

**TOWN COUNCIL MEMO**

DATE: July 15, 2025

TO: Planning Board

FROM: Steve Puleo, Director of Planning

Cc: Amanda Lessard, Senior Planner/Project Manager

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

Planning Board Meeting – July 28, 2025

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**Overview**

At the Council Ordinance Committee of [July 2<sup>nd</sup>](#) meeting, the staff proposed to the Committee amending 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 Committee unanimously voted to schedule the request as a discussion item at the Town Council's [July 8<sup>th</sup>](#) meeting. 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**

Under Windham's current Land Use Ordinance, developers are required to complete full final surface pavement on streets providing access to residential units—extending all the way back to the public way—before certificates of occupancy (COs) of the dwelling can be issued. This includes multi-family developments, which are typically accessed by paved streets, and single-family or duplex (two-unit) dwellings, which may be accessed via gravel streets. For gravel 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.

### 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](#).

The process for amending the Land Use Ordinance is governed by [§120-107](#) of the Windham Code. In accordance with this process, the Planning Board has scheduled a public hearing on the proposed amendments for its July 28th meeting. The Town Council has also scheduled a public hearing for August 12, 2025. Following the Planning Board's public hearing and deliberation, the Board may vote to forward a recommendation to the Town Council, using language similar to the following:

**MOTION:** To [**recommend / recommend with comments / not recommend**] 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.