



**Town of Windham  
Planning Department**  
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## PLANNING BOARD MEMO

DATE: May 4, 2023

TO: Windham Planning Board  
FROM: Amanda Lessard, Planning Director  
Cc: Steve Puleo, Town Planner  
Gretchen Anderson, Environmental & Sustainability Coordinator

RE: #23-19 – Amendment to Land Use Ordinance Chapter 120 Article 8 Site Plan Review, Article 9 Subdivision Review – MS4 Stormwater Permits Requirements

Planning Board Meeting– May 8, 2023

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### Overview

At their meeting on April 25, 2023, the Town Council requested that the attached proposed land use ordinance changes related to MS4 Stormwater Permit required amendments be forwarded to the Board for review and recommendation as required by [§ 120-107](#) of the Land Use Ordinance.

### Background

The Town of Windham is subject to the General Permit for Discharge of Stormwater from Small Municipal Separate Storm Sewer Systems (MS4s), and this permit requires land use ordinance changes to be in place by July 1, 2023 to reference specific Maine DEP erosion and sedimentation control standards. See attached memo dated April 7, 2023 from Environmental & Sustainability Coordinator Gretchen Anderson for additional detail. In addition to the required reference standards, a change to the subdivision review performance standards is intended to clarify the requirement for a homeowners' association to be responsible for the maintenance of common elements that typically include common property or facilities, including any required stormwater infrastructure.

### Summary of the Proposed Changes

#### Article 8 Site Plan Review

- § 120-811 Submission Requirements
  - B(1) Minor and Major Final Site Plans
    - Add stormwater drainage narrative and maintenance and inspection program
- § 120-812 Performance Standards and Approval Criteria
  - F. Erosion Control
    - Revise requirements for Erosion Control Plan

#### Article 9 Subdivision Review

- § 120-901 Purpose clarification for all residential development, not just multifamily
- § 120-910 Submission Requirements
  - B. Minor Subdivision Final Plan
    - Add Draft Homeowners' Association documents and draft deed

- Add a reference to §120-911C Erosion and Sedimentation Control performance standards for which soil erosion and sedimentation control plans must be consistent
  - C. Major Subdivision Preliminary Plan
    - Add a reference to §120-911C Erosion and Sedimentation Control performance standards for which soil erosion and sedimentation control plans must be prepared in accordance
    - Update reference to DEP Stormwater Design Manual and Rule
  - D. Major Subdivision Final Plan
    - Add Draft Homeowners' Association documents and draft deed
- § 120-910 Performance Standards
  - C. Erosion and sedimentation control
    - Revise requirements for Erosion Control Plan
  - E. Impact on natural beauty, aesthetics, historic sites, wildlife habitat, rare natural areas or public access to the shoreline.
    - Strike final application submission requirements for lot owners' association (*moved to new Section 120-911.N Maintenance of Common Elements*)
  - J. Stormwater Management
    - Strike reference to Chapter 201 as it is not applicable
  - M. Traffic Conditions and Streets
    - Strike provisions for streets that are offered for acceptance but not accepted (*to be addressed new Section 120-911.N Maintenance of Common Elements*)
  - Add N. Maintenance of Common Elements
    - Requires draft homeowners' association documents for Planning Board review
    - HOA documents shall be recorded in the Cumberland County Registry of Deeds within 90 days of the date that the subdivision plan is recorded. All deeds shall reference the declaration establishing the HOA.
- § 120-912 Final approval and filing
  - Clarify that evidence of recording all required deeds, covenants or legal agreements must be submitted to the Town

### **Zoning Amendment Process**

There are no specific standards in the Town ordinance by which to judge the proposed zoning change, but State statute requires all proposed zoning to be consistent with the goals and objectives of the Comprehensive Plan.

The Planning Board must hold a public hearing prior to making a recommendation on this item to the Town Council. The Town Council will need to vote on the proposed changes to the Land Use Ordinance for the changes to be officially approved. A public hearing is scheduled for the May 22, 2023 Planning Board meeting.