



A Member of the ICC Family of Solutions

Editorial and Legal Analysis

PREPARED FOR:

Town of Windham, Maine

PROJECT EDITOR:

Deb Tuszynski

Return to General Code by:

November 23, 2021

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INTRODUCTION

Purpose of Editorial and Legal Analysis

This Editorial and Legal Analysis document is an in-depth, chapter-by-chapter review of the Town's legislation. We ask questions on each chapter and provide the Town with an opportunity to make revisions to its legislation. This Editorial and Legal Analysis is a workbook, and it has "Decision" boxes to simplify the Town's review process.

The purpose of the Editorial and Legal Analysis is to give Town officials an overview of the codification project and to guide them in making decisions as to what legislation is or is not to be included in the Code and with what, if any, revisions.

This Editorial and Legal Analysis workbook has been prepared on the basis of a critique of the Town's existing legislation, including, as much as possible, a comparison with statutory provisions and similar legislation from other municipalities, to identify conflicts and ambiguities in order to bring consistency and order to the general body of the Town's law.

Due Date for Completion of Editorial and Legal Analysis Workbook

The review and revision phase of the project usually requires the most intensive work on the part of the municipal officials. The Town will have **100 business days (by November 23, 2021)** to return the completed Editorial and Legal Analysis workbook and any other revisions to the Code. When answers are received from the municipality, General Code will schedule preparation of the Draft of the final Code.

Legal Advice

Please note that it is not the intent of General Code to give legal advice or opinions by way of the Editorial and Legal Analysis but rather to provide as much information as possible to enable municipal officials to make necessary decisions. Any questions as to validity or legal sufficiency of legislation, or as to interpretation of cases and statutes, will properly remain the responsibility of the Municipal Attorney.

Manuscript on eCode360® Code Review site

Your Manuscript (Code in progress) is available to view on your secure online *eCode360 Code Review* site. It is current through legislation adopted June 15, 2021.

- To access your *eCode360 Code Review* site, go to <https://codereview.ecode360.com/WI1257> and log in using your password.
- The Manuscript on your *Code Review* site has not been edited, but represents the Town's current legislation of a general and permanent nature, organized and renumbered in the new Code's format.

Town of Windham, ME

- Each piece of legislation in the Manuscript is identified by its adoption date in the "History" included in each chapter.
- Amendments and changes to such legislation have been inserted where appropriate in the text, and superseded and extraneous material has been deleted.
- Internal references (i.e., a reference to a section number within a law) have been updated to facilitate your review.

The Manuscript is designed to be a working online document to be used for reference during this stage of review and discussion and as a temporary compilation pending publication of the Code books.

Derivation Table

One of the last items in the Manuscript on your *Code Review* site is the Derivation Table, which indicates where chapters and articles of the 1991 Town Code have been included in the new Code, or the reason for exclusion. This document will be updated throughout the project, and the updated Derivation Table will be included in the final publication to assist Code users in the transition to the new Code's organization.

Disposition List

The Disposition List is located at the end of the Manuscript. The Disposition List shows ordinances received from the Town starting in 2021 and indicates where each ordinance has been incorporated into the Manuscript or the reason for its exclusion. The Disposition List will be updated as the project progresses, and a final version will be published in the Code and updated with each Code supplement.

Review by Town

This Editorial and Legal Analysis is set up as a workbook.

Question numbers:

- Each question has a specific number that corresponds to the chapter number. For example, the 17th question for Chapter 4 will be numbered: 4-017.
- If the question number begins with "MLT," that is an indication that the question pertains to more than one chapter (multiple chapters).

Links to eCode360 Code Review:

- Each question number is followed by the chapter title and, if applicable, the section. These are links to *eCode360 Code Review* site, so that someone reviewing the questions in the Analysis can immediately go to the applicable portion of the Code where a question is being asked.
- Where "Code Content" appears within a question, it contains the exact text of a portion of the Code and a hyperlink to the location on the *eCode360 Code Review* site so that the reviewer may click directly to the wording in question.

Where the phrase "satisfactory as written" is used, the editor has found that subject to be generally suitable as written. However, those comments do not preclude revisions to any chapter based on the

experiences of the Town. We encourage the Town officials to review all chapters of the Manuscript, using this Editorial and Legal Analysis as a guide, paying particular attention to the following:

- ◆ Are certain provisions no longer enforced?
- ◆ Is the legislation the appropriate regulation of the subject matter or would such provisions be enforced under another law or statute?
- ◆ Are the procedures described accurate or should they be changed to reflect current practices? Are there obsolete procedures that can be deleted?
- ◆ Have problems in enforcement of particular provisions arisen in the past? Could the provisions be made more specific?
- ◆ Are the titles of officials and departments up-to-date? Are there other administrative terms that should be changed?
- ◆ Are the amounts of fees and bonds adequate? Will they cover the Town's cost in administering the legislation?

Refer to the "[Code Project Guidelines](#)" located by clicking **Misc. Documents** on your *eCode360 Code Review* site for suggestions on managing this review stage.

Extent of Decisions

It is not necessary for the Town to answer every single question in the Editorial and Legal Analysis. There may be some subjects that require further time for review and revision. You have the option of printing existing legislation as is and revising it in the future. The aim should be to answer as many questions as possible within the review time frame.

Defer option.

- Most questions include an option to "Defer decision until after Code publication." If the Town selects this option, the item in question will be published as is. If the Town decides to make a change after publication, that change will be considered out of the scope of the codification project, but can be adopted by the Town through its usual ordinance adoption procedure and incorporated into the Code as part of a routine future Code supplement.
- Upon request, we will supply the Town with a listing of deferred questions at the end of the project so officials can revisit these items at a later date.
- If the Town does not need to revisit the item at a later date, check "Do not revise."

Critical questions. There may be questions in the Editorial and Legal Analysis that are identified as "critical," meaning that without a response from the Town we will not be able to proceed with our final editing. Those questions are identified by a red CRITICAL note at the upper right of the question.

Sample Legislation

Sample legislation adopted by other municipalities is available for review and comparison purposes. Contact us for instructions on how you can use the Multicode Search feature to browse Codes from other municipalities.

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It is important to note that **sample legislation is unlikely to meet the Town's requirements without some sort of revision**. The purpose of sample legislation is to give officials an opportunity to see what other municipalities have enacted on certain subject matters and to provide a basis for legislation that the governing body may wish to adopt. Sample legislation should be thoroughly reviewed and revisions made to bring the samples in line with your community's needs before adoption.

Adoption of Samples. Sample legislation may be adopted via the Code adoption process. However, if a particular subject is controversial or requires in-depth research and discussion, we advise that you pursue its adoption separate from the Code project (after the publication of the Code).

Process / Next Steps

Once the Town has completed its review of the Editorial and Legal Analysis and submitted all decisions, General Code will schedule the next production stage, which is the preparation of the Draft. All desired changes from the Town should be submitted prior to preparation of the Draft. We will update the Code content to incorporate the Town's changes and insert any recently adopted ordinances. The Draft marks the completion of editorial work and the stopping point for new legislation. After this stage in the project, revisions (beyond those questions we pose for clarity) are chargeable. Any legislation submitted after this point will be incorporated into the Code through routine supplementation following Code publication.

The Manuscript will be copyread, and titles, cross references and internal references will be inserted and updated. Upon completion, we will update your *eCode360 Code Review* site with the Draft. Note that we may have a few questions for the Town at that time. Review of the Draft is intended to be a quick step (not another cycle for major revisions), and the Town has 45 business days to respond to questions, if any, and authorize final publication.

Following approval of the Draft, the Code will be formatted, indexed and prepared for printing. We will deliver the Town's two Code books, and Code will be posted online and made available to the public.

Adoption of Code

In accordance with 30-A M.R.S.A. § 3004, the new Town Code will need to be formally adopted in order to establish the Code as a permanent, practical and enforceable system of law. We will prepare a draft of the Code Adoption Ordinance and submit it to the Town for review and adoption in conjunction with the final publication of the new Code. This ordinance will adopt the new Code and put into effect all changes made to the Town ordinances as part of the codification project.

GENERAL DECISIONS

Binders

- A. Binder colors. Please choose one option each for Color and Lettering below for your new Code binders. Binder color options may be reviewed on the Web at <https://www.generalcode.com/codeproject/> by clicking the **Binder Colors** tab.

Decision:

Cover Color (choose one):

- ☒ Blue
☐ Green
☐ Burgundy
☐ Gray
☐ Black

Cover Lettering (choose one):

- ☒ White
☐ Gold
☐ Silver

- B. Seal or logo. If the Town can provide us with a clear, crisp, black-and-white copy of the Town Seal, or the current logo, we will include it on the Code binders.

Decision:

- ☐ Clear, crisp, black-and-white copy of the Seal or logo is attached.
☒ Electronic image of Seal or logo (in .tiff or .jpeg format) has been e-mailed to ezsupp@generalcode.com.
☐ Seal or logo is not available for reproduction on binders.

- C. Wording. Please indicate your preference for the wording on the Code binders.

Decision:

- ☒ Use "Charter and Code of the Town of Windham, Maine."
☐ Use "Code the Town of Windham, Maine."
☐ Other: _____

New Legislation

- A. Please continue to submit to General Code copies of ordinances and amendments as they are adopted. Files can be emailed to ezsupp@generalcode.com.
- B. Chargeability. Our agreement with the Town provides for the inclusion of legislation adopted through August 11, 2020. Legislation adopted after that date is subject to an additional charge at the completion of the project. We can provide an estimate of cost for such additional legislation at the time of Draft preparation at the Town's request.

Decision:

- ☒ Provide an estimate to the Town for any additional legislation when the Draft is prepared.
- ☐ No estimate is required.

WRAP UP

Completeness Check

In order to ensure that the codification project can be scheduled for final editing upon return of this Editorial and Legal Analysis workbook to General Code, please double-check the following items prior to sending:

- ☐ Binder and Seal information on p. vii: Is the binder information completed? Is the Seal attached (or has it been e-mailed) if required?
- ☐ Throughout the Editorial and Legal Analysis, are all questions answered?
 - The only blank boxes should be for topics that are to be deleted or included "as is."
 - Items marked with a question mark or a note "to be reviewed" cannot be accurately edited and require follow-up. It is most efficient for the Town officials to get the answer now, when the whole document is available.
- ☐ Are all attachments accounted for? If a decision refers to attached or enclosed copy, is there a corresponding document?

Final Review

- ☐ The governing body and Municipal Attorney have been consulted about and/or have reviewed and approved the decisions in this document.
- ☐ Sample language and any wording supplied by the municipality has been customized according to your specific requirements (see **Sample Legislation** above, p. v).

Sending Materials

The master copy of this completed Editorial and Legal Analysis workbook and any attachments with a decision or revised wording should be submitted.

We strongly suggest that you retain a copy of the completed workbook for your records before sending General Code the original materials.

- ✓ If several officials have completed their own copies of the Editorial and Legal Analysis, please compile all responses into one master version. Any conflicts in responses should be resolved prior to submission.
- ✓ If several officials have worked in the same copy of the Editorial and Legal Analysis, that copy can be submitted to General Code, as long as there are no conflicts in the responses.

Send materials to:

General Code
781 Elmgrove Road
Rochester, NY 14624

E-mail files to:

ezsupp@generalcode.com

Question C-001

[Chapter C Council-Manager Charter](#)

In reviewing the questions and comments on the Town Charter, please bear in mind that any substantive revisions to the Charter would need to be adopted following the proper procedures for amending the Charter and would need to be handled separately from the adoption of the new Code of Ordinances.

Question C-002

[Chapter C Council-Manager Charter](#)

We would like to make the following formatting changes in the Charter. These types of changes are not typically considered to be substantive and would not require an amendment.

1. The capitalization of terms throughout the Charter is currently inconsistent. For example, in some sections the term "municipal" is uppercase and in some sections it is lowercase. It is our standard practice to capitalize proper nouns and titles and to capitalize "Town" when referring to the Town of Windham; other terms are lowercased. We would like to apply this style to the Charter to make the text consistent.

2. It is our standard practice, used in the ordinance portion of the Code, to include a number once, with numbers from one through nine spelled out and numbers 10 and up in numerical form (e.g., "30 days"); percentages, decimals, fractions and monetary amounts are included in numerical form for ease of readability; and unit modifiers (numbers serving as adjectives) are spelled out and hyphenated (e.g., "three-year term"). We would like to apply this style to the Charter to make the text consistent. Currently many of the numbers in the text of the Charter are included twice, such as "seven (7) members," which would be "seven members" in our standard style.

Pick one option from list below

☒ Standardization of capitalization and numbers in the Charter is authorized.

☐ Revise as follows:

☐ Do not revise.

☐ Defer decision until after Code publication.

Question C-003

[Chapter C Council-Manager Charter](#)
[Article I Grant of Powers to the Town](#)
[Section 1 Incorporation.](#)

Code Content:

[\[§ C-I-1\]](#) *The inhabitants of the Town of Windham, within the limits as now established **or as hereafter established or as hereafter established** in the manner provided by law, shall be a Municipal Corporation, by the name of the Town of Windham.*

In Article I, Section 1, of the Charter the words "or as hereafter established" are included twice. Is this correct? If not, the following revision should be made: "The inhabitants of the Town of Windham, within the limits as now established or as hereafter established ~~or as hereafter established~~ in the manner provided by law, shall be a Municipal Corporation, by the name of the Town of Windham."

Pick one option from list below

☒ Revise as suggested.

☐ Revise as follows:

☐ Do not revise.

☐ Defer decision until after Code publication.

Question C-004

[Chapter C Council-Manager Charter](#)
[Article I Grant of Powers to the Town](#)
[Section 2 Powers and duties.](#)

Code Content:

[\[§ C-I-2\]](#) *The Town shall have, exercise and enjoy all the rights, immunities, powers, privileges and franchises and shall be subject to all the duties, liabilities and obligations provided for herein, or otherwise, pertaining to or incumbent upon said Town as a Municipal Corporation or to the inhabitants or municipal authorities thereof; and may enact reasonable by-laws, regulations and ordinances for municipal purposes, not inconsistent with the Constitution and laws of the State of Maine, and impose penalties for the breach thereof, to be recovered for such uses as said by-laws, regulations or ordinances shall provide. **The administration of all the fiscal, prudential and municipal affairs of said Town, with the government thereof, except as otherwise provided by this Charter, shall be and are vested** in one body of seven (7) members, which shall constitute and be called the Town Council, all of whom shall be inhabitants of said Town, and shall be sworn in the manner hereinafter prescribed. The Town may acquire property for any Town purpose, in fee simple or any lesser interest or estate, by purchase, gift, devise, lease, or condemnation and may sell, lease, mortgage, hold, manage and control such property as its interest may require. In this Charter no mention of a particular power shall be construed to be exclusive or to restrict the scope of the powers which the Town would have if the particular power were not mentioned. The Charter shall be liberally construed to the end that the Town may have all the powers necessary or convenient for the conduct of its municipal affairs, including all powers the Town may assume pursuant to State laws and to the provisions of the State Constitution.*

In Article I, Section 2, of the Charter, the wording "The administration...shall be and are vested" should read "The administration...shall be and is vested." Can this correction be made?

Pick one option from list below

- ☒ Revise as suggested.
- ☐ Revise as follows:
- ☐ Do not revise.
- ☐ Defer decision until after Code publication.

Question C-005

[Chapter C Council-Manager Charter](#)
[Article II Town Council](#)
[Section 3 Enumeration of powers.](#)

Code Content:

[\[§ C-II-3A\]](#) Appoint, on the affirmative vote of five (5) members, the Manager for an indefinite term and remove him/her by the same vote. At least thirty (30) days before such removal shall become effective, the Council shall, by the affirmative vote of five (5) members, adopt a preliminary resolution stating the reasons for the Manager's removal. The Manager may reply in writing and may request a public hearing, which shall be held **not earlier than twenty (20) days not later than thirty (30) days** after the filing of such request. After such public hearing if one is requested, and after full consideration, the Council by the affirmative vote of five (5) members may adopt a final resolution of removal. By the preliminary resolution, the Council may suspend the Manager from duty, but the regular salary of the Manager shall continue to be paid to him/her during the period of suspension. However, in no case shall the Manager receive pay while on suspension or in any form of severance agreement that, in total, exceeds three (3) month's salary.

In Article II, Section 3, of the Charter the wording "not earlier than twenty (20) days **not** later than thirty (30) days" should read "not earlier than twenty (20) days **nor** later than thirty (30) days" and "three (3) month's salary" at the end of the subsection should read "three (3) months' salary." Can we make these corrections?

Pick one option from list below

- ☒ Revise as suggested.
- ☐ Revise as follows:
- ☐ Do not revise.
- ☐ Defer decision until after Code publication.

Question C-006

[Chapter C Council-Manager Charter](#)
[Article II Town Council](#)
[Section 3 Enumeration of powers.](#)

Code Content:

[\[§ C-II-3C\]](#) *Appoint the members of the Board of Assessment Review, the Planning Board, the Board of Zoning Appeals, and the membership of such advisory committees as the Council shall create, except that by ordinance the Council may make membership of any advisory committee elected.*

Article II, Section 3, of the Charter refers to the "Board of Zoning Appeals." In the ordinances this Board is referred to as the "Zoning Board of Appeals" or "Board of Appeals."

Pick one option from list below

- ☐ Change "Board of Zoning Appeals" to "Zoning Board of Appeals."
- ☒ Change "Board of Zoning Appeals" to "Board of Appeals."
- ☐ Revise as follows:
- ☐ Do not revise.
- ☐ Defer decision until after Code publication.

Question C-007

[Chapter C Council-Manager Charter](#)
[Article II Town Council](#)
[Section 4 Compensation.](#)

Code Content:

[\[§ C-II-4A\]](#) *Councilors shall receive twenty dollars (\$20) for each Council meeting attended, not to exceed in the aggregate of five hundred dollars (\$500) per year in full for their services and shall be paid quarterly. Such compensation may be changed by ordinance, but no such ordinance increasing the salary of members of the Town Council shall take effect during the then current municipal year.*

Article II, Section 4A, of the Charter states that Council members receive \$20 for each meeting, up to \$500 per year, paid quarterly. Are these provisions up to date? This subsection also provides for the compensation to be changed by ordinance. If the amounts listed in Section 4A are outdated and compensation is set by ordinance, the Town might want to consider removing the specific amounts from the Charter.

Pick one option from list below

☐ Revise as follows:

☒ Do not revise.

☐ Defer decision until after Code publication.

Question C-008

[Chapter C Council-Manager Charter](#)
[Article II Town Council](#)
[Section 13 Independent annual audit.](#)

Code Content:

[\[§ C-II-13\]](#) Prior to the end of each fiscal year, the Council shall designate the **State Department of Audit** or private certified public accountants who, as of the end of the fiscal year, shall make an independent audit of accounts and other evidences of financial transaction of the Town Government and shall submit their report to the Council and the Town Manager. Such accountants shall not maintain any accounts or records of the Town business, but shall post-audit the books and documents kept by any office, officer, department or agency of the Town Government.

Article II, Section 13, of the Charter refers to the State Department of Audit. Should this reference be updated to the Office of the State Auditor? There does not appear to be a Department of Audit in the state government.

Pick one option from list below

- ☒ Revise to Office of the State Auditor.
- ☐ Revise as follows:
- ☐ Do not revise.
- ☐ Defer decision until after Code publication.

Question C-009

[Chapter C Council-Manager Charter](#)

[Article V Budget](#)

[Section 2 Preparation and submission of the budget.](#)

Code Content:

[\[§ C-V-2D\]](#) *An itemized statement of estimated revenue from all sources, other than taxation, and a statement of taxes required, comparative figures from current and next preceding year.*

In Article V, Section 2D, of the Charter, wording seems to be missing before "comparative figures" such as the following: "An itemized statement of estimated revenue from all sources, other than taxation, and a statement of taxes required, with comparative figures from the current and next preceding year."

Pick one option from list below

☐ Revise as suggested.

☐ Revise as follows:

☒ Do not revise.

☐ Defer decision until after Code publication.

Question C-010

[Chapter C Council-Manager Charter](#)

[Article V Budget](#)

[Section 4 _____](#)

Section 4 in Article V of the Charter is the only section in the Charter that does not have a title. A title could be added such as "Review of budget by Council."

Pick one option from list below

☒ Add section title "Review of budget by Council."

☐ Revise as follows:

☐ Do not revise.

☐ Defer decision until after Code publication.

Question C-011

[Chapter C Council-Manager Charter](#)
[Article VI Tax Administration](#)
[Section 1 Assessor.](#)

Code Content:

[\[§ C-VI-1\]](#) There shall be established a **Division of Assessment**, the head of which shall be the Town Assessor. The Assessor, appointed as hereinbefore provided, shall perform all duties and responsibilities provided for assessors, and as the Assessor may now or hereafter be subject to, under the laws of the State of Maine.

Article VI, Section 1, of the Charter provides for a Division of Assessment in the Town government. Is this designation still correct? A division is typically a subunit of a department, but no indication is made as to what department the Division of Assessment is part of.

Pick one option from list below

☐ Revise as follows:

☒ Do not revise.

☐ Defer decision until after Code publication.

Question C-012

[Chapter C Council-Manager Charter](#)
[Article IX Initiative and Referendum](#)
[Section 1 Petition for overrule of action of Council.](#)

Code Content:

[\[§ C-IX-1\]](#) All ordinances, resolutions or votes, except those making appointments or removals or regulating exclusively the internal procedure of the Council, shall be subject to overrule by a referendum, by direct vote of the whole people by secret ballot, as follows: If, within twenty (20) days after the enactment of any such ordinance, resolution or vote, a petition signed by not less than ten percent (10%) of the registered voters of the Town of Windham is filed with the Town Clerk requesting its reference to a referendum, by direct vote of the whole people by secret ballot, the Council shall call a public hearing to be held within thirty (30) days from the date of the filing of such petition with the Town Clerk and shall, within thirty (30) days after said public hearing, **call a special Town Meeting** for the purpose of submitting to a referendum vote, by direct vote of the whole people by secret ballot, the question of adopting such ordinance, resolution or vote. Pending action by the Town Meeting, the referred ordinance, resolution or vote shall be suspended from going into operation until it has received an affirmative vote of the majority of the voters voting on said question.

In Article IX, Section 1, Petition for overrule of action of Council, of the Charter we question whether "call a special Town Meeting" should read "call a special Town election." Similar wording in Section 2, Petition for enactment of ordinances, of Article IX refers to a special election:

The Council shall call a public hearing to be held within thirty (30) days from the date of the filing of such petition with the Town Clerk, and shall within thirty (30) days after said public hearing call a **special Town election** for the purpose of submitting to a referendum vote, by direct vote of the whole people by secret ballot, the question of adopting such ordinance, unless prior to the call for said Town election, such ordinance shall be enacted by the Council.

Pick one option from list below

- ☐ Change "special Town Meeting" to "special Town election."
- ☐ Revise as follows:

- ☒ Do not revise.
- ☐ Defer decision until after Code publication.

Question 1-001

[Chapter 1 General Provisions](#)
[Article I Adoption of Code](#)

At the conclusion of this project the updated Town Code will need to be adopted by the Town Council. Chapter 1, Article I, is reserved for inclusion of the Code Adoption Ordinance after it is adopted.

Question 7-001

[Chapter 7 Alarm Systems](#)
[§ 7-2 Definitions.](#)

Code Content:

[\[ALARM SYSTEM\]](#) *A system, including any mechanism, equipment or device designed to automatically transmit a signal, message or warning from private premises, including telephonic alarm systems designed to operate automatically through the use of public telephone facilities, to the **Town of Windham Public Safety Dispatch Office** or monitored by other private or public entity which, in turn, calls Windham Public Safety Dispatch.*

The definition of "alarm system" in § 7-2 refers to the Public Safety Dispatch office. Is this reference still correct? We note that this chapter was adopted in 1982 and does not appear to have been amended since it was adopted.

Pick one option from list below

☒ Revise as follows:

"...through the use of public telephone facilities, monitored by other private or public entity which, in turn, calls the Cumberland County Regional Communications Center.

☐ Do not revise.

☐ Defer decision until after Code publication.

Question 7-002

[Chapter 7 Alarm Systems](#)
[§ 7-3 Fees for false alarms.](#)

Code Content:

[\[§ 7-3\]](#) Any owner of an alarm system whose system causes the transmittal of a false alarm more than three times per calendar year shall pay a fee of \$25 for each false alarm in excess of three such alarms per year. Alarms generated as a result of circumstances beyond the alarm owner's control (e.g., power outage, weather conditions, telephone transmission problems, motor vehicle accident, etc.) shall not result in a service fee, nor shall they be counted in the three responses allowed per calendar year. The responding unit (police or fire) shall make the determination of the cause of the alarm as to whether it shall be considered a chargeable false alarm.

Section 7-3 sets a fee of \$25 for each false alarm in excess of three in a calendar year. Is this fee still current?

Pick one option from list below

☒ Change "a fee of \$25" to "a fee set by the Town Council."

☐ Revise as follows:

☐ Do not revise.

☐ Defer decision until after Code publication.

Question 11-001

[Chapter 11 Amusements](#)

[Article I Special Permits](#)

[§ 11-3 Definitions.](#)

Code Content:

[\[LICENSEE\]](#) Includes any person, individual, partnership, firm, association, corporation, or other legal entity to whom a license of any kind is issued by the **Maine State Liquor Commission** or to whom a bottle club license has been issued by the Windham Town Council.

There are references in Chapter 11 to the Maine Liquor Commission. Should these references be updated to the Maine Liquor and Lottery Commission or the Maine Bureau of Alcoholic Beverages and Lottery Operations?

Pick one option from list below

- ☒ Revise to Maine Bureau of Alcoholic Beverages and Lottery Operations
- ☐ Revise to Mine Liquor and Lottery Commission.
- ☐ Revise as follows:
- ☐ Do not revise.
- ☐ Defer decision until after Code publication.

Question 11-002

[Chapter 11 Amusements](#)
[Article I Special Permits](#)
[§ 11-4 Special amusement permit.](#)

Code Content:

[\[§ 11-4B\(1\)\]](#) *The Town Council shall, prior to granting a permit and after reasonable notice to the municipality and the applicant, yet within 30 days of receipt of a completed application, hold a public hearing at which hearing the testimony of the applicant and that of any interested members of the public shall be taken.*

Section 11-4B(1) provides for the Town Council to hold a public hearing on the application for a special amusement permit. The hearing requirement was removed from 28-A M.R.S.A. § 1054 in 2017. The Town might want to review this article against the current provisions of 28-A M.R.S.A. § 1054. The 2017 amendment (L. 2017, c. 13) **deleted** the following subsections from the statute:

Subsection 1. Activities and entertainment prohibited.

Subsection 4. Public hearing on permit application.

Subsection 5. Permit requirements.

Subsection 9. Admission.

Subsection 10. Definition of entertainment.

Pick one option from list below

☐ Revise as follows:

☐ Revise as follows: (revisions attached).

☐ Do not revise.

☒ Defer decision until after Code publication.

Question 11-003

[Chapter 11 Amusements](#)
[Article I Special Permits](#)
[§ 11-4 Special amusement permit.](#)

Code Content:

[\[§ 11-4C\]](#) *Decision. Within 45 days of the Town Clerk's receipt of the permit application, the Town Council shall give the applicant written notice of its decision.*

Section 11-4C gives the Town Council 45 days to make a decision on an application for a special amusement permit, with the public hearing under § 11-4B(1) to take place within 30 days of receipt of the application. These time frames conflict with 28-A M.R.S.A. § 1054, Subsection 6, which requires the decision to be made within 15 days: "Within 15 days of receiving the permit application, the municipal officers shall give the applicant written notice of their decision."

Pick one option from list below

- ☐ Change 45 days to 15 days; delete § 11-4B(1) providing for a public hearing.
- ☐ Revise as follows:
- ☒ Do not revise.
- ☐ Defer decision until after Code publication.

Question 11-004

[Chapter 11 Amusements](#)
[Article I Special Permits](#)
[§ 11-4 Special amusement permit.](#)

Code Content:

[\[§ 11-4D\(2\)\]](#) *In addition to any other penalty which may be provided, the Town Council may revoke the special amusement permit of any licensee in the municipality who refuses to permit **any such officer, official or employee which is the performance of his duty**, provided, that no license or special amusement permit shall be revoked unless written demand for the inspection is made upon the licensee or person in charge of the premises, at the time it is sought to make the inspection.*

In § 11-4D(2) the wording "any such officer, official or employee which is the performance of his duty" is incomplete and does not make sense. In the 1991 Code this subsection read as follows:

In addition to any other penalty which may be provided, the Town Council may revoke the special amusement permit of any licensee in the municipality who refuses to permit any such officer, official or employee to make an inspection or who interferes with such officer, official or employee while in ~~which~~ is the performance of his duty, provided that no ~~license or~~ special amusement permit shall be revoked unless written demand for the inspection is made upon the licensee or person in charge of the premises at the time it is sought to make the inspection.

Pick one option from list below

☒ Revise as suggested.

☐ Revise as follows:

☐ Defer decision until after Code publication.

Question 11-005

[Chapter 11 Amusements](#)
[Article I Special Permits](#)
[§ 11-4 Special amusement permit.](#)

Code Content:

[\[§ 11-4F\]](#) Appeals. Any licensee who has requested a permit and has been denied, or whose permit has been revoked or suspended, may within 30 days of the denial, suspension or revocation appeal the decision **to the Superior Court.**

Section 11-4F provides for appeals to be made to the Superior Court. The statute, 28-A M.R.S.A. § 1054, Subsection 8, provides for appeals to be made to the municipal Board of Appeals:

8. Any licensee who has applied for a permit and has been denied, or whose permit has been revoked or suspended, may appeal the decision to the municipal board of appeals, as defined in Title 30-A, section 2691, within 30 days of the denial, suspension or revocation. The municipal board of appeals, if the municipality has such a board, may grant or reinstate the permit if it finds that:

A. The permitted activities would not constitute a detriment to the public health, safety or welfare, or violate municipal ordinances or regulations; or

B. The denial, revocation or suspension was arbitrary and capricious.

Pick one option from list below

☐ Change Superior Court to Board of Appeals.

☐ Revise as follows:

☒ Do not revise.

☐ Defer decision until after Code publication.

Question 11-006

[Chapter 11 Amusements](#)
[Article I Special Permits](#)
[§ 11-5 Rules and regulations.](#)

Code Content:

[\[§ 11-5B\(11\)\]](#) *An applicant for a special amusement permit for entertainment including a dancer or dancers shall pay **an application fee of \$800** to defray the administrative costs of such a permit.*

Section 11-5B(11) sets a fee of \$800 for a special amusement permit for entertainment which includes a dancer or dancers. Is this fee still current?

Pick one option from list below

- ☒ Replace fee amount with "set by the Town Council."
☐ Revise as follows:
☐ Do not revise.
☐ Defer decision until after Code publication.

Question 11-007

[Chapter 11 Amusements](#)
[Article I Special Permits](#)
[§ 11-5 Rules and regulations.](#)

Code Content:

[\[§ 11-5C\(4\)\]](#) *Except for where a special amusement permit is sought for entertainment including a dancer or dancers, **the application for a special amusement permit shall be \$150**, plus the cost of advertising.*

Section 11-5C(4) sets an application fee of \$150 for a special amusement permit where the entertainment does not include dancers. Is this fee still current?

Pick one option from list below

- ☒ Replace fee with "set by the Town Council."
☐ Revise as follows:

- ☐ Do not revise.
☐ Defer decision until after Code publication.

Question 11-008

[Chapter 11 Amusements](#)
[Article I Special Permits](#)
[§ 11-5 Rules and regulations.](#)

Code Content:

[\[§ 11-5C\(5\)\]](#) *Must demonstrate* that at the time of permit application and during the duration of the permit, the applicant will have available during the hours that such entertainment is provided one parking space for each three persons the premises is capable of accommodating plus two parking spaces for each three employees.

In § 11-5C(5) we recommend changing "Must demonstrate" at the beginning of the subsection to "The applicant must demonstrate" to make a complete sentence.

Pick one option from list below

☐ Revise as suggested.

☒ Revise as follows:

An applicant for a special amusement permit for entertainment must demonstrate that at the time of permit application and during the duration of the permit, the applicant will have available during the hours that such entertainment is provided one parking space for each three persons the premises is capable of accommodating plus two parking spaces for each three employees.

☐ Defer decision until after Code publication.

Question 11-009

[Chapter 11 Amusements](#)
[Article I Special Permits](#)
[§ 11-6 Violations and penalties.](#)

Code Content:

[\[§ 11-6\]](#) *Anyone found guilty of violating any provision of this Ordinance shall be subject to a fine of not less than \$500 nor more than \$2,500, in addition to such equitable relief as is necessary to insure compliance with the terms of this Ordinance. Each day such violation continues shall be deemed to be a new offense.*

Section 11-6 sets the penalty for violations of Article I, Special Permits, at not less than \$500 nor more than \$2,500. Is this penalty still satisfactory?

Pick one option from list below

☐ Revise as follows:

☒ Do not revise.

☐ Defer decision until after Code publication.

Question 11-010

[Chapter 11 Amusements](#)

[Article II Coin-Operated Devices](#)

[§ 11-9 License required; application; issuance; fee.](#)

Code Content:

[\[§ 11-9D\]](#) Fee. *The fee for each such device shall be \$100, except for the initial year when the fee will be pro-rated based on the number of months remaining in the calendar year. Said license must be displayed on premises where coin-operated amusement devices are located. Said license shall expire on December 31 of the year in which it is issued. Said license shall designate the number of machines licensed.*

Section 11-9D sets a license fee of \$100 per device for coin-operated amusement devices. Is any revision desired?

Pick one option from list below

☒ Replace fee with "set by the Town Council."

☐ Revise as follows:

☐ Do not revise.

☐ Defer decision until after Code publication.

Question 11-011

[Chapter 11 Amusements](#)
[Article II Coin-Operated Devices](#)
[§ 11-11 Violations and penalties.](#)

Code Content:

[\[§ 11-11\]](#) *Anyone found guilty of violating any provisions of this article shall be subject to a fine of \$25. Each day such violation continues shall be deemed a new offense.*

Section 11-11 sets the penalty for violations of Article II, Coin-Operated Devices, at \$25 per violation. Is this penalty still satisfactory?

Pick one option from list below

☐ Revise as follows:

☒ Do not revise.

☐ Defer decision until after Code publication.

Question 15-001

[Chapter 15 Animals](#)
[Article I Animal Control](#)
[§ 15-4 Licensing.](#)

Code Content:

[\[§ 15-4A\]](#) Dog license. Dogs shall be licensed in accordance with 7 M.R.S.A. § 3921 et seq. Anyone possessing a dog which must be licensed under 7 M.R.S.A. § 3921 et seq. and which has not been licensed prior to the issuance of a municipal warrant shall pay a late fee, as provided in [7 M.R.S.A. § 3943](#). All such late fees shall be deposited in a separate account as provided in 7 M.R.S.A. § 3945.

Section 15-4A refers to a late fee as provided in 7 M.R.S.A. § 3943. That section, which related to municipal warrants, was repealed in 2009 (L. 2009, c. 343). A late fee is now prescribed by 7 M.R.S.A. § 3923-A, Subsection 4, which provides as follows:

An owner or keeper required to license a dog under section 3922, subsection 1 or section 3923-C, subsection 1 and applying for a license for that dog after January 31st shall pay to the municipal clerk, dog licensing agent or dog recorder a late fee of \$25 in addition to the annual license fee paid in accordance with subsection 1 or 2 and section 3923-C, subsection 1. The clerk, dog licensing agent or dog recorder shall deposit all late fees collected under this subsection into the municipality's animal welfare account established in accordance with section 3945.

Pick one option from list below

☒ Revise to read "...and which has not been licensed by January 31 shall pay a late fee as provided in 7 M.R.S.A. § 3923-A(4)."

☐ Revise as follows:

☐ Defer decision until after Code publication.

Question 15-002

[Chapter 15 Animals](#)
[Article I Animal Control](#)
[§ 15-4 Licensing.](#)

Code Content:

[\[§ 15-4B\(2\)\]](#) A kennel license shall be obtained from the Town Clerk's office after the Animal Control Officer has inspected the kennel as required by 7 M.R.S.A. § 3923-C(5). The Animal Control Officer shall follow the sanitation and health rules established by the [Department of Agriculture](#) Animal Welfare Program.

We will update the references in § 15-4B(2) and (4) to the Department of Agriculture to the Department of Agriculture, Conservation and Forestry.

Question 15-003

[Chapter 15 Animals](#)
[Article I Animal Control](#)
[§ 15-4 Licensing.](#)

Code Content:

[\[§ 15-4B\(3\)\]](#) *Kennel license fees shall be those established by 7 M.R.S.A. § 3923-C. There will also be **an inspection fee of \$20** for each kennel license payable to the Town of Windham. This inspection fee shall be placed in the Town's Dog Licenses-Town revenue account.*

Section 15-4B(3) sets a fee of \$20 for inspections when kennel licenses are issued. Is any revision desired?

Pick one option from list below

☒ Replace fee with "set by the Town Council."

☐ Revise as follows:

☐ Do not revise.

☐ Defer decision until after Code publication.

Question 15-004

[Chapter 15 Animals](#)

[Article I Animal Control](#)

[§ 15-6 Impoundment; return of animal.](#)

Code Content:

[\[§ 15-6B\(1\)\]](#) *A municipal impoundment fee of \$25 for each animal, except that upon the second impoundment within a year, the fee shall be \$50 and upon the third and all subsequent impoundments within a year from the first impoundment, the fee shall be \$100. Payment shall be made at the Town Clerk's office.*

Section 15-6B(1) sets impoundment fees of \$25 for each impounded animal, \$50 for a second impoundment within one year, and \$100 for a third and subsequent impoundments within one year from the first. Are these fees still current?

Pick one option from list below

☒ Revise first sentence to read "A municipal impoundment fee set by the Town Council."

☐ Revise as follows:

☐ Do not revise.

☐ Defer decision until after Code publication.

Question 15-005

[Chapter 15 Animals](#)
[Article I Animal Control](#)
[§ 15-9 Cemeteries.](#)

Code Content:

[\[§ 15-9\]](#) **No dogs** or other domestic animals shall be allowed in any Town owned/maintained cemeteries (Chapter 39, Cemeteries).

Section 15-9 prohibits dogs and domestic animals in cemeteries, and this prohibition is also stated in Chapter 39, Cemeteries, § 39-4. Should an exception be added for service animals? The term "service animal" is defined in 5 M.R.S.A. § 4553 as follows:

For the purposes of subchapter 5, a dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual or other mental disability. Other species of animals, whether wild or domestic, trained or untrained, are not service animals for the purposes of this definition. The work or tasks performed by a service animal must be directly related to the individual's disability. Examples of such work or tasks include, but are not limited to, assisting an individual who is totally or partially blind with navigation and other tasks, alerting an individual who is deaf or hard of hearing to the presence of people or sounds, providing nonviolent protection or rescue work, pulling a wheelchair, assisting an individual during a seizure, alerting an individual to the presence of allergens, retrieving items such as medicine or a telephone, providing physical support and assistance with balance and stability to an individual with a mobility disability and helping a person with a psychiatric or neurological disability by preventing or interrupting impulsive or destructive behaviors. The crime deterrent effects of an animal's presence and the provision of emotional support, well-being, comfort or companionship do not constitute work or tasks for the purposes of this definition.

Pick one option from list below

☒ Add "except a service animal as defined in 5 M.R.S.A. § 4553" to §§ 15-9 and 39-4.

☐ Revise as follows:

☐ Do not revise.

☐ Defer decision until after Code publication.

Question 15-006

[Chapter 15 Animals](#)

[Article I Animal Control](#)

[§ 15-13 Violations and penalties; remedies.](#)

Code Content:

[\[§ 15-13A\]](#) Whoever violates the licensing requirements of this Ordinance shall be subject to those penalties established by 7 M.R.S.A § 3924 (\$100). Whoever violates the at-large provisions of this Ordinance shall be subject to those penalties established by 7 M.R.S.A. § 3915 (not less than \$50 nor more than \$250 for first violation and not less than \$100 nor more than \$500 for two or more violations). Whoever violates any other section of this article shall be subject to a civil penalty of no less \$100 for a first violation, no less than \$250 for a second violation, and no less than \$500 for a third or subsequent violation. Said fines may be recovered before the Portland District Court and shall inure to the benefit of the Town.

Section 15-13A sets penalties for violations of the licensing requirements and at-large provisions of Article I in accordance with 7 M.R.S.A. § 3924 and 7 M.R.S.A. § 3915. These penalties accurately reflect those in the statutes and should not be changed. This subsection also sets penalties of no less than \$100 for a first violation, \$250 for a second violation, and \$500 for a third or subsequent violations of all other Article I provisions. Are these penalties still satisfactory?

Pick one option from list below

☐ Revise as follows:

☒ Do not revise.

☐ Defer decision until after Code publication.

Question 15-007

[Chapter 15 Animals](#)

[Article I Animal Control](#)

[§ 15-13 Violations and penalties; remedies.](#)

Code Content:

[\[§ 15-13C\]](#) Any person who has been found to have committed a civil violation under § 15-7 of this article more than three times within any twelve-month period shall have the option, in lieu of a fine, of erecting a secure enclosure for the dog or dogs. The enclosure shall be of suitable size to accommodate the animal or animals. At a minimum, the enclosure shall be high enough to prevent the dog or dogs from leaping out of the enclosure and shall also contain a floor or other structure that will prevent the dog or dogs from digging under the enclosure and escaping. Any enclosure shall be completed within 30 days of the date of the finding by the court except that such time frame may be extended by the Animal Control Officer **due to weather or ground**.

In § 15-13C the wording "due to weather or ground" at the end of the last sentence seems incomplete. Is wording missing before or after "ground"?

Pick one option from list below

☒ Revise to read "due to weather or ground conditions."

☐ Revise as follows:

☐ Do not revise.

☐ Defer decision until after Code publication.

Question 15-008

[Chapter 15 Animals](#)
[Article II Domesticated Chickens](#)

Article II of Chapter 15 deals with the keeping of domesticated chickens. This article does not include a penalty for violations. Section 15-20 provides for removal of the chickens by the Code Enforcement Officer in the event of a violation but no fine is prescribed. Should any other penalties be added?

Pick one option from list below

☐ Revise as follows:

☐ Do not revise.

☒ Defer decision until after Code publication.

Question 23-001

[Chapter 23 Bridges](#)
[§ 23-4 Violations and penalties.](#)

Code Content:

[\[§ 23-4\]](#) Any person who violates any of the provisions of this chapter shall be guilty of a civil violation and, upon conviction, shall be fined not less than \$50 and not more than \$500, with each incident being considered a separate violation.

Section 23-4 sets a civil violation penalty of not less than \$50 and not more than \$500 for violations of Chapter 23, Bridges. Is this penalty still satisfactory?

Pick one option from list below

☐ Revise as follows:

☒ Do not revise.

☐ Defer decision until after Code publication.

Question 28-001

[Chapter 28 Building Construction](#)
[§ 28-3 Violations and penalties.](#)

Code Content:

[\[§ 28-3\]](#) Any person who violates a provision of this Ordinance or fails to comply with any of the requirements thereof, or who erects, constructs, alters or repairs a building or structure in violation of the approved construction documents or directive of the Building Official, or of a permit or certificate issued under the provisions of the Ordinance, shall be subject to penalties shall be penalized in accordance with 30-A M.R.S.A. § 4452. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

In § 28-3 the inclusion of both "shall be subject to penalties" and "shall be penalized" is incorrect and does not make sense. One of these phrases should be removed.

Pick one option from list below

- ☐ Delete "shall be subject to penalties."
- ☒ Delete "shall be penalized."
- ☐ Revise as follows:
- ☐ Defer decision until after Code publication.

Question 28-002

[Chapter 28 Building Construction](#)
[§ 28-5 Electrical installations.](#)

Code Content:

[\[§ 28-5\]](#) All wires and equipment in the interior of all buildings which are intended for transmission of electricity and to be connected with an outside circuit shall be made and at all times kept safe, and shall be placed, arranged, attached, changed and maintained by the person owning or using the wires and equipment, to the specifications of the city electrician. The wiring shall comply with the requirements of the National Electrical Code. State law reference – Adoption of technical codes by reference, 30-A M.R.S.A. § 3003.

Section 28-5 includes a reference to the "city electrician." How should this reference be updated?

Pick one option from list below

- ☒ Change "city electrician" to "Code Enforcement Officer."
- ☐ Revise as follows:
- ☐ Defer decision until after Code publication.

Question 28-003

[Chapter 28 Building Construction](#)
[§ 28-7 Fees.](#)

Code Content:

[\[§ 28-7\]](#) *As adopted by the Windham Town Council.*

Attached to Chapter 28, Building Construction, is a fee schedule that was effective February 25, 2020. Should this schedule be included in the Code and, if so, are any updates needed?

Pick one option from list below

☐ Remove schedule and revise § 28-7 to read "Fees are adopted by the Windham Town Council. The current fee schedule is on file with the Town Clerk."

☒ Revise as follows:

Fees are set by the Town Council and listed in the master fee schedule.

☐ Do not revise.

☐ Defer decision until after Code publication.

Question 34-001

[Chapter 34 Cable Television](#)

Chapter 34, Cable Television, has not been amended since 1994 and should be reviewed to ensure it reflects the Town's current procedures with respect to cable television franchises.

Pick one option from list below

☐ Revise as follows:

☐ Do not revise.

☒ Defer decision until after Code publication.

Question 34-002

[Chapter 34 Cable Television](#)
[§ 34-4 Franchise contract.](#)

Code Content:

[\[§ 34-4B\]](#) *An applicant for a franchise shall pay a nonrefundable filing fee to the Town of \$25 to defray the cost of public notice and advertising expenses relating to such application. The application shall be filed with the Town Clerk and shall contain such information as the Town may require, including but not limited to a general description of the applicant's proposed operation, a schedule of proposed charges, a statement detailing its business or corporate organization with a financial statement for the two previous fiscal years, an estimated fifteen-year financial projection of its proposed system and its proposed annual Town franchise fee or the basis for the same and a statement detailing the prior operational experience of the applicant in both CATV and microwave service, including that of its officers, management and staff to be associated with the proposed operation.*

Section 34-4B imposes a filing fee of \$25 on an applicant for a cable television franchise. Is this amount up to date?

Pick one option from list below

- ☒ Replace fee with "set by the Town Council."
- ☐ Revise as follows:
- ☐ Do not revise.
- ☐ Defer decision until after Code publication.

Question 34-003

[Chapter 34 Cable Television](#)
[§ 34-8 Consumer protection.](#)

Code Content:

[\[§ 34-8A\]](#) *In accordance with 47 U.S.C. § 521 et seq., and implementing regulations in Title 47 CFR Part 76, Subpart H, the Town hereby adopts and incorporates by reference the customer service regulations enacted at 47 CFR 76.309 as the minimum customer services standards. Nothing herein shall prevent or prohibit the enforcement of any standard in excess of the minimum which is contained in a franchise agreement, **nor from establishing or enforcing** any consumer protection law which is not specifically preempted by state or federal law, nor from establishing or enforcing any customer service requirements that exceed or address matters not addressed by these minimum standards.*

We recommend the following revision in the last sentence of § 34-8A to provide a subject for "establishing or enforcing":

Nothing herein shall prevent or prohibit the ~~enforcement of~~ Town from enforcing any standard in excess of the minimum which is contained in a franchise agreement, nor from establishing or enforcing any consumer protection law which is not specifically preempted by state or federal law, nor from establishing or enforcing any customer service requirements that exceed or address matters not addressed by these minimum standards.

Pick one option from list below

☐ Revise as follows:

☒ Do not revise.

☐ Defer decision until after Code publication.

Question 39-001

[Chapter 39 Cemeteries](#)

Chapter 39 contains a number of references to the "Building and Grounds Supervisor," "Buildings and Grounds Supervisor," and "Building and Grounds Maintenance Supervisor." The Town may want to standardize these reference to a single title for the sake of consistency. What is the correct title?

Pick one option from list below

- ☐ Change title to "Building and Grounds Supervisor."
- ☐ Change title to "Buildings and Grounds Supervisor."
- ☐ Change title to "Building and Grounds Maintenance Supervisor."
- ☒ Change title to:
- ☐ Do not revise.
- ☐ Defer decision until after Code publication.

Question 39-002

[Chapter 39 Cemeteries](#)

The cost of burial plots listed in § 39-5 should be reviewed to ensure the amounts are current. The amounts listed are:

- B. The cost for one standard gravesite shall be \$400 per grave for a resident of the Town of Windham and \$500 for a nonresident.
- C. The cost of one lot comprised of four adjoining gravesites, shall be \$1,600 for a resident of the Town of Windham and \$2,000 for a nonresident.
- D. Cremation garden. Cost for one cremains site which accommodates two cremains, shall be \$200 for a resident of the Town of Windham and \$275 for a nonresident.

Pick one option from list below

- ☒ Replace Subsections B, C and D with: "The resident and nonresident costs for one standard grave site, one lot comprised of four adjoining grave sites and one cremains site which accommodates two cremains shall be established by the Town Council."
- ☐ Revise as follows:
- ☐ Do not revise.
- ☐ Defer decision until after Code publication.

Question 39-003

[Chapter 39 Cemeteries](#)

[§ 39-13 Administration, enforcement and appeal.](#)

Code Content:

[\[§ 39-13A\]](#) *This Ordinance shall be administered and enforced by the Town Manager or his/her designee.*

Chapter 39, Cemeteries, does not include a penalty section for violations of this chapter. Should a penalty be added?

Pick one option from list below

☐ Revise as follows:

☒ Do not revise.

☐ Defer decision until after Code publication.

Question 45-001

[Chapter 45 Compensation of Elected Officials](#)
[§ 45-2 Purpose.](#)

Code Content:

[\[§ 45-2\]](#) The purpose of this chapter is **to establish the compensation level** for certain elected officials during their term of office.

Section 45-2 states that it is the purpose of Chapter 42 to establish the compensation level for certain elected officials, defined in § 45-3 to mean members of the Town Council. However, Chapter 45 no longer serves this purpose. Section 45-4, as amended in 2020, does not include compensation amounts but provides that "Elected officials shall be compensated the approved budgetary allocation on a quarterly basis (every three months)." The Town Charter already provides for quarterly payments to elected officials; see Article II, Section 4A, of the Charter. Is Chapter 45 still needed?

Pick one option from list below

☐ Remove Chapter 45.

☐ Revise as follows:

☒ Do not revise.

☐ Defer decision until after Code publication.

Question 56-001

[Chapter 56 Disorderly Property](#)
[§ 56-11 Violations and penalties.](#)

Code Content:

[\[§ 56-11\]](#) Any person who is found to be in violation of any provision of this chapter shall be **subject to a civil penalty of \$500 to \$1,000.** Each violation of a separate provision of this chapter, and each day of violation, shall constitute separate offenses. In addition, if the Town is the prevailing party in an enforcement action, said person shall also be liable for all reasonable expenses incurred by the Town in the enforcement of this chapter, including, but not limited to, staff time, attorneys' fees, and costs. All civil penalties shall inure to the benefit of the Town of Windham.

Section 56-11 sets the penalty for violation of Chapter 56, Disorderly Property, at a civil penalty of \$500 to \$1,000. Is this penalty still satisfactory?

Pick one option from list below

☐ Revise as follows:

☒ Do not revise.

☐ Defer decision until after Code publication.

Question 70-001

[Chapter 70 Fire Prevention and Life Safety](#)
[§ 70-1 Administration.](#)

Code Content:

[\[§ 70-1D\]](#) Adoption of NFPA 1 Fire Code by reference. A certain document, three copies of which are on file in the office of the Town of Windham, with one copy being in the Town Clerk's office, marked and designated as the NFPA 1 Fire Code, as published by the National Fire Protection Association, as adopted and amended by the State of Maine, is hereby adopted as the Fire Code of the Town of Windham (25 M.R.S.A §§ 2361, 2452, 2465 and **8001 through 11008**).

In § 70-1D and E the reference to **25** M.R.S.A. §§ 8001 through 11008 is incorrect and apparently should be to **5** M.R.S.A. §§ 8001 through 11008, the Administrative Procedure Act. We will update § 70-1D and E accordingly.

Question 70-002

[Chapter 70 Fire Prevention and Life Safety](#)
[§ 70-2 Definitions.](#)

Code Content:

[\[AUTHORITY HAVING JURISDICTION\]](#) *The Authority Having Jurisdiction (AHJ) shall be the Chief of the **Windham Fire-Rescue Department** or his/her designee.*

There are references in the Town Code to the Fire Department and the Fire-Rescue Department (also sometimes written as the "Fire/Rescue Department"). Likewise the Chief of the Department is referred to as the Fire Chief and Fire-Rescue Chief (or Fire/Rescue Chief). Should these references be standardized to one consistent title?

Pick one option from list below

- ☐ Use "Fire/Rescue Department" and "Fire/Rescue Chief" for all references.
- ☒ Use "Fire-Rescue Department" and "Fire-Rescue Chief" for all references.
- ☐ Revise as follows:

- ☐ Do not revise.
- ☐ Defer decision until after Code publication.

Question 70-003

[Chapter 70 Fire Prevention and Life Safety](#)
[§ 70-8 Occupancy inspection.](#)

Code Content:

[\[§ 70-8A\]](#) Any property inspection that is conducted by the Town of Windham **Code Enforcement Department** for any property that is required to conform to this chapter shall include the AHJ. The AHJ shall certify and make recommendation certifying that the building meets all conditions and regulations set forth by the Windham Fire-Rescue Department.

There are references in the Town Code to a Code Enforcement Department, Code Enforcement Office, Department of Code Enforcement, and Office of Code Enforcement. If the "Department" and "Office" are the same agency, is there one title that could be used consistently?

Pick one option from list below

- ☒ Revise all to "Code Enforcement Department."
- ☐ Revise all to "Code Enforcement Office."
- ☐ Revise as follows:

- ☐ Do not revise.
- ☐ Defer decision until after Code publication.

Question 70-004

Chapter 70 Fire Prevention and Life Safety
§ 70-9 Water supplies for firefighting.

Code Content:

[§ 70-9B] No person or persons shall obstruct or permit to be obstructed by any means any fire hydrant located within the Town of Windham. Any person or persons causing snow to obstruct a fire hydrant shall immediately clear said fire hydrant. Failure to do so shall result in clearing of the fire hydrant by the Windham Fire-Rescue Department at the cost of the property owner. The **cost of such violation** shall be included on a fee schedule established by order of the Town Council.

In § 70-9B should the wording "the cost of such violation" read "the cost of such clearing"? This wording refers to the clearing of fire hydrants by the Fire-Rescue Department: "Failure to do so shall result in clearing of the fire hydrant by the Windham Fire-Rescue Department at the cost of the property owner. The cost of such ~~violation~~ clearing shall be included on a fee schedule established by order of the Town Council."

Pick one option from list below

☐ Revise as suggested.

☒ Revise as follows:

Failure to do so...at the cost of the property owner, a fee set by the Town Council. (delete last sentence) See Attached for clarification.

☐ Do not revise.

☐ Defer decision until after Code publication.

Question 76-001

[Chapter 76 Fireworks](#)
[§ 76-4 Enforcement and penalties.](#)

Code Content:

[\[§ 76-4A\]](#) Any person who uses consumer fireworks in the Town of Windham shall be punished by a fine of not less than \$200 and not more than \$400, plus costs. For second and subsequent offenses, a fine of not less than \$300 and not more than \$600 per violation, plus costs, shall be imposed. Each incident shall constitute a separate violation.

Section 76-4A sets the penalty for use of consumer fireworks in the Town as follows: a fine of not less than \$200 nor more than \$400, plus costs, for a first offense and not less than \$300 nor more than \$600, plus costs, for a second and subsequent offenses. Is this penalty still satisfactory?

Pick one option from list below

☐ Revise as follows:

☒ Do not revise.

☐ Defer decision until after Code publication.

Question 76-002

[Chapter 76 Fireworks](#)
[§ 76-4 Enforcement and penalties.](#)

Code Content:

[\[§ 76-4A\]](#) *Any person who uses consumer fireworks in the Town of Windham shall be punished by a fine of not less than \$200 and not more than \$400, plus costs. For second and subsequent offenses, a fine of not less than \$300 and not more than \$600 per violation, plus costs, shall be imposed. Each incident shall constitute a separate violation.*

Section 76-4A begins "Any person who uses consumer fireworks in the Town of Windham shall be punished by a fine." This language suggests that any use of fireworks in the Town is prohibited; however, this chapter allows use of consumer fireworks subject to issuance of a permit and compliance with the regulations in this chapter. The following revision could be made to clarify this wording: "Any person who uses consumer fireworks in the Town of Windham in violation of this chapter shall be punished by a fine of not less than \$200 and not more than \$400, plus costs."

Pick one option from list below

☒ Revise as suggested.

☐ Revise as follows:

☐ Defer decision until after Code publication.

Question 82-001

[Chapter 82 Floodplain Management](#)
[§ 82-1 Purpose and establishment.](#)

Code Content:

[\[§ 82-1F\]](#) The areas of special flood hazard, Zones A and A1-30, for the Town of Windham, Cumberland County, Maine, identified by the Federal Emergency Management Agency in a report entitled "Flood Insurance Study - Town of Windham, Maine" dated March 2, 1981 with accompanying "Flood Insurance Rate Map - Town of Windham, Maine", dated September 2, 1981, and "Flood Boundary and Floodway Map" dated September 2, 1981 are hereby adopted by reference and declared to be a part of this chapter.

Section 82-1F currently reads "The areas of special flood hazard...are hereby adopted by reference and declared to be a part of this chapter." The intent of this subsection is to adopt by reference the Flood Insurance Study and the related maps. Accordingly, we recommend the following revision:

The areas of special flood hazard, Zones A and A1-30, for the Town of Windham, Cumberland County, Maine, are identified by the Federal Emergency Management Agency in a report entitled "Flood Insurance Study - Town of Windham, Maine" dated March 2, 1981 with accompanying "Flood Insurance Rate Map - Town of Windham, Maine", dated September 2, 1981, and "Flood Boundary and Floodway Map" dated September 2, 1981, which are hereby adopted by reference and declared to be a part of this chapter.

Pick one option from list below

☐ Revise as suggested.

☐ Revise as follows:

☒ Defer decision until after Code publication.

Question 82-002

[Chapter 82 Floodplain Management](#)
[§ 82-3 Application for permit.](#)

Code Content:

[\[§ 82-3H\(1\)\(b\)\[2\]\]](#) *From the contour elevation extrapolated from a best fit analysis of the floodplain boundary when overlaid onto a USGS Quadrangle Map or other topographic map prepared by a Professional Land Surveyor or **registered professional engineer**, if the floodplain boundary has a significant correlation to the elevation contour line(s); or*

The term "registered professional engineer" is used several times in Chapter 82. Engineers are now licensed in Maine, not registered. See Title 32, Chapter 19, of the Maine statutes.

Pick one option from list below

- ☒ Update to "licensed professional engineer."
- ☐ Revise as follows:
- ☐ Do not revise.
- ☐ Defer decision until after Code publication.

Question 82-003

[Chapter 82 Floodplain Management](#)
[§ 82-4 Application and experts' fees.](#)

Code Content:

[\[§ 82-4A\]](#) *A non-refundable application fee of \$0 shall be paid to the Town Clerk and a copy of a receipt for the same shall accompany the application.*

Section 82-4A includes a fee of \$0 for a flood hazard development permit application. The fee schedule attached to Chapter 28, Building Construction, includes a fee of \$50 for "Flood hazard development (nonrefundable application fee)."

Pick one option from list below

- ☒ Replace "of \$0" with "set by the Town Council."
- ☐ Change \$0 to \$50.
- ☐ Revise as follows:
- ☐ Defer decision until after Code publication.

Question 82-004

[Chapter 82 Floodplain Management](#)
[§ 82-13 Definitions: word usage.](#)

Code Content:

[\[FLOOD INSURANCE RATE MAP \(FIRM\)\]](#) *An official map of a community, on which the Federal Insurance Administrator has delineated both the **special hazard areas** and the risk premium zones applicable to the community.*

In the definition of "Flood Insurance Rate Map" in § 82-13 should "special hazard areas" read "special flood hazard areas"?

Pick one option from list below

- ☐ Revise to "special flood hazard areas."
- ☐ Revise as follows:
- ☐ Do not revise.
- ☒ Defer decision until after Code publication.

Question 87-001

[Chapter 87 Food and Beverage Businesses](#)
[Article I Mobile Food Services](#)
[§ 87-2 License.](#)

Code Content:

[\[§ 87-2\]](#) *An applicant for a MFSU license shall annually make application to the Windham Town Council, or such other official as the Council may designate. Said license shall expire on May 31 of each year. Fees will not be prorated. The annual license fee shall be \$50 for pushcarts and \$100 for mobile food units. There is a \$20 background check fee per person.*

Section 87-2 sets fees as follows:

- Annual pushcart license fee: \$20.
- Annual mobile food service unit license fee: \$100.
- Background check fee: \$20 per person.

Is any revision desired to these fees?

Pick one option from list below

☒ Remove fees and revise to read "The annual license fee and the background check fee are set by the Town Council."

☐ Revise as follows:

☐ Do not revise.

☐ Defer decision until after Code publication.

Question 87-002

[Chapter 87 Food and Beverage Businesses](#)
[Article I Mobile Food Services](#)
[§ 87-3 Application.](#)

Code Content:

[\[§ 87-3G\]](#) *A certificate of approval issued by the Department of Human Services of the State of Maine.*

There are several references in Chapter 87 to the State Department of Human Services. We will update these references to the Department of Health and Human Services, the current title of this Department.

Question 87-003

[Chapter 87 Food and Beverage Businesses](#)

[Article II Bottle Clubs](#)

[§ 87-13 Fees; expiration of licenses.](#)

Code Content:

[\[§ 87-13A\]](#) Fees for *a license for a bottle club shall be paid annually in the amount of \$100, plus the cost of advertising.*

Section 87-13A sets the annual fee for a bottle club license at \$100. Is any revision desired?

Pick one option from list below

☒ Change "of \$100" to "set by the Town Council."

☐ Revise as follows:

☐ Do not revise.

☐ Defer decision until after Code publication.

Question 87-004

[Chapter 87 Food and Beverage Businesses](#)

[Article II Bottle Clubs](#)

[§ 87-15 Qualification of officers.](#)

Code Content:

[\[§ 87-15\]](#) *All officers of a bottle club shall meet the following qualifications: never have been convicted of a Class A, B or C crime nor of violating any of the gambling or prohibitive liquor laws either of the United States or of the State of Maine or any other state within five years immediately preceding the date of the application. Each such officer shall file the release authorized by 16 M.R.S.A. § 620(6) (Criminal History Record Information Act) with the application. Failure to provide such a release shall be a ground for denial of the application.*

Section 87-15 includes a reference to 16 M.R.S.A. § 620, the Criminal History Record Information Act, which was repealed and replaced in 2013 by L. 2013, c. 267, which is codified at 16 M.R.S.A. §§ 701 to 710. There is no specific mention of a release in the current act, so it is not clear how the wording in § 87-15 should be updated. Section 705 provides for the dissemination of confidential criminal history record information.

Pick one option from list below

☒ Revise to read "Each such officer shall authorize the dissemination of confidential criminal history record information as provided in 16 M.R.S.A. § 705 (Criminal History Record Information Act) with the application."

☐ Revise as follows:

☐ Defer decision until after Code publication.