



ORDINANCE COMMITTEE MEMO

DATE: March 12, 2026

TO: Council Ordinance Committee

THROUGH: Bob Burns, Town Manager

FROM: Steve Puleo, Director of Planning

Cc: Amanda Lessard, Senior Planner/Interim Assistant Town Manager

RE: #26-01: Attorney Review of Chapter 120 LUO Amendments to Comply with Public Law Chapter 385 LD 1829, update on LD 2173, and Next Meeting Items

Ordinance Council Meeting – March 18, 2026

OVERVIEW

This memo summarizes legal guidance from Attorney Ben McCall regarding amendments to Windham's Land Use Ordinance (LUO, Chapter 120) necessary to comply with state housing law LD 1829 by its effective date July 1, 2026, as well as the status of corrective legislation LD 2173. The intent of this memo is to inform the Committee about the compliance timeline, potential risk exposure, and the scope of required ordinance amendments.

PURPOSE

The memo is to as noted last committee meeting, the new law requires the Windham to amend Articles [1](#), [3](#), [4](#), [5](#), [8](#), & [9](#). The amendments will:

- Define accessory dwelling unit (ADU) allowances;
- Incorporate state minimum density and minimum lot size standards;
- Set limits on dimensional standards for multi-unit housing;
- Exempt structures with four (4) or fewer dwelling units and ADUs from Planning Board review when review would otherwise be based solely on unit count;
- Adopt affordable housing incentives;
- Update parking maximums and provisions for off-site parking;
- Revise the definition of subdivision; and
- Allow residential uses in applicable commercial districts within the Designated Growth Area (DGA).

KEY LEGAL CONSIDERATION

- LD 1829 remains the governing state housing law and becomes effective July 1, 2026.
- LD 2173 is not final and currently does not include an extension of the July 1 deadline.
- The Committee will workshop the public comments received at the February 17 public hearing and is expected to report out around March 12.
- Per the Town Attorney's advice, staff should continue working toward full compliance with LD 1829 to avoid administering provisions that are preempted by state law

SITE PLAN AND TRIPLEX/QUADPLEX REVIEW

- Municipalities may not require Planning Board review for the establishment of structures with four (4) or fewer dwelling units when the only trigger is dwelling-unit count.

- Site plan review (Staff Review Committee or Planning Board) may still be required when objective, measurable criteria are triggered (e.g., disturbed area thresholds, traffic impacts, impervious surface limits).
- Multifamily structures of five (5) or more units may continue to require full Planning Board review.

GROWTH MANAGEMENT ORDINANCE (GMO) UPDATES

- LD 1829 requires exempting DGAs from growth-permit requirements; amendments to §101-6 (Exemptions) must be enacted by the July 1 compliance date.
- The amendment to Chapter 101 is part of this packet.
- Windham's existing growth cap aligns with state expectations under LD 1829. LD 2173 may adjust the cap to 130% over a five-year period. Potential refinements can be considered in future policy discussions.

LEGAL AND ADMINISTRATIVE RISK SUMMARY

- Delaying adoption of LUO amendments until, for example, August or September 2026 would create a two-month period of noncompliance.
- During that period, staff would be forced to administer and enforce ordinances known to be preempted by state law, creating significant administrative complications.
- Any denial issued during this period would be vulnerable to appeal and likely to be overturned, creating unnecessary legal exposure.

RECOMMENDATIONS FOR CONSIDERATIONS

- Proceed with all necessary LUO amendments to ensure adoption before July 1, 2026.
- Do not use an emergency ordinance; such action is not legally justified and would automatically repeal within 61 days, doubling staff and Council workload.
- Direct staff and the Town Attorney to finalize compliance language addressing district-based standards, ADU updates, subdivision thresholds, site plan review adjustments, and parking reforms.
- Continue core ordinance development now and shift the remaining attorney-review tasks to April 2026 through March 2027. Windham will apply for Round 2 grant funding to maximize reimbursement from the Maine Office of Community Affairs (MOCA) for attorney fees and other costs, up to \$10,000.

REQUEST FOR LD 1829

Staff requests that the Committee:

1. Authorize legal review beginning after April 1, 2026 for the revised LUO amendments required to comply with LD 1829; and
2. Schedule a public hearing for April 13, 2026.

This schedule will allow Town Council to hold a public hearing and approve the LUO amendments no later than May 26, 2026, meeting the state statutory deadline of July 1, 2026. Any future amendments required by LD 2173 are expected to be minor.

STATE MANDATED ORDINANCE CHANGES																
#26-01 Chapter 385 Public Law - Act for Maine Families by Amending the Laws governing Housing Density					• Legislation introduced broad changes to State law affecting housing density, minimum lot sizes, development standards (especially in Growth Areas), municipal authority, subdivision definitions, and mandatory training for municipal officials.											
Project Start: January 1, 2026					Jan-26		Feb-26		Mar-26		Apr-26		May-26		Jun-26	
Task	Status	Start Date	End Date	% Complete	01/15	01/29	02/12	02/26	03/12	03/26	04/09	04/23	05/07	05/21	06/04	06/18
STAFF REVIEW LUO Amendments review	DISCUSSION	1/2/26	1/27/26	8%	X											
ORDINANCE COMMITTEE Review proposed changes	DISCUSSION	1/28/26	2/18/26	25%		X	X									
STAFF REVIEW w/ ATTORNEY	ORDINANCE DISCUSSION	2/19/26	3/18/26	42%				X	X							
ORDINANCE COMMITTEE	REFER TO PLANNING BOARD	3/18/26	4/11/26	58%						X	X					
PLANNING BOARD	PUBLIC HEARING	4/13/26	4/13/26	58%												
TOWN COUNCIL	DISCUSSION	4/14/26	5/14/26	75%								X	X			
TOWN COUNCIL	PUBLIC HEARING	5/15/26	5/26/26	83%										X		
Appeals Period	ADOPTION	5/27/26	6/26/26	100%											X	X

NEXT MEETING ITEMS

At the scheduled April 15 Ordinance Committee meeting, I'll be on vacation. Amanda will discuss three items' staff is working on:

1. A staff-proposed zoning map change for a portion of the shoreland zone at 999 Roosevelt Trail, from Limited Residential (LR) to General Development (GD).
2. A proposed Residential and Non-Residential Blasting Ordinance to meet Delegated Review Authority Site Law permitting by the town.
3. The status of amendments to street connection requirements as proposed by the Fire Department