

# PLANNING BOARD REPORT

## DEPARTMENT OF PLANNING AND DEVELOPMENT



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### Stormwater Compensation Fee Utilization Plan (CFUP) and Fund (#26-001)

<b>Submitted to:</b>	Brunswick Planning Board	<b>Prepared By:</b>	Julie Erdman Jimmy Dealaman
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#### I. INTRODUCTION

Starting the new year, staff continue to assemble and draft potential updates to our ordinances.

At this time, the Planning Board is requested to review the attached draft Compensation Fee Utilization Plan (CFUP), proposed language establishing a Mare Brook Watershed Compensation Fund, and associated zoning amendments, in advance of a future public hearing.

#### II. SUMMARY

Maine DEP Chapter 501, *Stormwater Management Compensation Fees and Mitigation Credit*, allows municipalities with recognized urban impaired streams to accept a fee in lieu of requiring developers to obtain additional mitigation credits for applicable projects. Municipalities may collect and accumulate these compensation fees for use on priority projects that address the identified stressors of the impaired stream. To legally collect compensation fees, a Watershed Management Plan must be in place for the stream that identifies actions to correct the impairment. In addition, a Compensation Fee Utilization Plan must be adopted to describe how funds will be allocated in accordance with the management plan.

The Mare Brook Watershed Management Plan, finalized in 2022, identifies the multiple stressors contributing to Mare Brook's urban impaired status, including—but not limited to—stormwater runoff from developed land, wetland loss, and improperly sized culverts. The primary goal of the plan is to restore Mare Brook to state-designated Class B standards by 2037.

Staff have prepared a draft Compensation Fee Utilization Plan (CFUP), proposed language establishing a Mare Brook Watershed Compensation Fund, and associated zoning amendments, for Planning Board review. Adoption of the CFUP will require approval by both the Town Council and Maine DEP. As an alternative to paying the compensation fee, developers may pursue on-site or off-site mitigation measures within the watershed to earn the credits required to meet the urban impaired stream standard. According to Jeff Dennis, Biologist with Maine DEP, meeting this standard through individual mitigation projects is often challenging for developers and does not consistently result in meaningful improvements to the impaired stream. Establishing a CFUP therefore represents a practical benefit to both developers and the long-term restoration of Mare Brook.

#### III. NEXT STEPS

Staff will review any feedback provided by the Planning Board, return with updated draft ordinances, and schedule a public hearing for the Board's recommendation on the zoning amendments to the Town Council.

#### IV. ATTACHMENTS:

Attachment 1. Draft Compensation Fee Utilization Plan

Attachment 2. Draft Chapter 19 Amendments – Establishment of Compensation Fund

Attachment 3. Related Draft Zoning Amendments

## **Mare Brook Watershed Stormwater Compensation Fee Utilization Plan (CFUP) and Compensation Fund**

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### **Purpose**

The Town of Brunswick recognizes that, depending on the nature and extent of proposed alterations, properties within the Mare Brook watershed may be subject to the Urban Impaired Stream standard set forth in the Maine Department of Environmental Protection (DEP) Rule, Chapter 500, Stormwater Management. This standard requires developers to:

1. Mitigate adverse water quality impacts on-site;
2. Mitigate adverse water quality impacts by improving stormwater quality at an off-site location; or
3. Pay into a compensation fund, provided a Compensation Fee Utilization Plan (CFUP) has been created and approved by the Maine DEP.

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### **Watershed Description**

Mare Brook (also referred to as *Mere Brook*) is a 5.7-mile urban-impaired stream with a 4.9-square-mile drainage area located entirely within the Town of Brunswick, Maine. The watershed includes land draining into Mare Brook and its primary tributary, Merriconeag Stream. Mare Brook is classified as a Class B stream and is currently impaired due to poor macroinvertebrate sampling results and degraded macroinvertebrate habitat.

The Mare Brook Watershed Management Plan (2022) was developed to guide the strategic use of limited resources among multiple stakeholders toward restoration activities most likely to improve the stream's impairment status. Prioritizing implementation of the Mare Brook Watershed Management Plan is identified as an action strategy in the 2025 Brunswick Comprehensive Plan.

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### **Establishment of the Compensation Fund**

The Town of Brunswick hereby establishes the Mare Brook Watershed Compensation Fund to allow developers to pay a compensation fee in lieu of implementing off-site mitigation projects. Compensation fees collected under this program will be allocated to projects that reduce the impacts of stormwater pollution on Mare Brook, in accordance with this Utilization Plan.

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### **Limits of Area**

Attachment 1 identifies the area within Brunswick that falls inside the Mare Brook watershed boundaries, including its tributaries. Projects located within this area may be subject to the Urban Impaired Stream standard pursuant to DEP Chapter 500 rules.

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## **Determination of Compensation Fee Amount**

The Maine DEP determines the amount of any compensation fee paid into the Fund. Any new development or redevelopment project within the Mare Brook watershed, subject to Stormwater or Site Location of Development Law, will be subject to the Urban Impaired Stream standards. Generally, this includes projects involving:

- Three (3) acres or more of land disturbance; or
- More than twenty (20) acres of developed area.

For new development, Maine DEP staff will review the proposed project and determine the number of mitigation credits or the compensation fee required, in accordance with Chapter 501 rules. The developer may then choose to pay the compensation fee or complete off-site mitigation. The DEP will determine the final amount of monetary compensation or mitigation required.

For redevelopment projects, Maine DEP staff will evaluate whether the proposed changes will adversely impact water quality. Redevelopment projects that result in adverse impacts will be subject to the Urban Impaired Stream standard.

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## **Process for Receiving Compensation Funds**

A developer electing to pay into the Town of Brunswick's Mare Brook Watershed Compensation Fund shall notify the Planning Department in writing. Upon receipt of the compensation fee, the Town will provide the developer with written confirmation of payment. The applicant must submit this receipt to the Maine DEP prior to the commencement of construction for projects requiring a DEP permit. Funds will be deposited into the Mare Brook Watershed Compensation Fund and may only be used to implement projects identified in Attachment 2 (Mare Brook Watershed Management Plan) that are designed to address water quality impairment, including but not limited to mitigation of stormwater discharges and riparian encroachment impact on Mare Brook.

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## **Implementation of Compensation Projects**

The Town of Brunswick will determine when sufficient funds have been collected to initiate a project using monies from the Mare Brook Watershed Compensation Fund. Project implementation will follow the process outlined below:

1. Projects will be selected based on the Mare Brook Watershed Management Plan, as amended. Specifically, medium and high priority projects identified in Table 10: Remediation Action Items Based on Assessments (pp. 58-60) shall be eligible for funding.
2. For projects located on private property, Town staff will contact the property owner(s) to confirm continued interest in participating and ensure that any necessary legal agreement is in place. Project refinements may be made by mutual agreement between the Town and the property owner(s).

3. The Town will prepare design plans and specifications, with input from property owner(s) and assistance from consultants, as necessary.
4. The Town will establish a long-term maintenance plan for any installed stormwater Best Management Practices (BMPs) with approval from property owner(s), as necessary. The plan will identify maintenance responsibilities, inspection and maintenance schedules, and enforcement mechanisms. All maintenance plans shall conform to the most current version of the Maine Stormwater BMP Manual.
5. The Town will construct the project or contract with a qualified contractor for project construction.

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### **Authorization and Revisions**

This Compensation Fee Utilization Plan has been developed by the Town of Brunswick and approved by the Maine Department of Environmental Protection. Any revisions to this Plan shall require review and approval by the Maine DEP.

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### **Reference Materials**

- Mare Brook Watershed Management Plan (2022–2032)
- Maine DEP Chapter 500 Stormwater Management Rules
- Maine DEP Chapter 501 Stormwater Management Compensation Fees and Mitigation Credit
- Maine DEP Chapter 502 Direct Watersheds of Lakes Most at Risk from New Development, and Urban Impaired Streams

## Chapter 19 PLANNING AND DEVELOPMENT

### Article I. – Revenues, Charges, Fees, and Fines

#### **Sec. 19-1. – Required fees.**

Application fees will be charged in accordance with the Master Schedule of Revenues, Charges, Fees and Fines, Appendix B to this Municipal Code of Ordinances.

(Ord. of 6-3-19)

### Article II. – Financial Contributions

#### **Sec. 19-2. – Establishment of Urban Impaired Stream Compensation Funds**

The Town hereby establishes the following urban impaired stream compensation funds as a financial tool to support projects that reduce the impacts of stormwater pollution on urban impaired streams:

##### a. Mare Brook Watershed Compensation Fund

The purpose of urban impaired stream compensation funds is to:

- (1) Provide a fund to allow developers to pay a compensation fee in lieu of implementing off-site mitigation projects
- (2) Compensation fees collected will be allocated to projects that reduce the impacts of stormwater pollution on the associated impaired stream.

#### **Sec. 19-2. – Rules and Regulations.**

- (1) The Town Director of Planning and Development shall be authorized to oversee the administration of all urban impaired stream funds, which may be expended for the purposes as described in Section 19.3.
- (2) All urban impaired stream funds will be accounted for as a special revenue fund. The balance in the fund will carry forward from year to year; ~~no~~ interest shall ~~will~~ accrue to the fund.

#### **Sec. 19-3. – Use of Fund.**

Urban impaired stream funds may be utilized to fund any public expense pursuant ~~with~~to the respective impaired stream Compensation Fee Utilization Plan approved by the Maine Department of Environmental Protection (MEDEP).

#### **Sec. 19-4. – Administration of Fund.**

The Town Treasurer or their designee is authorized to open and manage an urban impaired stream fund as a designated municipal account.

##### (a) Deposits into an urban impaired stream fund shall include:

- (1) Any funds contributed into an urban impaired stream fund must be in accordance with the process specified in the Stormwater Compensation Fee Utilization Plan.
- (b) The Town Manager or their designee shall keep a full and accurate account of urban impaired stream fund activity.

*[Chapter 1 Omitted Until Section 1.7, Definitions (S)]*

*Salt Marsh:* An area of coastal wetlands that supports salt-tolerant species, and where at average high tide during the growing season, the soil is irregularly inundated by tidal waters.

*Salt Meadow:* An area of a coastal wetland that supports salt tolerant plant species bordering the landward side of salt marshes or open coastal water, where the soil is saturated during the growing season, but which is rarely inundated by tidal water.

*Sapling:* For SPO District purposes, a tree species that is less than two (2) inches in diameter at four and one-half (4.5) feet above ground level.

*Scale:* Factors that determine the intensity of a use including, but not limited to: the size of buildings, the number of employees, residents, or customers, and the size and number of vehicles servicing the use.

*Scarify:* The disturbance of the forest floor in a controlled way, such as the removing or rearranging of the existing leaf layer or by mixing the existing leaf layer in with and exposing the mineral soil below.

*School:* An institution with facilities used for the offering of courses, lectures, training seminars, performing arts instruction or other similar use, including, but not limited to, public or private nursery, kindergarten, elementary, middle, secondary education, trade schools, and accessory structures and uses necessary to support those activities, including day care facilities, athletic facilities and playgrounds, but not including facilities for post-secondary education.

*Screening:* The use of landscaping, fencing, or site design techniques to minimize the view of a structure or use from a public road, public place, or adjacent property.

*Seasonal Storage:* For the purpose of outdoor storage of watercraft, shall mean the storage of watercraft for a time period not to exceed nine (9) consecutive months.

*Secondary Road:* Any road not listed in the definition of "primary road."

*Secretary of the Interior's Standards:* The Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring and Reconstructing Historic Buildings (U.S. National Park Service, 1995), as amended. These are national standards to guide work undertaken on historic properties and are intended to assist in the long-term preservation of historic structures and features.

*Seedling:* For SPO District purposes, a young tree species that is less than four and one-half (4.5) feet in height above ground level.

*Service Business, Class 1:* A business under 2,000 square feet in gross floor area where the principal use is the providing of personal services, including but not limited to: barber shops, beauty salons, shoe repair shops, tailors, mail services, and laundries.

*Service Business, Class 2:* A business 2,000 square feet in gross floor area or greater where the principal use is the provision of personal services, including but not limited to: barber shops, beauty salons, shoe repair shops, tailors, mail services, and laundries.

*Setback—In Non-SPO District:* The minimum horizontal distance between the front, side or rear lot line and the nearest point of the building, including decks or any covered projections thereof, on the lot.

*Setback—In SPO District:* In the SPO District, the nearest horizontal distance from the normal high-water line of a water body or tributary stream, or upland edge of a wetland, to the nearest part of a structure, road, parking space, or other regulated object or area.

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*Shore Frontage:* For SPO District purposes, the length of a lot bordering on a water body or wetland measured in a straight line between the intersections of the lot lines with the shoreline.

*Shoreland Area:* The Shoreland Protection Overlay (SPO) District.

*Shoreline:* The normal high-water line of, or upland edge of, a freshwater or coastal wetland.

*Sign:* Any object, device, or structure, or part thereof, situated outdoors or displayed in a window, freestanding or attached to a structure or registered motor vehicle, that displays a commercial or non-commercial message by means of words, letters, figures, design, symbol, advertising flags, fixtures, colors, illuminations, or projected images.

*Sign Face:* The portion of a sign that includes words, letters, figures, designs and background.

*Sign, Animation:* The usage of multiple frames running at a fast enough speed that the human eye perceives the content to be in continuous movement.

*Sign, Awning:* A covering that is, or appears to be, made of cloth, vinyl or canvas and is either permanently attached to a building or can be raised or retracted or fixed to a position against the building when not in use.

*Sign, Banner:* A sign displayed on flexible lightweight material, enclosed or not enclosed in a rigid frame, extending from one (1) side of the street to the other.

*Sign, Campus-Type:* Signs as permitted on large parcels of land developed in a campus-type environment with multiple buildings, including but not limited to medical centers, mill complexes, business parks, or public or private educational facilities.

*Sign, Canopy:* A sign that is part of, or attached to a structural protective cover over a drive thru or outdoor service area (not including an awning sign).

*Sign, Changeable Display:* A sign that utilizes computer generated displays or some other electronic means of changing copy. These signs include displays using LEDs, LCDs, or incandescent lamps.

*Sign, Dissolve/Fade:* A mode of message transition on an electronic sign accomplished by varying the light intensity or pattern, where the first display gradually reduces intensity or appears to dissipate to the point of not being legible and the subsequent display gradually appears or increases intensity to the point of legibility.

*Sign, Distracting Glare:* A sign with an illumination source which shines with sufficient brightness to cause discomfort, distract attention, or lead to the reduction or loss of visibility or visual function of the public, as determined by the Code Enforcement Officer.

*Sign, Easel:* A free-standing, moveable sign, usually shaped like a painter's easel stand, used onsite.

*Sign, Freestanding/Yard:* Any permanent or temporary sign placed on the ground or attached to a supporting structure, posts, or poles, that is not attached to any building.

*Sign, Illuminated Directly:* A sign illuminated by a light source that is outside of the sign.

*Sign, Illuminated, Flashing:* A sign in which the light source, in whole or in part, physically changes in light intensity or gives the appearance of such change at less than a five (5) second time interval. Time and temperature signs emanating white light are excluded from this definition.

*Sign, Illuminated Internally:* A sign illuminated by a light source that is within the sign.

*Sign, Illuminated, Tube:* A sign illuminated by a light source supplied by a tube that is not concealed and is filled with gasses, forming letters, symbols or other shapes.

*Sign, Monument:* A sign mounted directly on the ground.

*Sign, Moving:* A sign which in part or in total rotates, revolves or otherwise is in motion.

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*Sign, Multi-Tenant:* A sign for a grouping of two (2) or more establishments that either share common parking on the lot where located or occupy a single structure or separate structures that are physically or functionally related or attached.

*Sign, Multiple-Driveway:* A sign at the entrance or exit of a premise that has two (2) or more driveways.

*Sign, Official Business Directional:* An off-premise sign erected and maintained by the Maine Department of Transportation in accordance with the Maine Traveler Informational Services Act, 23 M.R.S.A. § 1901-1925, as amended, and this Ordinance.

*Sign, Off-Premise:* A sign that identifies an establishment or their products, services, or activities not sold, distributed, or carried out on the premises.

*Sign, Pole:* A sign attached to a pole or poles erected directly into the ground.

*Sign, Political:* A temporary sign bearing messages relating to an election or referendum.

*Sign, Portable:* A sign designed for and intended to be moved from place to place, on wheels or legs, and not permanently affixed to land, buildings, or other structures. Portable signs shall include portable reader boards and other similar signs.

*Sign, Projecting:* A sign attached to a wall at a right angle.

*Sign, Roll:* A mode of message transition on a Changeable Display Sign wherever the message appears to move horizontally across the display surface.

*Sign, Roof:* A sign mounted to the roof of a building or wall mounted signs projecting above the roof line. Signs mounted on the face of a mansard roof are not considered roof signs, but as wall signs.

*Sign, Sandwich:* A freestanding sign which is ordinarily in the shape of an "A" or some variation thereof, readily moveable, and is not permanent attached to the ground or any structure.

*Sign, Scroll:* A mode of display transition on a Changeable Display Sign where the display appears to move vertically across the display surface.

*Sign, Temporary:* A portable sign or any sign not permanently embedded in the ground or affixed to a building or permanent sign structure.

*Sign, Temporary Flag:* A temporary sign made of fabric or other similar non-rigid material supported or anchored along one edge or supported or anchored at only two (2) corners, If any dimension of the flag is more than three (3) times as long as any other dimension, it is classified and regulated as a wind/feather sign, regardless of how it is anchored or supported.

*Sign, Temporary Wind or Feather:* A temporary sign that is not considered a flag sign as defined, constructed of cloth, canvas, plastic fabric or similar lightweight, non-rigid material and is supported by a single vertical pole mounted on a structure or in the ground.

*Sign, Transition:* A visual effect used on a Changeable Display Sign to change from one message to another.

*Sign, Video:* A Changeable Display Sign that displays motion or pictorial imagery, including a display from a "live" source.

*Sign, Wall:* A sign applied, painted, or affixed flush to the exterior of a structure.

*Site Feature:* An element of site design other than the characteristics of the lot itself, the uses on the lot, the structures on the lot, or signs on the lot, such as landscaping, or lighting fixtures.

*Small Wind Energy System (SWES):* A wind-driven machine that converts wind energy into electrical power for the primary purpose of on-site use and not for public resale.



*Solid Waste:* Unwanted or discarded material with insufficient liquid content to be free flowing including, but not limited to, rubbish, garbage, scrap, junk, refuse, inert fill, and landscape refuse, excluding septic tank sludge and agricultural and aquaculture waste.

*Start of Construction:*

- (1) For purposes of the FPO District, the date the flood hazard development permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement, or other improvement was within 180 days of the permit date. The actual start of construction means either: the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of mobile home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footing, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.
- (2) For purposes other than floodplain management, start of construction shall include demolition, excavation, filling, grading, clearing of vegetation, and construction of buildings or structures. Activities noted in Subsection 5.2.9.F(2)b are exempt from this definition.

*Storm-Damaged Tree:* For SPO District purposes, a tree that has been uprooted, blown down, is lying on the ground, or that remains standing and is damaged beyond the point of recovery as the result of a storm event.

*-Stormwater Compensation Fee Utilization Plan (CFUP): A nonpoint source reduction program authorized by MEDEP for projects subject to the Urban Stream Standard 06-096 CMR ch. 500 subsection (4)(D). The CFUP specifies how fees paid by an applicant will be used to offset and reduce impact of stormwater pollution to an urban impaired stream. This fund is established pursuant to Chapter 19 (Planning and Development) of the Brunswick Code of Ordinances, as amended.*

*Stream:* For purposes of the Stream Protection Sub-district (SPO-SP) within the Shoreland Protection Overlay (SPO) District, a stream shall include a channel between defined banks. A channel is created by the action of surface water and has two (2) or more of the following characteristics.

- (A) It contains or is known to contain flowing water continuously for a period of at least six (6) months of the year under normal seasonal rainfall conditions.
- (B) The channel bed is primarily composed of mineral material such as sand, scoured silt, gravel, clay, or other parent material that has been deposited or scoured by water.
- (C) The channel contains aquatic animals such as fish, aquatic insects, or mollusks in the water or, if no surface water is present, within the stream bed.
- (D) The channel contains aquatic vegetation and is essentially devoid of upland vegetation. Bordering freshwater wetlands that are not separated from the stream channel by a distinct change in elevation (such as hillside groundwater seeps) or barrier, and wetlands that are subject to periodic flooding or soil saturation as a result of high stream flows are considered part of the stream. Where these wetlands are present, the normal high water line of the stream is measured from the upland/wetland transition of bordering wetlands subject to periodic stream water flooding or saturation, or where changes in wetland vegetation, soil characteristics, or topography clearly demonstrate wetland

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hydrology not associated with periodic flood flows. Natural and artificial impoundments at the source and along the course of the stream are considered to be part of the stream.

A stream does not mean a ditch or other drainageway constructed, or constructed and maintained, solely for the purpose of draining storm water or a grassy swale.

Within the Rural Protection Stormwater Management Overlay (RPSMO) District, the edge of the stream is at the bank-full stage of the upper-level high water flows. The bank-full stage shall be identified at the break in slope of the stream bank at which water starts to flow over the depositional surface of the floodplain.

This definition is based on physical characteristics that require field verification.

*Street, Private:* A street privately owned and maintained that is used as the principal means of access to three (3) or more dwelling units.

*Street, Proposed Public:* A street under design or construction intended to be offered as a public street.

*Street, Public:* A public way accepted by the Town of Brunswick.

*Street, within SPO:* A route or track consisting of a bed of exposed mineral soil, gravel, asphalt, or other surfacing material constructed for or created by the repeated passage of motorized vehicles, excluding a "driveway" as defined in SPO.

*Streetscape:* The visual elements of a street including a street, adjoining buildings, street furniture, trees, fences, and open spaces that combine to form the street's character.

*Structure:* An object built, constructed or erected for the support, shelter, or enclosure of persons, animals, goods, or property of any kind, together with any other object constructed or erected temporarily or permanently on or in the ground. This definition does not apply to customary lawn accessories such as fences, mailboxes, benches, and other such items as determined by the Code Enforcement Officer. For floodplain management purposes, a structure also means a walled and roofed building or a gas or liquid storage tank that is principally above ground.

*Structure, Increase in Nonconformity:* For SPO District purposes, any change in a structure or property which causes further deviation from the dimensional standard(s) creating the nonconformity such as, but not limited to, reduction in water body or wetland setback distance, increase in lot coverage, or increase in height of a structure. Property changes or structure expansions which either meet the dimensional standard or which cause no further increase in the linear extent of nonconformance of the existing structure shall not be considered to increase nonconformity. For example, there is no increase in nonconformity with the setback requirement for water bodies or wetlands if the expansion extends no further into the required setback area than does any portion of the existing nonconforming structure. Hence, a structure may be expanded laterally provided that the expansion extends no closer to the water body or wetland than the closest portion of the existing structure from that water body or wetland. Included in the allowance are expansions which in-fill irregularly shaped structures.

*Studio:* A workshop of an artist, writer, photographer, dancer, musician, yoga practitioner, or similar craftsperson or performer, including spaces where members of the public can come to receive instruction on a more than incidental basis or to sit for portraits.

*Subdivision:* The division of a tract or parcel of land as defined in 30-A M.R.S.A. § 4401(4), as amended.

*Substantial Damage:* Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

*Substantial Improvement:* For purposes of the floodplain management regulations for the FPO District, any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. This term includes structures that have incurred substantial damage, regardless of the actual repair work performed.

*Subsurface Wastewater Disposal System:* Any system designed to dispose of waste or wastewater on or beneath the surface of the earth—including, but not limited to: septic tanks, disposal fields, grandfathered cesspools, holding tanks, pretreatment filters, piping, or any other fixture, mechanism, or apparatus used for those purposes. It does not include any discharge system licensed under 38 M.R.S.A. § 414, as amended, any surface wastewater disposal system, or any municipal or quasimunicipal sewer or wastewater treatment system.

*[Definitions T – Z Omitted]*

*[Sections 1.8. – 4.4 Omitted]*

## **Sec. 4.5. Basic and Municipal Services.**

*[Sections 4.5.1. – 4.5.3 Omitted]*

### **4.5.4. Stormwater Management.**

- A. *General Standard.* Developments shall be designed to minimize the total area of impervious surface on the development site and shall incorporate stormwater management measures to minimize runoff volume and rate, as well as pollutant and nutrient loadings, from the site.
- B. *Specific Standards: Applicability.*
- (1) Single and two-family dwelling units are exempt from the standards of this Subsection provided appropriate measures are taken that prevent unreasonable soil erosion and sedimentation beyond the site or into a wetland or water body.
  - ~~(2) Any project that requires a Stormwater Management Law permit, other than a stormwater Permit by Rule (PBR) in accordance with Rules adopted pursuant to 38 M.R.S.A. § 420-D, as amended, shall be deemed to have met the requirements of this Subsection.~~
  - (23) Developments not requiring a Stormwater Management Law Permit pursuant to 38 M.R.S.A. § 420-D, as amended and not otherwise exempt from the requirements of this Subsection shall meet the standards set forth in Subsection 4.5.4.C below.
  - (34) Activities associated with stabilizing soil erosion, preventing sedimentation from developed land, or reconstruction of existing developed land shall be considered maintenance activity and do not require Development Review.
  - (45) All land areas that are stripped, graded, grubbed, filled, bulldozed or excavated at any time or removal of vegetation for, or construction of, a development shall be considered "disturbed area". Disturbed area does not include maintenance activities. A land area on which the cutting of trees, without grubbing, stump removal or exposure of soil has taken place is not considered disturbed area.
  - (56) Disturbed area that results in compacted soil and sparse vegetation; and lawn areas that are cut more than twice annually shall be considered "developed area".
  - (67) For the purposes of Stormwater Management, disturbed area that results in 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 shall be considered "impervious area".
  - (78) Existing impervious area that is required for any additional off-street parking facilities or on-site vehicle traffic circulation for a proposed use; and new principal and accessory structures or additions over existing impervious area shall be considered "redeveloped impervious area".
- C. *Specific Standards: Stormwater Runoff Quality Standards.*

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- (1) All stormwater management plans for new disturbed area and redeveloped impervious area shall meet runoff treatment standards based on a percentage of impervious surfaces, and shall also meet a minimum treatment for the total developed area, as outlined in the Table 4.5.4.C, Sliding Scale Table for Stormwater Treatment Sizing.
- (2) The Review Authority may allow the total disturbed area and redeveloped impervious area to be reduced by in-kind restoration of existing impervious area or existing developed area. Restoration plans shall provide measures for improved soil infiltrative capacity and the creation of dense vegetative cover. Restoration plans may not result in new developed area. The following information may be required by the Review Authority: existing soil conditions (including depth to limiting factors), soil amendments, plant type(s), and plant density (total number of plants, location, and size). Restoration plans with a diverse variety of native grasses, shrubs, understory trees and overstory trees are preferred as site conditions allow.

Table 4.5.4.C: Sliding Scale for Stormwater Treatment Sizing		
Disturbed Area and Redeveloped Impervious Area (acres)	Percentage of Impervious Area Required to be Treated	Percentage of Developed Area Required to be Treated
Over 1 acre <sup>1</sup>	95%	80%
1 acre < 0.75 acre	70%	60%
0.75 acre < 0.5 acre	50%	40%
0.5 acre < 0.25 acre	25%	20%
Under 0.25 acre	Shall meet Erosion Control requirements or DEP Chapter 500's Basic Standards	

## NOTES:

1. Developments with more than one (1) acre of impervious surface may be required to obtain a Stormwater Management Law Permit from the Maine Department of Environmental Protection.

2. Developments requiring a Stormwater permit, Site Law permit or permit modification located in a watershed of an urban impaired stream may pay into a fund established by a Stormwater Compensation Fee Utilization Plan (CFUP), in accordance with the requirements of the Stormwater Management Law, Title 38 M.R.S. §420-D(11) and DEP rules, as amended.

- (3) Stormwater management plans shall either:
  - a. Use the treatment sizing methodology required under DEP's Chapter 500 Stormwater Rules (06-096 C.M.R. Ch. 500) (which includes stormwater management design practices in accordance with the DEP Stormwater Manual, Volume III-BMPs Technical Design Manual); or
  - b. Rely on Low Impact Development (LID) design practices and techniques as approved by the Maine DEP; or
  - c. Use alternative treatment measures and techniques approved by the Review Authority as appropriate for the site and providing at least an equivalent level of treatment as the standard techniques.

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- i. The Review Authority may approve the use of alternative treatment measures and techniques upon a written waiver request submitted by the developer, and upon the recommendation from the Town's Engineer and/or Public Works Director.
- ii. The Review Authority's evaluation of alternative treatment measures and design practices shall be based on those set forth in Chapter 10 of the DEP Stormwater Manual, Volume III- BMPs Technical Design Manual, and/or any manual formally adopted by the Review Authority.
- iii. The developer bears the burden of showing that any alternative design meets the treatment standards to an equivalent degree.

D. *Specific Standards: Stormwater Runoff Quantity Standards.*

- (1) Developments shall be designed to compare the post-development conditions rate of runoff to the pre-developed condition rate for the 2-year and 25-year, 24-hour event. Any stormwater draining onto or across the lot in its pre-improvement state shall not be impeded or redirected so as to create ponding on, or flooding of, adjacent lots.
- (2) Studies and or calculations using larger storm event precipitation data may be required at the discretion of the Review Authority and be reviewed by the Town Engineer or assigned qualified third party reviewer. Data used to provide proof may include, but is not limited to, data for the 50-year, 24-hour rain event; data for the 100-year, 24-hour rain event; or acceptable rainfall data from recently recorded significant precipitation event(s).
- (3) Developments that cannot control peak runoff rates to pre-development conditions shall submit a request for a waiver to the Review Authority, who may grant the request if it finds each of the following:
  - a. Any increase in volume or rate of stormwater draining from the lot onto an adjacent lot following development can be handled on the adjacent lot without creating ponding, flooding, or other drainage problems, and that the owner of the lot being developed has obtained the legal right, written permission, or authorization by the property owner to increase the flow rate of stormwater onto the adjacent lot(s);
  - b. Any increase in volume or rate of stormwater draining from the lot onto Town-owned property following development can be handled without creating ponding, flooding, or other drainage problems, and that the owner of the lot being developed has obtained the legal right, written permission, or authorization by the Town of Brunswick to increase the flow rate of stormwater runoff onto its property;
  - c. Any increase in volume or rate of stormwater draining from the lot into the Town's separate storm sewer system can be accommodated in the system without creating downstream problems or exceeding the capacity of the storm sewer system. The developer bears the burden of proving adequate system capacity, which must be approved by the Public Works Director.

*[Remainder of Zoning Ordinance Omitted]*