

**TOWN COUNCIL MEMO**

DATE: July 31, 2025

TO: Windham Town Council

THROUGH: Bob Burns, Town Manager

FROM: Steve Puleo, Director of Planning

Cc: Barry Tibbetts, Project Manager  
Amanda Lessard, Senior Planner/Project Manager

RE: #25-14 Land Use Ordinance Amendments to Article 9 Subdivision Review - Occupancy of Dwellings

Town Council Public Hearing – August 12, 2025

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**Overview**

Staff are proposing to amend Chapter 120, Land Use Ordinance (LUO), Article 9 Subdivision, [§120-915C](#), which requires issuing occupancy permits for dwelling based on the housing type to street or access road types. The proposed amendments will be presented for the Board's review and land use recommendation. Through the Director of Planning, any public comments and the Board's vote, including any recommendations, will be provided to the Council during the public hearing portion of the Council's review.

**Background**

The Council Ordinance Committee at [July 2<sup>nd</sup>](#) meeting voted to schedule the request as a discussion item at the Town Council meeting of [July 8<sup>th</sup>](#) meeting. The Town Council directed the Planning Board to provide a land use recommendation regarding the proposed staff amendments. The Planning Board held a public hearing on July 28, 2025. Under Chapter 120 LUO, developers are required to complete full final surface pavement on streets providing access to multi-family residential units—extending all the way back to the public way—before certificates of occupancy (COs) of the dwelling can be issued. This requirement only affects multi-family structures in the development, which must be accessed by paved streets, and single-family or duplex (two-unit) dwellings, which may be accessed via gravel and paved streets. For gravel or paved street designs, the ordinance requires construction to at least a base course of crushed aggregate before occupancy.

While the intention of these standards is to ensure safe and durable access for residents, their implementation has created unintended burdens. Requiring final surface paving before occupancy, particularly for multi-family projects, has proven both costly and impractical. It restricts the ability to occupy completed units while the rest of the site is still under construction, leading to delays and added financial strain for developers. Additionally, final pavement installed too early is often damaged by ongoing heavy construction activity.

These challenges are amplified in mixed-housing developments where multi-family, duplex, and single-family units share infrastructure. The current approach, tying occupancy to the type of

housing unit rather than to the design specifications of the street, has resulted in inconsistencies and complications during the review and permitting process.

To address these issues, staff have proposed amending [§120-915C\(1\)](#) to allow the issuance of COs for multi-family buildings once the base course of bituminous pavement has been installed in accordance with [Appendix B, Table 4 \(Street Design and Construction Standards\)](#). In parallel, amendments to [§120-915C\(2\)](#) are proposed to ensure consistency by aligning occupancy standards with the type of street required: units accessed via paved street designs must have a base course of bituminous pavement; those accessed via gravel streets must have a base course of crushed aggregate.

**Impact Analysis:** The proposed amendments are expected to reduce construction delays and financial strain on developers by allowing earlier occupancy of completed units. This change promotes more efficient project phasing and minimizes damage to final pavement caused by ongoing construction activities.

**Risk and Mitigation:** Allowing occupancy before final paving may raise concerns about emergency access and road durability. These risks are mitigated by requiring a base course of pavement or crushed aggregate, ensuring safe and stable access infrastructure prior to occupancy.

**Public Engagement Summary:** The Planning Board held a public hearing on July 28, 2025. [No members of the public spoke for or against the proposed amendments. Public notice was provided in accordance with the Town procedures, and no written comments were received.]

#### Key issues

- To ensure minimum street construction requirements for all housing types.
- Street completion standards occupancy certification for pave and gravel streets.
- Promotes fairness, safety, and consistency in enforcement of occupancy standards.
- Enhance public safety and emergency access by ensuring adequate infrastructure before structures are occupancy.
- Supports coordinated development timing for infrastructure and housing construction.
- Ensure compliance with the Comprehensive Plan.
- Minimum Street Construction Requirement.

#### Summary of Amendment to Chapter 120, Land Use Ordinance – Article 9, Subdivision Review

- [§120, 915C\(1\)](#), Paved Streets. No certificate of occupancy shall be issued for any dwelling unit until the access roadway serving the unit has been constructed to at least the base course of bituminous pavement, in accordance with applicable street design standards.
- [§120, 915C\(2\)](#), Gravel Streets. No certificate of occupancy shall be issued for any dwelling unit until the access roadway serving the unit has been constructed to at least the base course of crushed aggregate, in accordance with applicable street design standards.
- Construction must conform to [Table 4 in Appendix B](#) – Street Design and Construction Standards.

### **Zoning Amendment Process**

There are no specific standards in the Town ordinance by which to judge the proposed zoning change, but State statute requires all proposed zoning to be consistent with the goals and objectives of the [Comprehensive Plan](#).

### **Planning Board Review and Recommendation**

No public made comments regarding the proposed LUO Amendment. The Board reviewed and discussed the proposed changes to the Land Use Ordinance (LUO) and expressed general support for the amendments. This memo is prepared for the Town Council's public hearing scheduled for August 12, 2025, incorporating the Planning Board's recommendation from its July 28, 2025 public hearing. The Board discussed including access drive along with street design and suggests adding to "streets or access drives designed" with either paved or gravel surfaces

**A motion to** recommend with comments the approval of the proposed amendments to Chapter 120, Land Use Ordinance, Article 9 – Subdivision Review, pertaining to street access standards for the issuance of occupancy certificates for single-family, duplex (two-unit), and multi-family structures, based on the required street design, paved or gravel. The motion was made by Evert Krikken seconded by Kathleen Brown, and approved by a vote of 6-0 (Daigle, absent) with the recommendation included in the Board's comments.