

## **CHAPTER 24 SOLID WASTE FACILITIES**

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### **ARTICLE I - PURPOSE AND ENABLING LEGISLATION**

#### **§24-1. Purpose**

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#### **§24-1. Purpose**

- A. By and through this Chapter, the City of Old Town (“Old Town” or “the City”) declares its purpose to establish rules governing State-owned solid waste facilities, including but not limited to landfills, so that they may operate in a manner that does not constitute a hazard to the environment, health or welfare of the citizens of Old Town or create a nuisance. The City is committed to preventing the degradation or destruction of natural resources, minimizing the adverse impact of solid waste facilities on the natural environment and protecting the health, safety and general welfare of all people.
  
- B. By and through this Chapter, the City of Old Town declares its purpose and the standards in this Chapter to be in conformance with federal and State laws governing water pollution, clean air and solid waste. The standards adopted in this Chapter are intended to be consistent with Maine law, specifically the “Resolve to Authorize the State to Purchase a Landfill in the City of Old Town,” Resolves 2003, Chapter 93, 121<sup>st</sup> Legislative Session and any and all amendments thereto (the “Resolve”), which generally prohibits the City from regulating the operation or any other aspect of the

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West Old Town Landfill as provided in Title 38, section 2173 or by means of any municipal ordinances, regulations, licenses or permits, “except that the municipality may enact ordinances with respect to the operation of any expansion of the disposal facility, including any expansion of the type of waste the facility is licensed to accept, that contain standards the municipality finds reasonable, including, without limitation, standards concerning conformance with federal and state solid waste rules; fire safety; traffic safety; levels of noise heard outside the facility; the distance from existing residential, commercial or institutional uses; groundwater protection; surface water protection; erosion and sedimentation control; and compatibility of the disposal facility with local zoning and land use controls, as long as the standards are not more strict than those contained in Title 38, chapter 3, subchapter 1, articles 5-A and 6 and Title 38, chapter 13 and the rules adopted under those chapters. The municipality is prohibited from enacting stricter standards than those contained in Title 38, chapter 13 governing the hydrogeological criteria for siting or designing the expansion of or the governing of the engineering criteria related to waste handling and disposal areas of the expanded disposal facility. Such municipal ordinances must use definitions consistent with those adopted by the Department of Environmental Protection, Board of Environmental Protection.”

C. This Ordinance shall be interpreted to effectuate the above purposes.

**§24-2. Enabling Legislation**

The City of Old Town enacts this Ordinance pursuant to State law, the Resolve, and the Charter of the City of Old Town, and, to the maximum extent legally permissible, its constitutional and statutory home rule powers.

**ARTICLE II - TITLE AND DEFINITIONS**

**§24-3. Title**

**§24-4. Definitions**

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**§24-3. Title**

This Chapter shall be known and may be cited as “**City of Old Town Ordinance, Solid Waste Landfill Licensing Ordinance.**”

**§24-4. Definitions**

A. For purposes of this Chapter, the following terms shall have the following meaning, unless the context indicates otherwise. Terms listed but not specifically defined shall have the meaning established by Maine’s Solid Waste Management Act, the Site Location of Development Law, the Natural Resources Protection Act, or regulations

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adopted under those laws. Undefined terms shall have their common dictionary meaning.

1. *Abutter.* “Abutter” means any person, corporation or other entity that owns or leases property that abuts an existing or proposed Solid Waste Facility, including owners of property across a street from the Solid Waste Facility.
2. *Alter.* "Alter" means to change the capacity of or to change the siting, design, construction or operation of a Solid Waste Facility or activity in any way from that previously approved by the City or the Maine Department of Environmental Protection.
3. *Amendment.*
4. *Applicant.* “Applicant” means the person(s) or entity or entities submitting the Application for a Solid Waste Facility Permit and shall include both the Owner and the Operator of the proposed facility, if different.
5. *Application.* “Application” means an Application for a Solid Waste Facility Permit.
6. *Assessment Monitoring.*
7. *CEO.* “CEO” means the duly appointed Code Enforcement Officer for the City or the Code Enforcement Officer’s designee.
8. *City.* “City” means the City of Old Town, Maine.
9. *Construction and Demolition Debris.*
10. *Contamination (or Pollution).*
11. *Department (or MDEP).* “Department” or “MDEP” means the Maine Department of Environmental Protection, including the Board of Environmental Protection and the Commissioner.
12. *Detection Monitoring.*
13. *Disposal.* "Disposal" means the discharge, deposit, dumping, spilling, leaking, or placing of any solid waste into or on any land, air or water so that the solid waste or any constituent thereof may enter the environment or be emitted into the air, or discharged into any waters, including ground waters. This term does not include any beneficial use approved or exempted from a permit requirement by the MDEP.
14. *Environmental Monitoring.*

15. *Existing hourly sound level.* "Existing hourly sound level" means the hourly sound level at a Solid Waste Facility or at protected locations prior to the first expansion of that Solid Waste Facility.
16. *Expand or Expansion.* "Expand", or "Expansion," as it applies to Solid Waste Landfills, means to dispose of solid waste beyond the horizontal boundaries previously licensed by the Department for solid waste disposal, including any expansion of the type of solid waste the Landfill is licensed to accept, except when allowed as part of a Department approved closure activity; provided, however, that with regard to the West Old Town Landfill, "Expand", or "Expansion" means to dispose of solid waste beyond the horizontal boundaries previously licensed by the Department for solid waste disposal prior to September 13, 2003, except when allowed as part of a Department approved closure activity (with notice to the City as required by § 24-19 of this Chapter), and includes any Expansion, on or after September 13, 2003, of the type of solid waste said Landfill is licensed to accept for disposal in addition to the types of solid waste listed in the "List of Acceptable Categories of Maine Waste Licenses by the DEP for Disposal at WOTL As of September 2005," Exhibit 2 to the "Host Community Compensation and Facility Oversight Agreement" dated December 8, 2005, by and among the State of Maine, the City and Casella Waste Systems, Inc. ("Exhibit 2").
17. *Insurer.* "Insurer" means the person or company that provides the insurance contract or insurance policy to indemnify the Permit Holder and/or the City in the event of a loss or damage covered by an insurance policy required by this Chapter.
18. *Joint Committee.* "Joint Committee" means the Joint Citizen Advisory Committee, originally established by the City and the Town of Alton, pursuant to the terms of the Resolve. The Joint Committee has eight members, five from the City, two from the Town of Alton, and one appointed by the Penobscot Indian Nation.
19. *Landfill Gas.*
20. *Leachate.*
21. *License.* "License" shall have the same definition as "Permit".
22. *Maine Solid Waste Laws.* "Maine Solid Waste Laws" means all the laws of the State of Maine relating to the regulation of solid waste landfills.
23. *Maine Solid Waste Management Rules.* "Maine Solid Waste Management Rules" means Chapters 400 and 401 of the Code of Maine Regulations, in effect pursuant to the Maine Administrative Procedures Act, as amended

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24. *MBEP.* “MBEP” means the Maine Board of Environmental Protection.
25. *Minor Revision.*
26. *Municipal Solid Waste.*
27. *Operator.* “Operator” means the person, corporation partnership, limited partnership, or other entity designated as responsible for the operation of a Solid Waste Facility.
28. *Owner.* “Owner” means any person who alone or in conjunction with others owns the real property on which a Solid Waste Facility subject to this Chapter is located.
29. *Ordinance (or Chapter).* “Ordinance” or “Chapter” shall mean this "City of Old Town Solid Waste Facilities Ordinance,” Chapter 24 of the "Code of Ordinances."
30. *Permit Amendment.* "Permit Amendment" means a modification to a Permit issued under this Chapter that would permit a Solid Waste Facility to increase the capacity of the Facility; would alter the siting, design, construction or operation of the Facility; or would alter the nature of an activity to an extent that would require the City to modify any findings with respect to any of the Permit criteria; including, but not limited to: a transfer or change in the Owner or Operator of a Solid Waste Facility; any Expansion of a Facility, including any Expansion of the type of Solid Waste the Facility is licensed to accept; closure of the Facility; or any Amendment or Minor Revision to a Department license or a State or federal permit or other change that would violate or depart from any of the terms or conditions of the Solid Waste Facility Permit issued under this Chapter.
31. *Permit Holder.* “Permit Holder” shall mean the person(s) or entity or entities owning and operating a Solid Waste Facility pursuant to a Permit and/or Permit Amendment, and shall include both the Owner and the Operator of the Solid Waste Facility, if different.
32. *Protected Location.*
33. *Public Viewing Area.*
34. *Resolve.* “Resolve” means Resolves, 2003, Chapter 93, enacted by the First Regular Session of the 121<sup>st</sup> Maine Legislature, with an effective date of September 13, 2003.
35. *Secondary material.*

- 36. *Secure landfill.*
- 37. *Solid Waste.*
- 38. *Solid Waste Boundary.*
- 39. *Solid Waste Facility (or Facility).* "Solid Waste Facility" or "Facility" means Solid Waste Landfill, and any land area, structure, location, equipment or combination of them, owned by the State of Maine and used for landfilling of solid waste and/or special waste, secure landfills and any necessary uses customarily associated with a landfill.
- 40. *Solid Waste Landfill (or Landfill).* "Solid Waste Landfill" or "Landfill" means a discrete area of land or an excavation, owned by the State of Maine and used for the permanent disposal of solid waste. This term does not include land application sites used in programs approved by MDEP.
- 41. *Solid Waste Facility Permit.* "Solid Waste Facility Permit" means a permit issued by the Planning Board under this Chapter.
- 42. *Solid Waste Facility Review Committee.* The "Solid Waste Facility Review Committee" or the "Committee" means the Committee appointed by the Old Town City Council to advise the City Council on Solid Waste disposal issues. .
- 43. *Special Waste.*
- 44. *West Old Town Landfill.* West Old Town Landfill" means a Solid Waste Landfill located on Bennoch Road in the City of Old Town, Maine that is the subject of the Resolve and that also is known as the "Juniper Ridge Landfill."
- 45. *Wood Wastes.*

**ARTICLE III - SOLID WASTE FACILITY PERMITTING PROCEDURES**

**§24-5. Activities Requiring a Solid Waste Facility Permit**

**§24-6. Application Procedures**

**§24-7. Solid Waste Facility Permit Application Submittal Requirements**

**§24-8. Supplemental Solid Waste Facility Permit Application Requirements**

**§24-9. Solid Waste Facility Permit Amendment Application**

**§24-10. Waiver**

**§24-11. Reserved**

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**§24-5. Activities Requiring a Solid Waste Facility Permit**

This Chapter applies to the location, establishment, construction, alteration, Expansion, operation, change or transfer of ownership or operation, and /or closure of any Solid Waste Facility, except as otherwise provided in Section 24-21 of this Ordinance.

**§24-6. Application Procedures**

A. Pre-Application Meeting with CEO.

Applicants are encouraged to contact the CEO to schedule a pre-Application meeting with the CEO before submitting an Application to discuss the nature and scope of the proposed Application and submittal requirements, fees and the review process.

B. Public Notice Requirements.

As part of the submittal of an Application to the City for any Solid Waste Facility Permit, the Applicant shall provide for public notification as follows:

1. Publish the public notice once in the Bangor Daily News and the Penobscot Times. The notice must appear within one week before or after the date the Application is filed with the City.
2. Send a copy of the public notice to Abutters and to each member of the Joint Committee. The names and addresses of Abutters shall be obtained from City tax records. Notice shall be sent to all Abutters by certified mail, return receipt requested, so that the Abutters receive notice within fifteen days before or after the Application is filed with the City.

C. Submittal of Application and Completeness Review

1. The Applicant shall submit to the CEO an original and at least 3 copies of the Application, which shall contain the information specified in §24-7 of this Chapter and the maps, studies and other supplemental information specified in §24-8 of this Chapter. The Applicant shall submit the Application Fee and the Review Fee as specified in §24-23 at the time the Application is submitted.
2. An Application for a Solid Waste Facility Permit shall not be deemed accepted for processing until all information and data required to evaluate the Application and the applicable fees have been submitted. The CEO shall have fifteen (15)

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business days from the date of receipt of an Application to determine whether that Application is accepted as complete for processing.

3. If the CEO determines the Application is not acceptable for processing, the CEO shall return it to the Applicant with a letter identifying the items missing from the Application. The CEO's review is not a substantive review and constitutes only a determination of whether the Application is complete enough for processing. If the Applicant disagrees with the CEO's determination, the dispute shall be submitted to the Chair of the Planning Board or the Chair's designee, by letter outlining the area(s) of disagreement. The Chair shall resolve the dispute as quickly as possible, but within no more than five (5) business days.
4. If the Application is accepted for processing, the CEO will notify the Applicant of its acceptance and the Applicant shall file fourteen (14) copies of the Application and supporting information with the CEO. The Applicant shall also file two copies of the Application and supporting information with the City Clerk and deliver two copies to the City Library for review by the public.

D. Application Review Process.

1. The CEO shall forward an Application accepted for processing to the Planning Board within twenty-one (21) days after the Application is accepted for processing. The CEO shall also forward a copy to the Solid Waste Facility Review Committee and to such consultants as the CEO and the City Manager determine are appropriate to review the Application, following the procedure for expending Review Fees outlined in § 24-23 of this Chapter.
2. The CEO's determination that the Application is accepted for processing does not preclude the Planning Board from requesting additional information from the Applicant, if the Board determines such information or data is relevant and necessary to evaluate whether the Application conforms to the requirements of this Chapter and other applicable City Ordinances.
3. The Planning Board shall have one hundred eighty (180) days from the date the CEO determines the Application is accepted for processing to issue a decision regarding the Application, unless the Applicant and the City agree in writing to a longer review period.

E. Planning Board Permit Decision.

The Planning Board shall review the Application under the Solid Waste Facility Permit Standards in Article IV of this Ordinance, hold at least one public hearing on the Application, and either approve the Application and issue the Permit with such conditions as the Planning Board deems appropriate to ensure compliance with this Chapter and other applicable City Ordinances or deny the Permit Application. The Planning Board shall follow its usual

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procedures for notice of and conducting the public hearing, provided that the Planning Board shall give at least the following Notice: the Planning Board shall give at least ten (10) days' notice of its first meeting to review the Application by publishing in the Bangor Daily News and Penobscot Times a notice containing the date, time and location of the meeting and a brief description of the proposed Solid Waste Facility, and by mailing a copy of the published notice to all Abutters, the City Manager, the Board of Selectmen of the Town of Alton, Maine, the Penobscot Indian Nation and members of the Joint Committee and of the Solid Waste Facility Review Committee. Other meeting dates shall be posted in the Town Offices at least five (5) business days in advance of the meeting. The Planning Board decision shall be in writing and shall contain a statement of the reasons therefor.

**§24-7. Solid Waste Facility Permit Application Submittal Requirements**

- A. The Application shall require at least the following information about the Applicant and the proposed Solid Waste Facility or Expansion:
  - 1. Name and address of Applicant, including both the Owner(s) of the site and the Operator, if different;
  - 2. If Applicant is a corporation, evidence that the corporation is authorized to do business in Maine and a copy of a current Certificate of Good Standing from the Secretary of State of Maine;
  - 3. Name, address and phone number of the Registered Professional Engineer, Land Surveyor and other professionals who aided in preparing the Application, including a summary of their qualifications, training and project responsibilities;
  - 4. Name and address of the local authorized agent on whom all orders and notices may be served and to whom all correspondence from the City should be sent;
  - 5. A description of the nature of the Applicant's interest in the site (option, land purchase contract, recorded ownership, etc.), including a copy of the deed, lease or other documents evidencing the Applicant's authority to submit the Application and the right to construct and/or operate the site, if a Permit is granted;
  - 6. A list containing the name and mailing addresses of Abutters to the site and a map depicting the parcel(s) owned by each;
  - 7. A concise narrative description of the Solid Waste Facility design, construction, alteration or Expansion and the operations, including safety and security measures, traffic impacts, visual impacts, and the control of any offensive noise, odor, dust, litter and vermin, as well as measures to be taken to avoid air and water pollution, with citations to where this information can be found in the Application. The description shall include associated activities by or with the authorization of the Applicant occurring at or near the site. The narrative shall

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specifically address how the Application demonstrates compliance with State and Federal laws and regulations and include accurate and complete cost estimates for the Solid Waste Facility or Expansion, including construction and operating costs.

- B. The Applicant shall attach copies of current federal and State permits, approvals and licenses, including renewals, Amendments, modifications, Minor Revisions or extensions thereto, regulating the Solid Waste Facility or Expansion; summaries of all environmental monitoring results required by any State or federal permits and/or licenses; summary descriptions of spills, accidental discharges or emissions and all other unlicensed discharges, emissions and releases at the Facility; and records of violations for the Facility for the two years preceding the date of filing the Application.
- C. Any other information that the Applicant determines will assist the Planning Board in making its Permit decision.
- D. Submittal of an Application constitutes authorization for any duly authorized representative or employee of the City, upon presentation of appropriate credentials, at any reasonable time, to:
  - 1. Enter any Facility or related place which is not a residence, or any conveyance, where or in which solid waste or beneficial use secondary materials are generated, handled, transported, disposed or placed;
  - 2. Inspect the property and Facility and/or inspect or obtain samples of any Solid Waste materials, including samples from any conveyance in which Solid Waste is being or has been transported as well as samples of any solid waste containers or labels;
  - 3. Inspect and copy any records, reports, information or test results required by Permit or by MDEP license or Rule relating to operations at the Solid Waste Facility;
  - 4. Take photographs or measurements of activities and operations at the Solid Waste Facility;
  - 5. Obtain samples of the Solid Waste Facility or Expansion's construction materials; and
  - 6. Conduct environmental monitoring.

**§24-8. Supplemental Solid Waste Facility Permit Application Requirements**

Applicants for a Solid Waste Facility Permit shall also provide the following supplemental information; provided, however, that for a proposed Expansion of the West Old Town Landfill, this supplemental information shall be for both the Solid Waste Landfill in existence at the time

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of application and the proposed Expansion thereof, except that as to the requirements for *I. Waste Characteristics*(except for types of solid waste not listed in Exhibit 2), *M. Impact on Existing Uses and Scenic Character*, *N. Water Quality* and *P. Environmental Monitoring Program*, such supplemental information shall be that related to the proposed Expansion only.

A. An Executive Summary of the MDEP Application(s) for the Facility or Expansion, demonstrating compliance with Maine Solid Waste Laws and Solid Waste Management Rules. The Applicant may submit relevant portions of the MDEP Application in lieu of or along with the information requested herein.

B. Maps/Surveys/Aerial Photography.

1. Location map: The most recent U.S. Geological Survey topographic map (7 1/2 minute series) of the area showing property boundaries and Waste Facility and Expansion boundary.
2. A boundary survey made and certified by a Maine licensed land surveyor.
3. Maps. Maps no larger than 24 inches x 36 inches shall be submitted at an appropriate scale to show needed detail. Maps shall cover the area of development within the Solid Waste Facility site and a minimum of one thousand (1,000) feet beyond in all directions. The boundaries of the area to be mapped, scale and contour intervals shall be determined in consultation with the CEO. The maps shall show the following as appropriate: name and address of owner; scale, north arrow, and date; property boundaries; and topography, existing and after closure. Within the area to be developed, the maps shall show roads, walkways, parking areas, and loading/unloading facilities; culverts; structures; streams, intermittent streams, water bodies and wetlands; cross section lines; buffer zones; wells, springs, or any other source for private or public water supplies; utilities, existing and proposed; the proposed Solid Waste Landfill and Expansion Boundary; zone districts; signs, fences and permanent outdoor fixtures; exterior lighting; easements and rights of way; and erosion and sedimentation control measures.
4. The proposed Solid Waste Boundary of the Landfill or Expansion thereof and the property boundary shall be clearly outlined on one photo.

C. Financial and Technical Capacity.

1. A description of how the Applicant will comply with the MDEP License requirements regarding Financial Capacity.
2. A statement of the Applicant's prior experience or appropriate training, or both, relating to the construction and operation of the proposed Solid Waste Facility or Expansion.

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3. A description of the personnel who will be employed to design, construct, operate and maintain the proposed Solid Waste Facility or Expansion.
4. A time line for the permitting, construction, and commencement of operations at the Solid Waste Facility or Expansion and for closure activities at the Solid Waste Facility and Expansion.

**D. Traffic.**

1. An estimate of the number, weight (loaded and unloaded), and types of vehicles that will be transporting waste to and Leachate from the Facility and Expansion, including the estimated number of trips per day for vehicles entering and/or leaving the Facility and Expansion.
2. A map clearly delineating existing and proposed haul routes (within City limits) to be used by vehicles serving or using the Facility and Expansion, describing legal weight limits and restrictions, such as winter road closures and seasonal weight limits for each road, if applicable.
3. A detailed plan describing procedures the Applicant shall employ to discourage overweight vehicles from accessing the Facility and Expansion and to prevent vehicles carrying Leachate from the Facility and Expansion from exceeding applicable vehicle weight limits. The plan shall include the Applicant's maintenance of a quarterly Over Weight Truck Log as provided in §24-14 L. The plan shall also include measures to minimize litter and nuisance odor from trucks and vehicles hauling solid waste and/or Leachate to and from the Facility and Expansion.
4. An identification of all sections of roads, bridges and intersections along existing and projected haul routes within the City limits that are:
  - (a) Congested locations, which shall include at least the area known as the City's "downtown;" and/or
  - (b) Not rated to handle the weights or types of vehicles expected to transport Solid Waste and Leachate to or from the Facility.

Identification of vehicle routing decisions that were made based on these limitations and a description of any corrective actions the Applicant proposes to take.

5. A Maine Department of Transportation inventory and analysis of traffic accidents on roads and at intersections on any proposed haul routes within a quarter mile of the Facility and Expansion entrances and exits during the most recent 3-year period, or an equivalent study. The inventory must include identification of high accident locations within the City limits and identification of feasible

countermeasures based on discernible accident patterns at any high accident location.

6. Sight distances at the proposed Solid Waste Facility and Expansion entrances and exits and a Design Guidecopy of the Maine Department of Transportation Entrance Permit, if applicable, or if the Solid Waste Facility and Expansion entrance is not located on a State-supported highway, evidence that a qualified professional has certified that safesight distances will exist in all directions. This review must be conducted in conformance with the standards specified in A Policy on Geometric Design of Highways and Streets, American Association of State Highway and Transportation Officials (1994); and the Highway Design Guide, Maine Department of Transportation (September 1990).
7. A traffic study, if required by the Planning Board. The Planning Board will require a traffic study if the Application does not contain sufficient information to determine that all of the traffic standards of this Chapter will be met. A traffic study may also be required to evaluate whether there are modifications the Applicant could make that might enable the Applicant to comply with a traffic standard otherwise not met. The Planning Board's determination that a traffic study is required may be based on information or comments provided by the Maine Department of Transportation (MDOT). A decision on the need for a traffic study may be delayed until after review by the Planning Board's traffic consultant or the public hearing. The Applicant may be required to supplement or update traffic information, including a traffic study, at any time during the permit review process if the Planning Board determines that a supplement or update is necessary to evaluate the application under the traffic criteria of this Chapter.
8. Elements of a Traffic Study. The year for which the study results are to be characterized is the projected first year of full operation. If the proposed Solid Waste Facility or Expansion is a multi-phase project with a projected completion date more than 5 years after the year of the study, the Planning Board may require that the study results be characterized for the year that corresponds to the opening of the first major phase or to the timing of transportation system improvements, such as a major bridge construction project. The Planning Board may narrow the scope of the Traffic Study to particular roads or areas, if concerns are limited to particular roads, intersections or areas of the City. The traffic study must contain the following, unless otherwise provided by the Planning Board:
  - (a) A regional map showing the Solid Waste Facility and Expansion, proposed haul routes to and from the Facility on City streets and State highways within the City limits for the vehicles that will use or serve the Facility.

- (b) A description of existing traffic conditions and anticipated traffic increases from sources other than the Solid Waste Facility and Expansion that are likely to occur in the vicinity of the proposed Solid Waste Facility or Expansion during the study period. At a minimum, the study must identify development or redevelopment proposals which have been approved, either locally or by the Department, and development or redevelopment proposals for which complete applications have been filed with and accepted by the City or the Department at the time of the traffic study.
- (c) Trip generation calculations for the Solid Waste Facility and Expansion and for other proposed development and redevelopment projects in the vicinity of the Facility. If data from the “Trip Generation Guide” of the Institute of Transportation Engineers is not available, trip generation must be estimated in accordance with a methodology approved by the Planning Board.
- (d) A diagram of the traffic volume on roads and intersections in the vicinity of the Solid Waste Facility and Expansion for both the estimated annual average daily traffic and the A.M./P.M. peak hour traffic, including turns during the peak hour. Traffic diagrams must show the following:
  - (1) Traffic attributable to the Facility and other developments, including a description of the types of traffic.
  - (2) Existing traffic volume. All traffic counts must be actual counts whenever possible. Traffic counts from the MDOT may be used if not more than two years old.
  - (3) Projected traffic volume for the hours required above at the time the Facility will begin full operation.
  - (4) Documentation, including all new traffic counts and analysis worksheets, as to how the various volumes were derived.
- (e) A capacity analysis to determine the level of service for each road and intersection in the vicinity of the Solid Waste Facility and Expansion and an analysis of the physical condition and ability of each such road to accommodate the volume and types of existing and anticipated traffic. Capacity calculations must be made for the 30th highest hour of traffic during the year that the Facility or Expansion would begin operation, or any other appropriate design hour approved by the Planning Board. Where it is shown that the capacity analysis methodology will not accurately measure operating conditions or levels of service at a road or intersection, the Planning Board may require the Applicant to analyze the operating conditions of an intersection or road using another methodology

acceptable to the Planning Board. The capacity and physical condition and ability to accommodate traffic analysis must take into consideration the volume and types of existing and anticipated traffic, with reference to the anticipated weight, types and dimensions of vehicles hauling to and from the Facility and Expansion.

- (f) The need for new traffic signals in the vicinity of the proposed Solid Waste Facility and Expansion must be analyzed using the warrants in the Manual on Uniform Traffic Control Devices, U.S. Department of Transportation, Federal Highway Administration (1988). Although an intersection may meet the MUTCD warrants, the Planning Board may determine that a signal is not appropriate on a City street.
- (g) If the traffic study indicates that unsatisfactory levels of service or unsafe conditions exist or will occur at intersections or on roads in the vicinity of the proposed Solid Waste Facility and Expansion, a description of the measures recommended to correct the deficiencies, including the following:
  - (1) Recommended Improvements. A description and diagram of the location, nature, and extent of recommended improvements to roads and intersections in the vicinity of the proposed Solid Waste Facility and Expansion. Accompanying this list of improvements must be preliminary cost estimates. Of the recommended improvements, those proposed for implementation must be identified.
  - (2) Capacity Analysis After Improvement. A description of the anticipated results of making these improvements.
- (h) A clear, concise summary of the study findings.

E. Utilities.

Evidence that the Applicant has made adequate provision for utilities to furnish service at the required design usage, including water supplies, sewerage facilities, electricity, and solid waste disposal and that any public utilities have adequate capacity to provide necessary services and are willing to do so.

F. Fugitive Dust and Odors.

1. Identify any sources or potential sources of nuisance odors from the Facility and Expansion.
2. Describe methods for monitoring, managing and controlling Landfill odors and Landfill Gas. Estimate the area that would be affected by nuisance odors, based

on general experience in dealing with the material or process that is the source of the odors and other available information, such as studies or journals.

3. Describe proposed systems for enclosure of nuisance odor-producing materials and processes, and proposed uses of technology to contain, control and/or eliminate odors.
4. Describe proposed methods for detecting and measuring odors to demonstrate control of nuisance odor and that the occurrence of nuisance odor from the Facility and Expansion will not unreasonably adversely affect air quality. ASTM E679-91 Standard Practice for Determination of Odor and Taste Thresholds by a Forced Choice Ascending Concentration Series Method of Limits, Current Ed., published Oct. 1991, shall be used for guidance on the detection, measurement and control of nuisance odors and is adopted by reference; a copy is on file in the City Clerk's office.
5. Describe the actions the Applicant will undertake to control fugitive dust from the Solid Waste Facility and Expansion so that fugitive dust will not unreasonably adversely affect air quality and of the actions to be taken if a problem attributable to the Facility and Expansion occurs beyond the property boundary.

G. Litter Control.

1. A description of potential sources of litter at the Facility and Expansion, including but not limited to recycling or composting facilities and the working face of a landfill and of proposed litter control measures, such as litter control fencing, berms, daily cover, monitoring, and periodic clean up of litter.
2. A description of measures that will minimize litter from being carried off-site by vehicles used to transport Solid Waste to and from the Facility and Expansion.

H. Vector and Bird Control.

1. A description of measures that will be used to minimize the Facility and Expansion's on-site population of disease vectors.
2. A description of the proposed bird control plan, which shall include a plan responding to bird habitation to various control methods.

I. Waste Characteristics.

1. A summary of anticipated waste types and an estimate of the tonnage of each type of waste material to be received at the Solid Waste Facility and Expansion on an annual basis for the term of the Permit.

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2. A summary of the approved Hazardous and Special Waste Handling and Exclusion Plan, including a description of methods or procedures used to detect, identify, handle, store and transport special and hazardous wastes.
  3. A description of the composition of the leachate to be generated at the Facility and the Expansion and how it will be handled, stored on site and transported.
  4. A Leachate disposal plan, including a contingency plan for handling Leachate if the preferred Leachate disposal facility is unavailable, addressing potential short term and long term interruptions in leachate disposal.
- J. Noise. A description of the existing hourly sound levels at the Facility site and the anticipated sound levels both within the Solid Waste Facility site and at the property boundary and at any Protected Location. The Applicant shall specify the sources and types of anticipated sounds, including sound from machinery, equipment and motor vehicles and any environmental noise control devices available to reduce anticipated noise levels, both on site and at the property boundaries.
- K. Air Quality. Demonstrate that the proposed Facility and Expansion will comply with State and federal permit requirements regulating air emissions, and how the Facility and Expansion will limit adverse impacts from Landfill Gases, monitor landfill gases, and report on management activities undertaken.
- L. Liability Insurance.
1. A description of how the Applicant will comply with the MDEP License requirements regarding liability insurance, which except public entities from having to provide proof of liability insurance.
  2. Liability insurance policies shall provide for endorsements that contain conditions equivalent to the following:
    - (a) The insurer shall furnish the City Manager a signed duplicate original of the policy and all endorsements;
    - (b) Cancellation of the Insurance Policy, including any endorsements, whether by the insurer or the insured, shall be effective only after the expiration of sixty (60) days after a copy of the written notice is received by the City Manager; and
    - (c) Any other termination of the insurance policy, including any endorsements, will be effective only upon written notice and only after the expiration of thirty (30) days after a written copy of the notice has been received by the City Manager.

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- (d) A “claims made” liability insurance policy must include an endorsement providing for a discovery period of at least twelve (12) months beyond the date of expiration or cancellation of the policy and for notice to the City Manager.

M. Impact on Existing Uses and Scenic Character. An analysis of the visual impact of the proposed Facility or Expansion on the existing uses and scenic character of the existing site, surrounding and neighboring properties and views in the vicinity, including views from Public Viewing Areas that are impacted by the proposed Facility or Expansion, including at least the following:

1. Presentation of the Facility or Expansion layout, operations, methodology and sequencing options considered during the design process and the presentation of vistas and views from Public Viewing Areas that are impacted by the proposed Facility or Expansion, to illustrate the analysis.
2. A description of the existing condition of the Facility or Expansion site and the vicinity around it, covering the area within 2,000 feet of the property boundary. This description shall include, at a minimum, terrain, vegetation, habitats, existing land uses, existing from Public Viewing Areas that are impacted by the proposed Facility or Expansion, and natural resources and how the Facility or Expansion will be consistent with these existing features and uses.
3. Describe the height of the proposed landfill mound at various stages of development and at the peak elevation, the use of daily and final cover and screening berms, consistent with the surrounding vegetation and terrain, nearby buildings, and views from Public Viewing Areas that are impacted by the proposed Facility or Expansion.
4. A summary of the existing land uses in the vicinity of the proposed Facility or Expansion, including designated historic sites and Protected Locations.
5. The nature, location, design, and size of all buffers and visual screens within those buffers considered, retained, established or implemented in the design of the proposed Facility or Expansion.

N. Water Quality. Demonstrate that the proposed Facility or Expansion will comply with the State and Federal permit requirements minimizing groundwater and surface water pollution.

O. Compliance Record.

1. The full name, business address, home address, date of birth, and/or Federal Employer Identification Number of the Applicant, and a summary of the Maine DEP Application pertaining to the civil or criminal records of the Applicant (Owner and Operator) or any person having a legal interest in the Application

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for the Facility and Expansion, as required by §12 Criminal or Civil Records of Chapter 400 of the Code of Maine Rules. All such information shall be supplemented as necessary for the information to be current.

2. The full name and business address of any company which collects, transports, treats, stores, or disposes of solid waste or hazardous waste in which the Applicant holds an equity interest of 5% or more.
  3. A listing and explanation of administrative consent agreements or consent decrees entered into by the Applicant, including the Operator, for violations of environmental laws administered by MDEP, the State of Maine, other New England states, the State of New York, or the United States or another country in the five years immediately preceding the filing of the Application.
  4. If a Permit is issued, the submittal requirements of this §24-8.O shall be considered an ongoing obligation of the Permit Holder and shall be updated annually.
- P. Environmental Monitoring Program. A narrative describing the monitoring program for the Facility or Expansion, including what will be monitored, monitoring methodology and monitoring frequency; copies of applicable state and federal permits concerning Environmental Monitoring requirements; and a statement detailing how the Applicant will comply with permit requirements.
- Q. Hours of Operation. A description of the normal hours of operation of the Facility and Expansion and of any circumstances that might require extending those hours.
- R. Operations and Maintenance Manual. A copy of the Solid Waste Facility's and Expansion's operations and maintenance manual approved by MDEP.

**§24-9.Solid Waste Facility Permit Amendment Application**

- A. Any modification to a Permit issued under this Chapter that would: permit a Solid Waste Facility to increase the capacity of the Facility; would alter the siting, design, construction or operation of the Facility; or would alter the nature of an activity to an extent that would require the City to modify any findings with respect to any of the Permit criteria; including, but not limited to: a transfer or change in the Owner or Operator of a Solid Waste Facility; any Expansion of a Facility, including any Expansion of the type of Solid Waste the Facility is licensed to accept; closure of the Facility; or any Amendment or Minor Revision to a Department license or a State or federal permit or other change that would violate or depart from any of the terms or conditions of the Solid Waste Facility Permit issued under this Chapter shall require a Permit Amendment.
- B. Minor (non-material) Permit Amendments shall be reviewed and acted upon by the CEO, who also shall determine whether an application for a Permit Amendment is a

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Major Permit Amendment or a Minor Permit Amendment. Major Permit Amendments shall be reviewed and acted upon by the Planning Board as provided in E. below; however, a transfer or change in the owner or operator of a Solid Waste Facility shall be a Major Amendment. If the applicant for a Permit Amendment disagrees with the CEO's determination, the dispute shall be submitted to the City Council President, by letter, outlining the area(s) of disagreement. The Council President or the Council President's designee shall resolve the dispute as quickly as possible, but within no more than five (5) business days.

- C. The Applicant shall schedule a pre-application meeting with the CEO, who will determine the scope of the Permit Amendment Application review, based on the scope and potential impact of the changes.
- D. The Applicant shall submit such relevant information and data as required to address applicable parts of §§ 24-7 and 24-8 of this Chapter as needed to determine whether the proposed Permit Amendment will comply with this Chapter and other applicable City Ordinances. If the CEO or the Planning Board determines additional information is necessary to determine whether the proposed Permit Amendment complies with this Chapter, the Applicant shall submit such information in a timely manner.
- E. The procedure for review of a Permit Amendment Application for a Major Permit Amendment shall be as set forth in §24-6 of this Chapter, except that the submittal information shall be the information required by this §24-9, or by § 24-15 for transfer or change in Owner of Operator of a Solid Waste Facility, and the Planning Board shall have 120 days from the date the CEO determines the Application is complete to issue its decision. The CEO shall issue a decision on a Minor Permit Amendment application within 30 days from the date the CEO determines the application is complete.

**§24-10. Waiver**

An Applicant may seek a waiver from the provisions governing the establishment, expansion, alteration or operation of a Solid Waste Facility subject to this Chapter by using the procedures described below. It is the responsibility of the Applicant to demonstrate that its proposal will comply with the intent of this Chapter.

A. Waiver.

- 1. The City has determined that the requirements of this Chapter will minimize the risk that a Solid Waste Facility will threaten public health, human safety or the environment or create a nuisance. An Applicant who seeks a waiver from the siting, design, construction or operation requirements of this Chapter may request a waiver from the Planning Board as a special condition to the Permit.
- 2. Whenever an Applicant seeks a waiver from the requirements of this Chapter relating to siting standards, facility design or construction, the Applicant must present clear and convincing evidence that the Solid Waste Facility or Expansion

siting, design, construction or operation is distinctive in some way that allows for compliance with the intent of this Chapter despite the waiver. Whenever an Applicant seeks a waiver from the requirements of this Chapter relating to any aspect of a Facility or Expansion's operation, the Applicant must affirmatively demonstrate that the Facility or Expansion will not contaminate any waters of the State, contaminate the ambient air, constitute a hazard to health and welfare, or create a nuisance, and that the proposed operation will comply with the purpose and intent of this Chapter despite the waiver. The Planning Board shall consider the waiver request as part of its comprehensive review of an Application.

3. Requests for a waiver submitted as part of the Application shall include, but are not limited to:
  - (a) Identifying the specific provisions of this Chapter from which a waiver is sought;
  - (b) A description of the alternative proposed and the reasons why it meets the intent of this Chapter;
  - (c) The reasons for which a waiver is requested, including the environmental, economic and technological justifications; and
  - (d) Any other relevant information or data the Planning Board may request or the Applicant may wish to provide.
4. Term. The term of a waiver shall be concurrent with the term of the Solid Waste Facility Permit to operate, or for such lesser term as the Planning Board may specify.

**ARTICLE IV - SOLID WASTE FACILITY PERMIT STANDARDS**

**§24-12. Criteria for Approving a Solid Waste Facility Permit or Permit Amendment**

**§24-13. Terms of a Solid Waste Facility Permit**

**§24-14. Standard Conditions of Approval of a Solid Waste Facility Permit**

**§24-15. Criteria for Approving a Change or Transfer of Solid Waste Facility Ownership or Operation**

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**§24-12. Criteria for Approving a Solid Waste Facility Permit or Permit Amendment**

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The Planning Board shall issue a Solid Waste Facility Permit or Permit Amendment in accordance with this Chapter if the Planning Board determines that the Solid Waste Facility and Expansion meets each of the standards of this Section; provided, however, that with regard to proposed Expansion of the West Old Town Landfill, the standards of this Section shall apply to both the Solid Waste Landfill in existence at the time of application and the proposed Expansion, except that the standards in *G. Waste Characteristics* (except for types of solid waste not listed in Exhibit 2), *K. Impact on Existing Uses and Scenic Character*, *L. Water Quality* and *N. Environmental Monitoring Program* shall apply only to the proposed Expansion. The Applicant shall demonstrate that the Solid Waste Facility will not threaten public health, human safety or the environment or create a nuisance by demonstrating compliance with the standards of this Section. The Planning Board shall deny a Solid Waste Facility Permit if the Planning Board determines that the Applicant does not demonstrate compliance with each of the standards of this section.

- A. Financial and Technical Capacity. The Applicant has demonstrated financial and technical capacity to design, construct, operate and close the Solid Waste Facility and Expansion in accordance with the requirements of this Chapter and the MDEP license.
- B. Traffic. The Applicant has made adequate provision for safe and uncongested traffic movement of all types into, out of and within the proposed Solid Waste Facility and Expansion.
  - 1. The haul routes within the City will safely accommodate the number, weight and types of vehicles transporting waste to and from the Facility and Expansion.
  - 2. The Applicant has developed a plan meeting the requirements of §24-8.D. regarding overweight vehicles and has agreed to implement that plan. Vehicles transporting solid waste also will be licensed by the City in accordance with its requirements, when enacted, for licensing solid waste haulers.
  - 3. The entrance and exit design for the Solid Waste Facility and Expansion will provide safe sight distances in all directions and provides for safe turning.
  - 4. Necessary improvements to roads or intersections will be completed prior to initial operation of the Facility and Expansion or beginning operations pursuant to a Permit, Permit Amendment or Permit Renewal, unless an alternative schedule is approved by the City.
  - 5. Major Facility and Expansion roadways will allow continuous and uninterrupted traffic movement without causing traffic to back up onto City streets posing a danger to pedestrians or other vehicles and will provide safe access for City public safety personnel and vehicles.
  - 6. The Applicant has developed a plan to minimize litter and nuisance odor from trucks and vehicles used to transport solid waste to, or leachate from, the Facility and Expansion, and has agreed to implement that plan.

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- C. Utilities. The Applicant has made provisions for utilities to furnish service at the required design usage.
- D. Fugitive Dust and Nuisance Odors. The Applicant has made adequate provisions for the control of fugitive dust and nuisance odors so that the Solid Waste Facility will not unreasonably adversely affect air quality beyond its property boundary.
- E. Litter Control. The Applicant has made adequate provision for control of litter, routine maintenance, and general cleanliness of the entire Facility and Expansion site.
- F. Vector and Bird Control. The Applicant has made adequate provision for minimizing disease vectors on the site and has developed an effective bird control plan to protect human health.
- G. Waste Characteristics. The Applicant has developed and will implement a Hazardous Waste and Special Waste Handling and Exclusion Plan under the Maine Solid Waste Management Rules to detect, identify, handle, store and transport special and hazardous wastes. The Applicant has demonstrated the ability to comply with MDEP requirements regarding the handling of solid waste and the storage, handling, transportation and disposal of Leachate.
- H. Noise. The Solid Waste Facility and Expansion will not generate excessive noise at the property boundary and/or at any Protected Location, as demonstrated by compliance with the following:
  - 1. Sound Level Limits. The hourly sound levels from routine operation of a Solid Waste Facility will be less than or equal to:
    - (a) 75 dBA for daytime and nighttime hours at the Facility property boundary;
    - (b) 60 dBA for daytime hours and 50 dBA for nighttime hours at any Protected Location in an area for which the zoning, or the existing uses are not predominantly commercial or industrial; or
    - (c) 70 dBA for daytime hours and 60 dBA for nighttime hours in an area for which the zoning or existing uses are predominantly commercial or industrial.
  - 2. Alternative levels. If the applicant chooses to demonstrate by measurement that the daytime or nighttime pre-development ambient sound environment at any protected location exceeds the daytime or nighttime limits above, by at least 5 dBA, then the daytime or nighttime limits are 5 dBA more than the measured daytime or nighttime pre-development ambient hourly sound level at the location of the measurement for the corresponding time period.

3. Existing Facilities. For any protected location near an existing Solid Waste Facility, the hourly sound level limit for routine operation of the existing facility and all future expansions of that facility is the hourly sound level written above, or at the applicant's election, the existing hourly sound level from routine operation of the facility before any expansions plus 3 dBA.
4. Equipment used during construction and maintenance activities at the Solid Waste Facility and Expansion will comply with applicable state and federal noise regulations and include environmental noise control devices in proper working condition and maintained as originally provided with the equipment by its manufacturer.
5. Sounds associated with the following are exempt from the sound level limits of this section:
  - (a) Routine engine sounds, from registered and inspected motor vehicles, with a properly installed and maintained muffler system as required by 29-A M.R.S.A. § 1912:
    - (1) While operating on public ways, or
    - (2) While entering the facility to make a delivery or pickup and that are moving, starting or stopping, but not when they are parked with the engine running in the Facility.
  - (b) The unamplified human voice and other sounds of natural origin.
  - (c) Emergency maintenance and repairs.
  - (d) Facility and vehicle warning signals and alarms so long as used in appropriate circumstances.
  - (e) Safety and protective devices installed in accordance with the devices' installation instructions.
  - (f) Test operations of emergency equipment occurring in the daytime and no more frequently than once per week.
  - (g) Major concrete pours that must extend after 7:00 P.M., when started before 3:00 P.M.
  - (h) Snow removal, landscaping and street sweeping activities.
  - (i) Sound from a regulated development received at a Protected Location when the generator of the sound has been conveyed a noise easement for

that location. This exemption shall only be for the specific noise, land and term covered by the easement.

- I. Air Quality. The Applicant has made adequate provision to avoid unreasonable adverse impacts on air quality, including unreasonable adverse impacts from Landfill Gases, and for monitoring Landfill Gases and reporting any management activities undertaken. The Applicant has developed adequate methods and/or systems to handle, place and address nuisance odor producing materials and processes, including enclosure of nuisance odor-producing materials and processes, and the use of technology to control, reduce or eliminate odors from the Facility and Expansion.
  
- J. Liability Insurance. The Applicant, except if the Applicant is a public entity, has demonstrated that it has adequate liability insurance for construction, operation, closure and post-closure monitoring and maintenance at the Facility and Expansion by complying with MDEP Permit requirements, the requirements of this Chapter and the following:
  - 1. All liability insurance policies contain the required endorsements.
  - 2. Policies provide that the bankruptcy or insolvency of the insured does not relieve the Insurer of its obligations under the policy.
  - 3. If a liability insurance policy is written as a “claims made” policy, an endorsement provides for a discovery period of at least twelve (12) months beyond the date of expiration or cancellation of the policy. The endorsement also provides that the underwriter will notify the public according to the requirements below:
    - (a) At least sixty (60) days prior to the date upon which the policy will expire or be cancelled, written notification shall be given to all Abutters and to the CEO that insurance for the Solid Waste Facility will expire or be cancelled. The notification shall include the date of expiration or cancellation, the fact that claims against the insured must be filed within twelve (12) months from the date of expiration or cancellation, and shall specify where and how to file claims;
    - (b) During the first, third, sixth and ninth month subsequent to the date of expiration or cancellation, the underwriter shall place in the Bangor Daily News and the Penobscot Times an advertisement designed to attract notice and containing the information specified in Paragraph 3(a), above.
  
- K. Existing Uses and Scenic Character. The Applicant has made adequate provision for fitting the Solid Waste Facility or Expansion into the existing natural environment and the Solid Waste Facility or Expansion will not unreasonably adversely affect existing

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uses of surrounding and neighboring properties, scenic character or other natural resources. Specifically, the Facility or Expansion may not:

- (a) Present a bird hazard to aircraft;
- (b) Have an unreasonable adverse effect on the preservation of historical sites;
- (c) Unreasonably interfere with views from established Public Viewing Areas;
- (d) Generate excessive noise at the property boundary or at any Protected Location;  
or
- (e) Unreasonably adversely affect existing uses of property neighboring the proposed Solid Waste Facility or Expansion.

In determining whether the proposed Solid Waste Facility or Expansion will have an unreasonable adverse effect on the scenic character of the surrounding area, the Planning Board shall consider all relevant evidence to that effect, such as evidence that:

- (1) The design of the proposed Solid Waste Facility or Expansion takes into account the scenic character of the surrounding area.
- (2) A Solid Waste Facility or Expansion which is not in keeping with the surrounding scenic character will be located, designed and landscaped to minimize its visual impact to the fullest extent possible.
- (3) Structures will be designed and landscaped to minimize their visual impact on the surrounding area.

L. Water Quality. The Solid Waste Facility or Expansion will not cause an unreasonable adverse effect on surface water quality and will pose no unreasonable risk that a discharge to a significant groundwater aquifer will occur. The Applicant has demonstrated that it will comply with State and Federal permit requirements governing groundwater and surface water quality.

M. Compliance Record. The Applicant has demonstrated compliance with the requirements of the Maine Solid Waste Management Rules, §12 Criminal or Civil Records, by receipt of an MDEP license for the Facility and compliance with any conditions imposed by the MDEP.

N. Environmental Monitoring Program. The Applicant has demonstrated that the proposed environmental monitoring program for the Solid Waste Facility or Expansion will comply with applicable state and federal permit requirements governing monitoring requirements.

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- O. Hours of Operation. The hours of operation of the Solid Waste Facility and Expansion will not unreasonably adversely impact on neighboring properties, especially residential uses.
- P. Applicable Ordinances. The Solid Waste Facility and Expansion satisfies all the applicable requirements of this Chapter and other applicable City Ordinances.

**§24-13. Terms of a Solid Waste Facility Permit**

- A. A Solid Waste Facility Permit shall remain in effect unless amended, revoked, or suspended. The Permit Holder shall at all times comply with applicable operating, monitoring, and reporting requirements, including annual reporting requirements and other Permit conditions.
- B. Approval to construct, alter, Expand or close a Solid Waste Facility shall not relieve the Permit Holder of the responsibility to comply fully with applicable provisions of all other parts of this Chapter, other applicable City Ordinances or state or federal law.
- C. The Permit Holder shall have a continuing duty to provide copies of all amended, modified or renewed federal and State solid waste and other pollution control permits, permit amendments, approvals and licenses. The Permit Holder shall have a continuing duty to inform the City promptly in writing of any requested Amendments, Minor Revisions or modifications as well as any notices of actual or threatened suspension or revocation of any federal and State permits, approvals and licenses, and any communication from any federal or State official or agency alleging non-compliance with any ordinance, statute, regulation, permit, approval or license or conditions thereof.

**§24-14. Standard Conditions of Approval of a Solid Waste Facility Permit**

The Planning Board may impose any appropriate and reasonable conditions to insure compliance with this Chapter. Every Solid Waste Facility Permit shall be subject to at least the following Standard Conditions.

- A. Employees and authorized representatives of the City shall be allowed access to the premises of the Permit Holder during normal business and operating times and at such other times as the City deems necessary to perform such tests and inspections as the City deems necessary and to examine all records, including monitoring and test results, relating to compliance with the Permit and this Chapter.
- B. Approval to construct a Facility or Expansion thereof shall expire if substantial construction of the first cell of the Facility or Expansion is not commenced within three years after a Solid Waste Facility Permit is issued, or within such period as is specified in the MDEP license for the same, unless a request for an extension is granted. Requests for extensions shall state the reasons why development did not begin within the time specified in the Permit and the reasons why the Permit Holder would be able to begin the activity within three years from the granting of a Permit. If a Permit expires,

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the Permit Holder may reapply to the Planning Board for a new approval but may not begin construction or operation of the Solid Waste Facility or Expansion without a valid Permit. Re-applications for approval may include by reference information submitted in the initial Application, provided that such information is updated as needed to ensure it remains current. Re-applications shall be subject to any new or revised ordinances adopted or amended by the City.

- C. The granting of a Permit is based upon the reports, specifications, and plans contained in the Application and supporting documents submitted and affirmed to by the Permit Holder during the Application process. Any variation from these plans, reports, specifications, and supporting documents is subject to review and approval as a Permit Amendment prior to implementation.
- D. The Permit Holder shall secure and comply with all applicable federal, State, and local laws, licenses, permits, authorizations, conditions, agreements, and orders prior to and during construction, operation and closure of the Solid Waste Facility or Expansion.
- E. The Permit Holder shall submit all reports and information reasonably requested by the City demonstrating that the Permit Holder has complied or will comply with all terms and conditions of the Solid Waste Facility Permit. The Permit Holder shall demonstrate that preconstruction terms and conditions of the Solid Waste Facility Permit and of this Chapter are met before construction may begin.
- F. No Permit Holder shall knowingly hire as an officer, director, or supervisory or key employee, any person having been found guilty of a felony or of a violation of environmental laws or rules or knowingly allow any such person to acquire an equity interest or debt liability interest in the Solid Waste Facility or Expansion without first obtaining written permission from the City.
- G. A copy of the Solid Waste Facility Permit must be included in all contract bid specifications for the Solid Waste Facility or Expansion.
- H. The Permit Holder shall maintain a Complaint Log, which shall identify, at least, the date and time of each complaint; the type and nature of the complaint; the person or persons making the complaint, including that person's address and telephone number; the method by which the complaint was received; wind direction and speed at time of complaint; the MDEP or Facility person receiving the complaint; the date and time a site visit was conducted to confirm the type and nature of complaint; the date and time the Permit Holder responded to the complaint; and a summary of any actions taken to resolve the complaint. The Permit Holder shall submit a copy of the Complaint Log for the preceding calendar quarter to the CEO within 15 days following the end of the quarter.
- I. The Permit Holder shall maintain a Material Inventory Log identifying the generator, transporter, quantity delivered (ton), waste description, Maine manifest number, Maine county and date for all material delivered to the Facility and Expansion. The Permit

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Holder shall submit a summary of the Material Inventory Log for the preceding calendar quarter to the CEO within 15 days following the end of the quarter.

- J. The Permit Holder shall be jointly and severally responsible for compliance with the Permit terms and all applicable City Ordinances.
- K. The Permit Holder shall institute reasonable procedures and employ its best efforts to implement those procedures to require that any person operating a vehicle transporting Solid Waste or leachate to or from the Facility and Expansion shall have a current and valid Waste Hauler's License from the City when and if such license is required by the City; and that Solid Waste shall be transported to, and Leachate waste transported from, the Facility and Expansion in completely enclosed containers or vehicles to prevent litter or spillage on City streets and the release of nuisance odors during transport.
- L. The Permit Holder shall maintain an Over Weight Truck Log which shall identify by day each overweight vehicle, and set forth at a minimum, Maine manifest number, quantity of waste delivered (ton), truck number, waste description and source, and summarize warnings or other action taken. The Permit Holder shall submit a copy of the Over Weight Truck Log for the preceding calendar quarter to the CEO within 30 days of the end of the quarter.
- M. Failure to comply with the Terms of a Solid Waste Facility Permit, including but not limited to these Standard Conditions and any Special Conditions imposed, shall be considered a violation of the Permit and of this Chapter.
- N. The Permit Holder shall notify the CEO within 24 hours of being informed of or receiving a notice of violation at the Facility and Expansion by the MDEP or a federal agency. The Permit Holder shall take immediate measures to remediate the violation and submit a written response to the CEO within five working days describing in detail the corrective actions taken to mediate the violation or a statement outlining the basis on which the Permit Holder will contest the notice of violation. If the Permit Holder contests the notice of violation, the Permit Holder shall keep the CEO informed of any enforcement proceedings and of the result thereof.

**§24-15. Criteria for Approving a Change or Transfer of Ownership or Operation of Solid Waste Facility.**

- A. No person shall change or transfer the ownership or operation of a Solid Waste Facility or Expansion thereof subject to this Ordinance without first obtaining written approval for the transfer of the ownership of the Solid Waste Facility from the MDEP or MBEP and the Planning Board. Written approval must be applied for at least four weeks prior to any transfer or assignment of property which is subject to the Permit. The Permit Holder shall not be relieved of its obligations under the Permit and this Chapter unless and until the Permit transfer is approved. The amended or new Permit shall specify whether and to what extent the original Permit Holder shall remain obligated and liable after the transfer is approved.

- B. The Planning Board shall approve the change or transfer of ownership or operation of an existing Solid Waste Facility or Expansion thereof subject to the Ordinance as a Major Permit Amendment upon a satisfactory demonstration by the new Owner or Operator of its technical and financial capabilities and intent to comply with all the Permit terms and conditions and satisfy all applicable criteria of this Chapter and other applicable City Ordinances. All Applicants seeking such approval shall submit compliance record information as specified in §24-7.B and §24-8.N, and shall comply with the public notice requirements of §24-6.
- C. The Planning Board may impose such conditions on the change or transfer of ownership or operation as deemed necessary and appropriate to ensure that the new Permit Holder will operate in accordance with the Permit and this Chapter.

**ARTICLE V - CONSTRUCTION AND OPERATION**

**§24-16. Construction Requirements**

**§24-17. Operating Requirements**

**§24-18. Monitoring and Reporting Requirements**

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**§24-16. Construction Requirements**

Unless otherwise specified in the Solid Waste Facility Permit, all Solid Waste Facilities and Expansions shall comply with the construction requirements of any building permit or site plan approval issued by the City, and shall be constructed as specified in the Solid Waste Facility Permit, any MDEP permits or orders, and any court order.

**§24-17. Operating Requirements**

Solid Waste Facilities and Expansions must be operated so as to not contaminate ground or surface waters outside the solid waste boundary, or generate undue noise or nuisance odors beyond property boundaries, and in conformity with City, MDEP/MBEP and federal permits or licenses.

A. Supervision of Operation.

The operation of the Solid Waste Facility and Expansion shall be under the overall supervision and direction of a person qualified and experienced in matters of solid waste handling and disposal, which may be demonstrated by that person being certified and licensed by the Solid Waste Association of North America (SWANA). Key facility personnel must complete an approved training course. At least one trained employee shall be on duty at the Solid Waste Facility during all operating hours when solid waste is being received. Scavenging through waste shall be prohibited.

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B. First Aid. The Permit Holder shall have and maintain adequate first-aid supplies at the Solid Waste Facility and Expansion during operating hours and at all times when employees are present.

C. Hazardous and Special Waste Exclusion Plan. Only wastes identified in the Solid Waste Facility Permit shall be accepted at the Facility and Expansion. The Operator shall implement a plan for the detection, identification, handling, and transportation to and disposal at an appropriate site of any and all materials not permitted by the Permit that may be delivered to the Solid Waste Facility and Expansion. The Plan must include emergency notification procedures for state and local officials, including emergency response providers, if hazardous waste is delivered to the Facility and Expansion.

D. Drainage of Surface Water.

The Permit Holder shall insure that the Solid Waste Facility and Expansion are graded and provided with a drainage system to minimize surface water run-off to reduce the amount of Leachate generated and the potential for erosion.

E. Dust Control.

The Operator shall use suitable measures to control dust on the Facility and Expansion site, all internal roads and any other areas related to Facility and Expansion operations. The excessive use of water that would produce Leachate or the use of waste oil or Leachate to control dust is prohibited.

F. Equipment.

1. Equipment in use at the Solid Waste Facility and Expansion at all times shall be sufficient and maintained regularly to meet the operating requirements of this Chapter, the Solid Waste Facility Permit and any Permits issued by the MDEP.
2. The Permit Holder shall have a contingency plan for obtaining back-up equipment, to be used when needed. To alert the City of operational difficulties, operators shall submit an e-mail followed by a written notice to the CEO within 24 hours after any equipment failure that is likely to affect the operation of the Facility and Expansion, explaining briefly the problem and the corrective measures being taken.

G. Erosion Prevention.

1. The Permit Holder shall take necessary measures to minimize erosion during Solid Waste Facility and Expansion operations and after intermediate and final cover has been placed and shall plant suitable vegetation over the area as soon as is practicable. Erosion control shall be compatible with the Maine Solid Waste Management Rules, Chap. 400, Section 4.J, as amended.

2. Areas at the Solid Waste Facility and Expansion that present a high potential for erosion or that will be inactive for six (6) months or more shall be appropriately stabilized.

H. Operations Manual

The Permit Holder shall prepare and maintain an operations manual of current policies and procedures for the Solid Waste Facility and Expansion.

1. Revise Operations Manual. Prior to commencement of operations of a new or Expanded Facility, the operations manual provided with the Application must be revised to reflect any changes which occur during the Solid Waste Facility and Expansion licensing and construction processes.
2. Certified Copies. The Permit Holder shall provide copies of the operations manual being used for the Solid Waste Facility and Expansion operation activities and corrective actions to the CEO and to key operating and management personnel of the Solid Waste Facility and Expansion. In addition, a certified copy must be available for use at the Solid Waste Facility and Expansion at all times.
3. Annual Review. The operations manual must be reviewed annually by the Permit Holder and updated as necessary, with copies of updated manuals provided to the CEO and personnel at the Facility and Expansion in a timely manner.
4. Training. The Permit Holder shall familiarize operating personnel with relevant sections of the operations manual. For a new Solid Waste Facility or Expansion of an existing Solid Waste Facility, the Permit Holder must demonstrate compliance with requirements in §24-17.A prior to commencing Solid Waste Facility operations.

I. Operational Records

The Permit Holder shall maintain, for the active life of the Facility and Expansion, a record of operational information, which shall include: the type and quantity of waste received; the equipment used; personnel on site; daily, intermediate and final landfill cover used; the used and unused portion of a solid waste landfill; any deviations made from the approved plans and specifications; data from the monitoring programs; fiscal information; accident reports; equipment breakdowns; fires; and all inspection records.

J. Fire Protection

The Permit Holder shall take suitable measures for the prevention and control of fires at the Solid Waste Facility and Expansion, including:

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1. Arrange for the Old Town Fire Department to provide emergency service whenever called, arrange for any specialized training necessitated by the nature of the Solid Waste Facility and Expansion, and provide any specialized equipment needed by the Fire Department to safely respond to incidents at the Facility and Expansion or involving vehicles transporting waste to or leachate from the Facility and Expansion.
2. Provide sufficient on-site equipment such as detachable fire extinguishers, maintained in working order, to ensure the capability to handle minor fires at the Facility and Expansion.
3. Maintain a soil stockpile sufficient to cover hot loads.

**K. Communication.**

During operating hours, maintain a means of communication with the Old Town Fire Department, the Old Town Police Department and the CEO.

**L. Vector and Bird Control.**

1. The Solid Waste Facility and Expansion's on-site population of disease vectors shall be minimized through the periodic application of cover material or other techniques approved by the City as appropriate to protect public health.
2. A routine program for the control of insects, birds and rodents at the Solid Waste Facility and Expansion shall be implemented. The Permit Holder shall implement, when necessary, supplemental vector control measures, including but not limited to the use of effective insecticides and rodenticides, after obtaining any required State or Federal permits.

**M. Litter Control.**

1. The Permit Holder shall provide for routine maintenance and general cleanliness of the entire Solid Waste Facility and Expansion site and surrounding areas, including internal roads on a scheduled and as needed basis.
2. The Permit Holder shall control wind-blown paper or other light materials by using suitable permanent or portable fencing, earthen banks, natural barriers or some other effective device and shall pick up wind-blown debris along property boundaries on a scheduled and as-needed basis.
3. The Permit Holder shall implement the plan required by §24-8.D and G of this Chapter to control litter.

N. Annual Report.

1. General. The Permit Holder shall provide the City Manager with a copy of the MDEP Annual Report within thirty (30) days of its submittal to MDEP. In addition, the Permit Holder shall provide to the City Manager with that copy of the Annual Report an executive summary of the following topics, cross-referencing where each topic is addressed in the MDEP Annual Report. The Annual Report must address or include:
  - (a) Activities at the Facility and Expansion during the past year, including a narrative describing any factors that affected the operation, design or monitoring programs; and
  - (b) An evaluation of the Facility's and Expansion's operations to verify compliance with the approved operations manual, licenses and permits, and regulatory requirements. This evaluation shall be performed either by qualified facility personnel or a qualified consultant.
2. Operations. As part of the Annual Report, the following information is required.
  - (a) A summary of the type(s), quantity and origin of waste received;
  - (b) Estimates of the capacity used during the past year and of the Facility's remaining capacity;
  - (c) A description and estimate of the amount of cover material used in the past year;
  - (d) Proposed changes to the operations manual or other aspects of the Facility's and Expansion's operations;
  - (e) Responses to spills, fires, accidents, and unusual events that occurred at the Facility and Expansion in the past year and of the Complaint Log, including responses;
  - (f) Updated development plans, highlighting any changes to the approved plans and including detailed plans for the subsequent two year period. Approved plans need to be updated whenever variabilities in waste disposal rates and other operational factors cause development to vary more than 6 months from projected timelines.
  - (g) Reports prepared in accordance with the Facility's Hazardous and Special Waste Handling and Exclusion Plan;
  - (h) A report on the results from the inspections and testing, including a report stating the date and findings associated with the annual inspection and cleaning, if necessary, of the leachate collection, detection, and

transport systems; and

- (i) System failures and repair measures to those systems.
3. Facility and Expansion Site Changes. The annual report must document minor changes to the Facility and Expansion site not requiring a Permit Amendment that have occurred during the reporting year. Also, minor aspects of the Facility site proposed to be changed in the current year may be described in the Annual Report.
4. Monitoring. The Permit Holder shall submit summaries of any monitoring results, including those submitted to the State or State agencies, highlighting any changes in data over previous years and any data that suggests there are issues or problems that require further discussion. The City may require copies of all monitoring reports and may retain experts to review the reports and advise the City.
5. Financial Assurance. The Permit Holder must submit an annual update on cost and documentation of any changes affecting its financial capacity.
6. Annual Workshop. The Permit Holder shall attend a City Council workshop each year to present the Annual Report Executive Summary required in 24-17.N.1 above, and shall discuss activities at the Facility and Expansion during the past year, complaints and how they were addressed, Landfill changes and improvements, and any other issues that may have arisen in the past year.

#### **§24-18. Monitoring and Reporting Requirements**

The Permit Holder shall submit summaries of any monitoring reports required by the terms of any state or federal permit governing the Facility to the CEO concurrently with submittal to the regulating state or federal authority.

### **ARTICLE VI - CLOSURE REQUIREMENTS**

#### **§24-19. Closure Requirements**

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#### **§24-19. Closure Requirements**

- A. Closure shall be accomplished in accordance with a Closure Plan approved by the MDEP. The Plan shall demonstrate how the closure plan mitigates hazards to public health, safety or the environment, monitors the effectiveness of the closure system, and requires a minimum of maintenance.

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- B. The City shall be provided with closure contract documents prepared in accordance with the Closure Plan and a post closure construction report in accordance with the Solid Waste Facility Permit, applicable regulations and any requirements imposed by the MDEP.

**ARTICLE VII - POST CLOSURE REQUIREMENTS**

**§24-20. Post Closure Monitoring and Maintenance Requirements for a Solid Waste Facility**

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**§24-20. Post Closure Monitoring and Maintenance Requirements for a Solid Waste Facility**

A. General Post Closure Monitoring and Maintenance Plan.

1. Inspections. After closure, a Solid Waste Facility and Expansion shall continue to be inspected in accordance with the approved Solid Waste Facility and Expansion Operations and Maintenance Manual until the MDEP approves a decrease in frequency or cessation of inspections. Deficiencies noted during inspections must be summarized along with any corrective measures taken and must be corrected as soon as weather conditions allow.
2. Cover Maintenance. The final cover for a Solid Waste Landfill and Expansion shall be maintained to prevent ponding of water, erosion of cover materials or otherwise to maintain integrity. Vegetative cover shall be mowed annually or as otherwise required by MDEP to prevent the growth of deep rooted, woody plant species. Animal burrows into the cover must be eliminated and shall be repaired as needed.
3. Drainage. Site work shall be performed as necessary to ensure that any closed areas used for waste disposal or waste handling and uncontaminated stormwater lagoon sites are kept well drained.
4. Restricted Access. The Solid Waste Facility and Expansions shall be policed or other methods shall be provided to prevent the dumping of solid waste at the Solid Waste Facility and Expansion after closure.

B. Solid Waste Facility Post Closure Monitoring and Maintenance Plan.

The postclosure monitoring and maintenance plan approved by the MDEP shall be submitted to the CEO at least 180 days before the start of any closing operations for review and processing as a Permit Amendment.

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1. Ground and Surface Water Monitoring. Ground water and surface waters shall continue to be monitored as required by the MDEP.
2. Gas Monitoring. Gas monitoring shall continue to be conducted in accordance with the Solid Waste Facility Gas Management Plan as modified and approved for the post closure period by the MDEP.
3. Leachate Monitoring and Maintenance. Leachate and the leachate management system must be monitored in accordance with the Leachate Management Plan as modified and approved for the post closure period by the MDEP. Leachate collection and treatment systems shall be regularly inspected, monitored and maintained after closure, as required by MDEP and the City. Provisions must be made for continued Leachate removal and treatment until MDEP approves a cessation in removal and treatment.

**C. Post Closure Administration and Costs.**

1. Administrative Requirements

(a) Post Closure Monitoring, Inspection and Maintenance Report

The results of ground water and surface water quality monitoring, gas monitoring, slope stability inspection, Leachate water quality monitoring, and settlement monitoring along with inspections of the Solid Waste Facility and Expansion and all drainage and Leachate conveyance systems and cover maintenance shall be submitted to the CEO in summary form within thirty (30) days after submittal to any State or Federal regulatory agency. A summary of all post closure monitoring, inspection and maintenance reports shall be submitted to the City within thirty (30) days after submittal to any State or Federal regulatory agency.

2. Long-Term Monitoring and Maintenance. Post-closure monitoring and maintenance shall be carried out for a minimum of 30 years or longer if required by MDEP. Where applicable, the financial assurance mechanism approved by MDEP shall be maintained to pay for the cost of post-closure monitoring and maintenance.

**VIII - ADMINISTRATIVE**

**§24-21. General Prohibitions**

**§24-22. Administration**

**§24-23. Fees**

**§24-24. Enforcement**

**§24-25. Solid Waste Facility Permit Suspension, Revocation or Modification**

**§24-26. Appeals**

**§24-27. Violation and Penalties**

**§24-28. Savings Claus**

**§24-29. Severability**

**§24-30. Effective Date**

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**§24-21. General Prohibitions**

- A. No person may locate, establish, construct, Alter, Expand, operate, change or transfer ownership or operation, or close a Solid Waste Facility or Expansion without first obtaining a Permit or Permit Amendment thereto issued by the City pursuant to this Chapter.
1. Exception. Any Solid Waste Facility existing and operating on the effective date of the Resolve may continue to operate without the Permit required by this Chapter, until the Facility proposes to Expand as defined in §24-4 hereof; but any such existing Solid Waste Facility must obtain and comply with any other permits or licenses required by federal, State or local laws or ordinances; provided however, that with respect to the Expansion of the West Old Town Landfill, upon the issuance by MDEP of a permit, permit amendment or other approval to operate the first cell of the Expansion, the provisions of this Chapter and of any Permit or Permit Amendment shall apply to the operation of the entire Solid Waste Facility, both the portion existing at the time of application and any proposed Expansion, except for provisions regarding waste characteristics (except for types of solid waste not listed in Exhibit 2), impact on existing uses and scenic character, water quality and environmental monitoring program provisions of this Chapter, which shall apply only to said Expansion.
- B. No person may operate a Solid Waste Facility or Expansion thereof in violation of the terms and provisions of this Chapter or applicable City Permits and Permit Amendments.
- C. No person may transfer a Solid Waste Facility or Expansion Permit or Permit Amendment thereof without first obtaining the written approval of the MDEP and the Planning Board as to the transferee's Financial and Technical Capacity.

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- D. Notwithstanding the prohibitions in subsections A, B, and C above, this Chapter does not regulate the disposal of hazardous waste as defined in 38 MRSA§1303-C.15 or the disposal of biomedical waste as defined in 38 MRSA§1303-C.1.a.

**§24-22. Administration**

- A. This Chapter shall be administered by the City Manager and his/her duly authorized representative, the CEO. The powers and duties of the City Manager and the CEO, are as follows:
1. To manage and oversee activities at the Solid Waste Facility and Expansion and of the Permit Holder under the provisions of this Chapter;
  2. To enforce the provisions of this Chapter; and
  3. To cause the initiation of any necessary or appropriate proceedings, either legal or equitable, to enforce this Chapter.
- B. The responsibilities of the Planning Board are:
1. To review Solid Waste Facility and Expansion Applications submitted to the City and hear and decide on Permit and Permit Amendment Applications as outlined herein.
- C. The responsibilities of the City Council are as follows:
1. To adopt such rules, regulations, and fees as may be reasonably necessary or appropriate to enforce and implement this Chapter.
  2. To consider whether a Solid Waste Facility Permit should be suspended or revoked if there are violations of a Solid Waste Facility Permit.

**§24-23. Fees**

- A. Application Fee.

A nonrefundable Application Fee as established by the City Council after notice and hearing shall be submitted with any Solid Waste Facility Permit Application, including an Application for a Permit Amendment. Failure to pay the required fee at the time of filing will result in the Application being returned to the Applicant. The Application Fee shall be in addition to any required Review Fee.

- B. Review Fee.

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A Review Fee for direct and reimbursable costs including, but not limited to, legal, engineering and other professional fees incurred to assist the CEO and Planning Board in reviewing and evaluating the Application and other costs specifically attributable to an Application will be paid by the Applicant as specified herein.

The Applicant at the time of submitting an Application shall pay a Review Fee as established by the CEO or Planning Board – whichever is conducting the review of the Application. The Review Fee shall be deposited in an escrow account.

Funds deposited in a Review Fee escrow account may be used for the cost of consultant services, including legal fees, to assist the CEO or Planning Board in reviewing and evaluating the Application, provided the CEO or Planning Board shall avoid duplicative reviews and evaluations conducted during any MDEP license process by using information obtained or generated during that process to the extent practicable. The Applicant may need to replenish the escrow account during the Application review process and shall do so at any time the balance in the escrow account falls below 20% of the initial deposit. The Applicant shall deposit additional funds in the escrow account within 30 days of notification by the City that the balance is insufficient. Upon failure to pay subsequent billed Review Fees when due, the CEO shall cease review activities regarding the Application. Final payment of the Review Fee shall occur before a decision on the Permit is issued.

C. Escrow Accounts.

Fees in escrow accounts shall be deposited, invested and administered by the City Finance Director and may be invested as provided by Maine law. Any interest on the investments shall be credited to the escrow account. The initial expenditure of funds from the escrow account must be approved by the City Manager. Any Applicant or Permit Holder shall be entitled to an accounting of the expenditure of funds in their escrow account upon request. Upon approval or denial of the Application and the completion of any appeals or time periods for appeals, monies remaining in the Review Fee escrow account, if any, shall be reimbursed to the Applicant.

**§24-24. Enforcement**

- A. All provisions of this Chapter shall be enforced by the City Manager and/or his/her duly authorized representative, the CEO.
- B. Whenever the CEO determines that there has been a violation of this Chapter or of the Solid Waste Facility Permit, the CEO shall notify the Permit Holder by submitting a written Notice of Violation via certified mail, return receipt requested (and by e-mail) of such violation to the address (postal and e-mail) given in the Application and by hand delivery to the local authorized agent to whom all correspondence and notices from the City should be sent. The Notice of Violation shall contain the following information:

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1. A statement citing the alleged violation, a description of the violation, the date thereof, and an order describing corrective action which, if taken, will effect compliance, including a reasonable time frame within which the Permit Holder must correct the violation and perform any corrective actions required.
2. The Notice of Violation shall state that unless the required corrective actions are made within the allotted time, the Permit Holder is subject to legal enforcement action and/or Permit suspension or revocation pursuant to the provisions of this Chapter.
3. The Permit Holder and the CEO, with the approval of the City Manager, may agree to an extension of the time specified in the Notice of Violation if the CEO and/or City Manager determine that the Permit Holder is taking reasonable steps to correct the violation and additional time is necessary to complete the corrective action.
4. The Permit Holder may appeal a Notice of Violation issued by the CEO to the City Council by submitting a detailed written objection to the City Manager as agent for the Council within 30 days after receiving a Notice of Violation. The objection by the Permit Holder shall serve as a request for a hearing.
5. If the Permit Holder does not appeal the Notice of Violation and/or does not correct the violation within the time specified in the Notice or the mutually agreed upon extension, the CEO shall inform the City Manager in writing.
6. The City Manager shall review the Notice of Violation and the CEO's report and determine whether to initiate proceedings to suspend or revoke the permit or to seek authorization to commence an enforcement action.

**§24-25. Solid Waste Facility Permit Suspension, Revocation or Modification**

- A. Whenever the CEO determines that there has been a violation of this Chapter or of the Solid Waste Facility Permit that constitutes an immediate threat to the public health, safety or the environment, the CEO may request that the City Manager issue a Permit Suspension Notice. If the Permit Holder does not correct the violation within the time specified in the Permit Suspension Notice or a mutually agreed upon extension, the CEO shall inform the City Manager. Notification to the Permit Holder will be as stated in §24-24.B. above.
- B. A Solid Waste Facility Permit may be suspended by Notice of Violation/Permit Suspension issued by the City Manager at the request of the CEO, if the City Manager concurs with the CEO that continued operation of the Solid Waste Facility constitutes an immediate threat to the public health or public safety or the environment. Notification to the Permit Holder will be as stated in §24-24.B. above. After receiving the Notice of Violation with Permit Suspension, the Permit Holder may respond to the City Manager and challenge the Permit suspension by appealing the Notice of Permit

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Suspension to the City Council. A suspension shall remain in effect until rescinded by the City Manager or the City Council after hearing.

C. A Solid Waste Facility Permit also may be suspended, revoked or modified by the City Council after notice and hearing, for any of the following reasons:

1. The Permit Holder has violated a term, condition or provision of the Solid Waste Facility Permit or this Chapter that threatens the public health or safety and has failed to correct the violation;
2. The Permit Holder obtained a Permit by misrepresenting or failing to disclose fully all relevant and materials facts during the Application process or in monitoring reports;
3. The operation of the Solid Waste Facility threatens the public health or public safety or the environment or creates a nuisance;
4. A change in conditions or circumstances requires a suspension, revocation or a temporary or permanent modification of the Permit; and/or
5. The Permit Holder has failed to pay required fees.

D. Hearing.

1. The Permit Holder shall be notified, in writing, as to the time and place of the hearing a minimum of ten (10) days prior to the hearing date. In the case of an appeal from a CEO issued Notice of Violation, the Hearing Notice shall identify the Notice of Violation being appealed. In the case of a Permit suspension or revocation request initiated by the City Manager, the Hearing Notice shall contain the Notice of Violation and/or Permit Suspension Notice and a statement describing the reason(s) for which the City Manager suspended the Permit or is asking the City Council to revoke the Permit.
2. The Permit Holder has the right to be represented by counsel, to offer evidence and to cross-examine witnesses.
3. The CEO or City Manager shall present the reason(s) for issuing the Notice of Violation, Notice of Violation with Permit Suspension or Request for Permit Revocation and may be represented by counsel to offer evidence and to cross-examine witnesses.
4. A decision shall be made by the City Council in writing within ten (10) days after the conclusion of the hearing, and shall include findings of fact and conclusions of law. If the City Council decides there has been a violation of this Chapter or the Terms and Conditions of the Solid Waste Facility Permit, the City Council shall determine the appropriate sanction, which may be to suspend or

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revoke the Permit. If the City Council decides there has been no violation, or that the violation has been corrected or resolved, a Notice to that effect shall be issued to the Permit Holder and the City Manager.

5. The City Council's decision to suspend or revoke a Permit shall take effect no later than ten (10) days after the date the Notice of Decision has been mailed by registered mail, return receipt requested to the Permit Holder. The Notice of Decision shall set forth the reason(s) for the suspension or revocation and the effective dates thereof together with a statement that such decision may be appealed as provided in §24-26.
- E. Nothing herein shall be construed as limiting the City's authority to seek immediate injunctive relief if such enforcement action is deemed necessary by the City.

**§24-26. Appeals**

Anyone denied a Solid Waste Facility Permit, a Permit Amendment, or who has had a Solid Waste Facility Permit suspended or revoked pursuant to §24-25 of this Chapter may seek judicial review in accordance with State law within thirty (30) days from the date of receipt of the Notice of Decision.

**§24-27. Violation and Penalties**

- A. Any Permit Holder, person, firm, corporation, or other entity who or which violates any provision of this Chapter or the Terms or Conditions of any Solid Waste Facility Permit, order, approval or decision (hereinafter called "Violator") shall be subject to civil penalties, permitted by 30-A M.R.S. §4452 and as provided herein.
1. Penalties shall not be less than \$100 nor more than \$2,500 per day, payable to the City of OldTown. Each day the violation continues constitutes a separate violation.
  2. Notwithstanding Paragraph A.1, the maximum penalty may exceed \$2,500 per day, but not more than \$25,000 per day if the City establishes that this is a second violation by the same Violator within a two-year period.
  3. If the economic benefit, resulting from the violation to the Violator exceeds the applicable penalties under this section then the maximum civil penalties may be increased. However, the maximum civil penalty may not exceed an amount equal to twice the economic benefit resulting from the violation. Economic benefit includes, but is not limited to, costs avoided or enhanced value accrued at the time of the violation attributable to the violator's noncompliance with the applicable legal standards.

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- B. In addition to the civil penalties imposed above, the Violator shall be ordered to correct or abate the violation, unless correction or abatement will cause or create a threat to the public health, safety or substantial environmental damage.
- C. In addition, any Violator of this Chapter and/or the Terms and Conditions of a Solid Waste Facility Permit will be ordered to pay all costs of abating the violation and the enforcement proceedings including, but not limited to, legal fees and legal services, fees of expert witnesses and consultants, costs of discovery and exhibits incurred by the City to the extent permitted by 30-A M.R.S. § 4452. Any penalties imposed pursuant to this section shall be in addition to any action taken by the City to suspend or revoke Solid Waste Facility Permit.
- D. The City Council may institute any and all actions and proceedings, whether legal or equitable, including seeking injunctions of violations and imposing the civil penalties specified herein, that may be appropriate to enforce the provisions of this Chapter.

**§24-28. Savings Clause**

Any permit, license or approval issued pursuant to any ordinance pre-dating the adoption of this Chapter shall remain in full force and effect subject to the laws, including other applicable City Ordinances, that were in effect at the time of issuance for the life of said permit, license or approval or until a Permit is required by this Chapter. In the event that a provision in this Chapter is inconsistent with a provision of State law the provisions of this Chapter shall apply to the extent permitted by the Resolve.

**§24-29. Severability**

- A. The provisions of this Chapter shall supersede all other local laws, ordinances, resolutions, rules or regulations contrary thereto, or in conflict therewith; and
- B. If any provision or section of this Chapter, or Application thereof to any person or circumstances, is held void or invalid, such invalidity shall not affect other provisions or applications of this Chapter that can be given effect in whole or in part without the invalid provision or application, and to this end each provision of the Chapter is declared to be severable and independent. It is the intent of the City of Old Town that each and every article, section, subsection, clause and paragraph of this Chapter be given effect to the degree possible.

**§24-30. Effective Date**

This Chapter shall take effect ten days after passage by the City Council as provided by Article II, Section 9 of the Old Town City Charter.