



MEMO

DATE: June 26, 2025

TO: Council Ordinance Committee
FROM: Steve Puleo, Director of Planning
Cc: Bob Burns, Town Manager
Barry Tibbitts, Special Project Manager
Amand Lessard, Senior Planner/Project Manager

RE: Discussion item: FY 25-26 Chapter 120 Land Use Ordinance (LUO) and Related Amendments.

Council Ordinance Committee Meeting: July 2, 2025

This memo provides a foundation for the Committee's discussion regarding staff proposals, Town Council policy directives, and State- and court-mandated Chapter 120 Land Use Ordinance (LUO) amendments, which should be addressed in the next fiscal year. Some of the initiatives could be carried forward into FY 26-27.

The following Summary Outline and Timeline is a revised version of the outline presented to the Committee in October 2024. It includes all potential amendments currently under consideration. While staff continue to await final determinations and rulemaking from the last legislative session, as well as a response from the Maine Department of Environmental Protection (MDEP) regarding MS4 (Municipal Separate Storm Sewer System) community requirements, those items have been included in the outline for planning purposes.

The summary also identifies the applicable process requirements for adopting and implementing each proposed ordinance amendment.

Summary Outline and Timeline of Proposed Amendments to Chapter 120 Land Use Ordinance Changes and related Chapters

1. Amendments to Chapter 201 – Stormwater Management

a. Adoption Process:

Town Council public hearing and formal adoption process.

b. Proposed Timeline:

July 1, 2025 – November 5, 2025 Start July 1, 2025
Complete by November 5, 2025

c. Key Issues:

A court ruling in favor of the Casco Bay Estuary Partnership requires MS4 communities to implement Low Impact Development (LID) performance standards. This mandate follows the organization's successful legal challenge against the EPA. In response, the Town of Windham has addressed ambiguities in the Maine Department of Environmental Protection (MDEP) order issued to municipalities.

d. Staff Recommendation:

Amend Chapter 201 by introducing new articles requiring that all land development projects disturbing one acre or more incorporate stormwater management systems designed in accordance with the LID performance standards.

2. Public Law Chapter 385 *An Act for Maine Families and Attract Workers to Maine Businesses by Amending the Laws Governing Housing Density*

a. Adoption Process:

Planning Board and Town Council public hearing and formal adoption process.

b. Proposed Timeline:

Start July 1, 2025

Complete by July 1, 2026

c. Key Issues:

The legislation introduced broad modifications to State law concerning housing density, minimum lot sizes and development standards (particularly within Growth Areas), municipal authority and constraints, subdivision definitions, and mandatory training requirements for municipal officials. Given the scope of these changes, staff will need time to fully analyze their implications and determine which sections of Windham's Land Use Ordinance (LUO) and related chapters must be amended once the State's rulemaking process is finalized.

d. Staff Recommendation:

Staff will defer ordinance amendment recommendations until the State concludes its current legislative session, ensuring that all statutory mandates and regulatory changes are fully accounted for. Throughout FY 2025–2026, staff will analyze the final outcomes and propose targeted amendments to the Land Use Ordinance and other applicable chapters accordingly.

3. Chapter 120 LOU Amendments and Related Chapters

a. Adoption Process:

Planning Board and Town Council public hearing and formal adoption process.

b. Proposed Timeline:

Ongoing Start July 1, 2025

Complete by July 1, 2026

c. Key Issues:

- i. Article 4 District Standards: To Be Determined.
- ii. § 120-911K. Conservation Subdivisions Article 9 Subdivision Review: Items identified in October 2024 report.
 1. Removing references to single-family subdivisions as two-family dwellings are now permitted in all zoning districts.
 2. Clarifies the process of including priority and secondary conservation areas in the proposed open space.
 3. Specifies a buffer yard meeting the standards of § 120-511 along the subdivision adjacent to streets and the exterior perimeter of the subdivision.

4. Allows for alternation of natural resources for the construction of certain improvements where the Board makes certain findings.
5. Changes the minimum amount of open space required by eliminating road rights-of-way from the calculation and basing the amount in part on the zoning district.
6. Clarifies the size and function of wetlands identified as primary and secondary conservation areas.

iii. Street Connection Requirements

1. Article 8 Site Plan Review
 - § 120-814B(6). Multifamily Development Access drive standards.
 - Adds street connection requirements:
 - Single and Two-Family Dwellings, that are more than 30 units, require 2 street connections except where development is served by public water and all units are equipped with an approved automatic sprinkler system.
 - The Fire Chief may require additional connections.
 - Multifamily Dwellings that are more than 100 units, require 2 street connections.
 - Specifies distance between street connections.
2. Article 9 Subdivision Review
 - § 120-911M(5)(b)[7]. Subdivision street connection requirements.
 - Specifies that number of lots or dwellings are applicable only in single-family or two-family dwellings. Multifamily dwellings will be subject to Article 8's standards.

iv. Retirement Communities

1. Article 4 District Standards
 - 120-420. Retirement Community and Care Facility Overlay District (RCCFO).
 - Street connection requirements subject to multifamily development requirements.
 - Limits number of bedrooms to three or fewer in overlay, regardless of underlaying zoning.
 - Standards in underlying residential zoning districts
 - Adds Village Residential (VR) to residential district specific standards.
 - Multifamily dwelling setbacks:
 - Reduces external perimeter setbacks from 100 feet to 40 feet. Remove required an

increase setback to 150 feet based on the height of building.

- Specifies a buffer yard meeting the standards of § 120-511 along the street (30 feet) and other perimeter property lines (15 feet).
- Standards in underlying commercial zoning districts
 - Adds Commercial 1 North (C1-N), Commercial IV (C-4), and Windham Center (WC) to commercial district specific standards.
 - Multifamily dwelling setbacks:
 - Reduces setback from 100 feet to 40 feet for lots that abut a residential zone district.
 - Removes the 100 feet setback from lots that abuts a property occupied by an existing dwelling. Setbacks of the underlying zoning will apply.
 - Specifies a buffer yard meeting the standards of § 120-511 along the street (15 feet) and other perimeter property lines (10 feet). The same as for nonresidential uses allowed in the underlying zoning.

v. Site Plan Review Classification

1. Article 8 Site Plan Review

- § 120-805. Minor developments. Due to potential amendments, the State has mandated compliance with recently enacted Maine Public Law Chapter 365 (HP 1224 – LD 1824), requiring municipalities to implement the State’s Housing statutes.

vi. Amends to Commercial III (C-3)

1. Article 4 Zoning District

- § 120-412B Add to Permitted Uses:
 - **SERVICE BUSINESS, COMMERCIAL**: To allow the equipment rentals and heavy construction services.
- § 120-412C Add to Conditional Uses:
 - **CONSTRUCTION SERVICES, HEAVY**: As a conditional use in certain area of the C-3 such as the Route 302 Business Rotary to Outpost Road, to allow Berube’s property located at 361 Roosevelt Trail to operate a heavy equipment rental and repair shop.
- § 120-412E(3) Add to Dimensional Standards Minimum Frontage of Construction Services Heavy, Major:

- Nonresidential 100 feet: Except 200 feet for **HEAVY CONSTRUCTION SERVICES, MAJOR**: For the conditional use of for major heavy construction services to provide ample space between Roosevelt Trail and use.
- **§ 120-412F(7)** Add to District Standards
 - **HEAVY CONSTRUCTION SERVICES, MAJOR**: For properties with frontage along Roosevelt Trail.

d. Staff Recommendation:

Throughout FY 2025–2026, staff will analyze the need and make propose targeted amendments to the Land Use Ordinance and other applicable chapters accordingly