

**TOWN OF WINDHAM
CAR WASH
MORATORIUM ORDINANCE**

THE TOWN OF WINDHAM hereby adopts the following Car Wash Moratorium Ordinance (the “Moratorium Ordinance”) as follows:

Section 1. Definitions.

Car wash means a facility, structure, or premises, or portion thereof, primarily used for the business of washing, cleaning, drying, detailing, waxing, or polishing motor vehicles, whether by automatic equipment, conveyor systems, self-service equipment, or manual labor. A car wash includes, but is not limited to, full-service, conveyor, in-bay automatic, and self-service facilities, but does not include automobile repair services, automobile gas stations, or automobile retail sales, unless such uses are specifically permitted as a principal or accessory use on the same lot.

Section 2. Factual Findings.

The Windham Town Council, being the legislative body of the Town of Windham (the “Town”) makes the following factual findings:

- A. The Town is located at the confluence of several highly important and sensitive water bodies, including but not limited to Sebago Lake, Little Sebago Lake, Pleasant River, Black Brook, Otter Brook, Colley Wright Brook, Inkhorn Brook, Little Duck Pond, Highland Lake, and Forest Lake.
- B. The quality of a number of these waterbodies has been determined to be impaired or threatened by the Maine Department of Environmental Protection because of nonpoint source pollution.
- C. If not properly regulated, Car Washes can have a detrimental environmental impact on surrounding waterbodies, as well as the groundwater supplies that reach these waterbodies, by way of untreated wastewater runoff and potential underground septic system failure.
- D. The Town of Windham has two existing Car Washes, both of which have a history of environmental degradation due to septic system failures and illicit chemical and untreated wastewater discharge. Indeed, the Maine Department of Environmental Protection will not license any new subsurface wastewater discharges from Car Washes due to operators’ inability to demonstrate that groundwater standards are met.
- E. The Town is particularly concerned about the quality of the North Windham commercial aquifer, which has been historically threatened by, among other

things, high-density commercial development, elevated nitrogen and nitrate levels, and dense private septic systems.

- F. Car Washes are currently allowed in the Village Commercial District, Windham Center District, Commercial District I, and Commercial District I North as commercial service businesses. But this use does not contain any performance standards to ensure that Car Washes are constructed or operated in a manner that does not degrade the Town's groundwater quality or other environmental characteristics. The Town has also not considered whether Car Washes specifically should be allowed in these areas.
- G. The continued underregulated proliferation of Car Washes in Windham has the potential to further damage the Town's groundwater supply and environmental character, which is necessarily injurious to the health, safety, and welfare of the Town.
- H. Separately, the Town has invested over \$22 million in the construction of a new wastewater treatment facility to service properties in North Windham.
- I. Car Washes are high-rate users of wastewater treatment facilities. Current estimates are that Car Washes create approximately 10,000 gallons of wastewater per day. Accommodating one or more additional Car Washes in the catchment area of the new wastewater treatment facility will have an immediate detrimental effect on its ability to adequately serve North Windham and to serve new or expanded uses constructed or operated in this catchment area in the future.
- J. The addition of new commercial and residential development, without consideration of the effect of each proposed use on the available wastewater treatment capacity in North Windham has the potential to be detrimental to the health, safety, and welfare of the Town.
- K. The Town needs time to evaluate and study its existing ordinances to determine the implications of continued Car Wash development in Windham.
- L. The Town, with assistance from the Planning Board, Code Enforcement Officer, Town Planner, and other departments and staff, intends to study the Town Code to determine the impact of further Car Wash development, to consider if and where Car Washes should be permitted in Windham, and if permitted, to consider what additional approvals and performance standards, if any, might be appropriate for such facilities.
- M. It is anticipated that such study, review, and preparation of plans, ordinances, regulations, and policies will take no more than 180 days from the Date of Applicability of this Moratorium Ordinance.

- N. In the judgment of the Town Council, the foregoing findings constitute an emergency within the meaning of 30-A M.R.S. § 4356, requiring immediate legislative action.

Section 3. Moratorium Established.

The Town of Windham Town Council, as legislative body of the Town of Windham, hereby ordains that this Moratorium Ordinance be, and hereby is enacted, and in furtherance thereof, the Town does hereby declare a moratorium on the development of Car Washes in the Town of Windham, for the express purpose of drafting an amendment or amendments to the Town Code to protect the public from health, safety, and welfare risks, including but not limited to potentially detrimental groundwater, environmental, and wastewater capacity effects caused by continued development of Car Washes within the Town.

During the time this Moratorium Ordinance is in effect, no officer, official, employee, office, administrative board, or agency of the Town shall accept, process, approve, deny, or in any other way act upon any application for the permitting, construction, expansion or development of a Car Wash.

Section 4. Date of Applicability and Retroactivity. Notwithstanding the provisions of 1 M.R.S. § 302 or any other law to the contrary, and regardless of the Effective Date, this moratorium shall govern and apply to all proceedings and applications for Car Washes (even if categorized only as commercial service providers as defined in § 120-301 of the Code) that were or are pending before the Town on or at any time after **April 28, 2026** (the “Date of Applicability”), representing the first date at which the Town Council discussed the potential enactment of the same; and, as permitted by 30-A M.R.S. § 3007(6), shall apply to and nullify any lawful final approval, license, or permit for a Car Wash issued less than 45 days prior to the Effective Date.

Section 5. Effective Date and Duration. This Moratorium Ordinance shall become effective 30 days after adoption by the Town Council (the “Effective Date”) and shall remain in full force and effect (i) for a period of 180 days from the Date of Applicability, (ii) until an amendment to the Code and any other applicable ordinance of the Town addressing the establishment or development of a Car Wash is adopted by the Town, or (iii) until this moratorium is extended or repealed, whichever shall first occur.

Section 6. Extensions. This moratorium may be extended for additional 180-day periods by the Windham Town Council, after proper notice and hearing, if a majority of the Council find that: (a) the problems giving rise to the need for this moratorium still exist; and (b) reasonable progress is being made to address and alleviate the problems giving rise to the need for this moratorium.

Section 7. Enforcement; Violations. If a Car Wash is established or operated in violation of this retroactively applicable Moratorium Ordinance, each day of any continuing violation shall constitute a separate violation of this Moratorium Ordinance and the Town shall be entitled to all rights and remedies available to it pursuant to 30-A

M.R.S. § 4452, including, without limitation, fines and penalties, injunctive relief, and its reasonable attorney's fees and costs in prosecuting any such violations.

Section 8. Conflicts; Severability. Any provisions of the Town's existing ordinances that are inconsistent or in conflict with the provisions of this Moratorium Ordinance are hereby repealed to the extent applicable for the duration of this moratorium. If any section or provision of this Moratorium Ordinance is declared to be invalid or void by a court of competent jurisdiction, the remaining provisions of this Moratorium Ordinance shall remain in full force and effect.