Construction Stormwater Management in New Development and Redevelopment
 - Measurable Goal 5.1b requires that Chapter 140 Stormwater Management Article 2 Post Construction Stormwater Management be updated to include provisions for maintenance timelines on sites that are required to conduct annual stormwater infrastructure inspections & certifications.

These requirements have been incorporated into redline edits of the Land Use Ordinance [§120-812F(2) & (3), §120-910B(3)(d), §120-910C(2)(x), §120-911C] and Stormwater Management Ordinance [§201-21A(2)].

Additionally, staff also recommends changes to the Land Use Ordinance [§120-911N] that will facilitate compliance with these new requirements (i.e., review of homeowners' association documents to ensure maintenance and repair of common elements, and timely recording of the documents at the Registry of Deeds) as well as clarification to Stormwater Management Ordinance [§201-3B(2)] to align intent with the language.

The amendment process for ordinances are as follows:

- Land Use Ordinance – the amendments will need to be sent by the Town Council to the Planning Board for review and recommendation, followed by a Town Council public hearing and subsequent vote.
- Stormwater Management Ordinance – the amendments will require a Town Council public hearing and subsequent vote.

Staff recommends that the Land Use Ordinance amendments be referred to the Planning Board and then when a recommendation returns, public hearings and a vote may be held on both ordinances together.