

DATE: March 6, 2025

TO: Windham Town Council
THROUGH: Bob Burns, Assistant Town Manager
FROM: Steve Puleo, Planning Director
Cc: Barry Tibbetts, Town Manager
Amanda Lessard, Senior Planner/Project Manager

RE: #25-07: LUO Amendments to Article 1, 3, 8, and 9 - Stormwater Consistencies with Maine DEP Ch. 500 for Municipal Delegated and Capacity Review Authority.

The Town is proposing amendments to Chapter 120 of the Land Use Ordinance (LUO) to align stormwater and site development regulations with Maine DEP standards. These changes will help Windham regain Delegated Authority status, allowing the Town to issue stormwater and site development permits locally instead of relying on the state.

Windham lost this authority in 2008 due to inconsistencies between its Comprehensive Plan, LUO, and Maine DEP Chapter 500 Stormwater Rules. Since then, the Town has updated its Comprehensive Plan and is now seeking to reinstate its stormwater permitting authority.

Planning staff, in collaboration with Gorrill Palmer (GP) Consulting Engineers, are working to ensure LUO amendments meet DEP requirements. GP has identified necessary updates, and in 2024, the Town Council approved LUO changes, including an updated Future Land Use Map, which the state has deemed consistent with Maine law.

By securing Delegated Authority, Windham can streamline its permitting process, improve efficiency, and maintain local oversight while ensuring compliance with state environmental regulations.

State of Maine DEP Reviews		Municipalities with Delegated Review Authority
1.	Complexity of the Project: More complex projects require detailed analysis and can take longer to review.	Local Regulations: Municipalities may have their own regulations and standards that can affect review times.
2.	Quality of the Application: Incomplete or poorly prepared applications can lead to delays as additional information is requested.	Staff Expertise and Availability: The experience and availability of local staff can impact how quickly reviews are completed.
3.	Environmental Impact: Projects with significant environmental impacts may require more thorough review and public consultation.	Public Involvement: Local public hearings and consultations can add to the timeframe.
4.	Staff Availability: The availability of DEP staff to review applications can affect processing times	Coordination with Other Agencies: Coordination with other local or state agencies can sometimes cause delays

State of Maine DEP Reviews		Municipalities with Delegated Review Authority
5.	Regulatory Requirements: Compliance with state and federal regulations can add to the review time.	Application Completeness: Just like with state reviews, the completeness and quality of the application play a significant role.

Summary of the Proposed Chapter 120 Land Use Ordinance Changes:

Article 1 General

- [§120-104](#). Conflict with other provisions. This provision could be interpreted as municipal statutes not State, based on definition of legislative body below.

Article 3 Definitions

- Correct the definitions of [Impervious Area](#) to match Chapter 500 definitions.
- Correct the definitions of [Landscaped Green Area](#) to match Chapter 500 definitions.
- Add to the definition [Parcel](#) to match the definition in Site Location of Development Law.
- Correct the definition of [Person](#) to match the definition Chapter 500 and Site Location of Development Law.

Article 8 Site Plan

- [§120-802A\(9\)](#). The three-year period could conflict with Ch 500.
- [§120-805A\(1\)\(c\)](#). This could conflict with Ch 500 if there is a cumulative impact.
- [§120-807F\(1\)](#). Need to be revised.
- [§120-810C](#). This should this reference Ch 500 and SLODA Review
- [§120-811B\(2\)\(b\)\[4\]](#) Potential conflict with Ch 500.
- [§120-811B\(2\)\(b\)\[5\]](#). Potential conflict with Ch 500.
- [§120-812C\(1\)\(d\)](#). This will conflict with the revisions to Ch 500 and MS4 Low Impact Development standards.
- [§120-812E\(1\)\(a\)](#). This addresses the Flood Standard but not Treatment or Phosphorous Standards.
- [§120-812E\(1\)\(f\)](#). This addresses treatment for major development.
- [§120-812F\(2\)](#). This provision addresses Basic Standard.

Article 9 Subdivision Review

- [§120-907B\(4\)\(c\)\(4\)](#). Major Subdivision requires General Standards.
- [§120-908 Waivers](#). Maine DEP typically doesn't like vague waiver language.
- [§120-908C\(2\)\(b\)\[11\]](#). This makes it sound like they could waive all of Ch 500 with the exception of the flood standard, need to tighten waiver language.
- [§120-910B](#). It appears the minor subdivisions may be exempt from Ch 500.
- [§120-910B\(3\)\(c\)](#). Maine DEP won't like this waiver. It also doesn't reference a storm frequency on would only address the Flood Standard.
- [§120-910B\(3\)\(d\)](#). This conflicts with Ch 500 basic standards and needs to address the new MCGP requirements.
- [§120-910C\(2\)\(x\)](#). Must meet the Basic standards.
- [§120-910C\(2\)\(y\)](#). Must meet the General, Flood, Phosphorous standards.

- [§120-910C\(3\)\(f\)\(1\)](#). Maine DEP does not like this waiver this should reference CH 500 the referenced publication was replaced by the 2009 Ch 500 rewrite.
- [§120-911C](#). This addresses Basic Standards for Major Sub.
- [§120-911J\(1\)](#). This is confusing, it sounds like this is only referring to the definitions section of Ch 500.
- [§120-911J\(2\)](#). This provision will need to be revised
- [§120-911J\(3\)](#). This provision will need to be revised.
- [§120-911J\(5\)](#). Should this reference 502 instead of 500.
- [§120-911J\(6\)](#). The Maine DEP does not like Flooding standard waivers.
- [§120-911J\(7\)](#). Gorrill Palmer asked: Does Windham have a CFUP for Highland? No to establish a CFUP, we would need to create a Highland Watershed management plan.

Conclusion

Implementing the Maine Department of Environmental Protection (DEP) delegated review authority program involves several specific fees for municipalities. These include application fees for submitting project proposals and processing fees to cover the administrative costs of reviewing and approving applications. The exact amounts can vary depending on the type and scale of the project, and municipalities can refer to the Maine DEP's fee schedule for detailed information.

These amendments intent to ensure that Windham's stormwater and site development regulations are consistent with state standards, facilitating the town's ability to manage its own stormwater permitting process effectively.