

Question 87-005

[Chapter 87 Food and Beverage Businesses](#)

[Article II Bottle Clubs](#)

[§ 87-19 Notice of hearing.](#)

**Code Content:**

[\[§ 87-19\]](#) After receipt of the written reports required by § 87-18, the Town Clerk shall cause notice of a public hearing on the application to be given to abutters of the premises. Notice of the hearing shall also be published in a newspaper having general circulation in the Town. **The notices required by this section shall be given at least seven days prior to the date of the hearing.**

Section 87-19 requires the notice of a public hearing on a bottle club license to be given at least seven days before the date of the hearing. The notice requirement prescribed by 28-A M.R.S.A. § 161-B is as follows:

*The notice, at the applicant's prepaid expense, must state the name and place of the hearing and must appear for at least 3 consecutive days before the date of the hearing in a daily newspaper having general circulation in the municipality or unincorporated place where the bottle club is located or for 2 consecutive weeks before the hearing date in a weekly newspaper having general circulation in the municipality or unincorporated place where the bottle club is located.*

**Pick one option from list below**

☒ Revise to read "The notices required by this section shall be given in accordance with 28-A M.R.S.A. § 161-B."

☐ Revise as follows:

☐ Do not revise.

☐ Defer decision until after Code publication.

Question 87-006

[Chapter 87 Food and Beverage Businesses](#)

[Article II Bottle Clubs](#)

[§ 87-24 Inspection of premises.](#)

**Code Content:**

[\[§ 87-24\]](#) *The applicant or licensee, his agents and employees shall allow access by the **Code Enforcement Office, Fire Chief or any law enforcement office** for the purposes of inspecting the premises and ensuring that no violation of this article or any law is taking place.*

In § 87-24 should "Code Enforcement Office" and "law enforcement office" read "Code Enforcement Officer" and "law enforcement officer," respectively?

**Pick one option from list below**

- ☒ Revise to "Code Enforcement Officer" and "law enforcement officer." (Fire-Rescue Chief)
- ☐ Revise as follows:
- ☐ Do not revise.
- ☐ Defer decision until after Code publication.

Question 87-007

[Chapter 87 Food and Beverage Businesses](#)

[Article II Bottle Clubs](#)

[§ 87-26 Appeals.](#)

**Code Content:**

[\[§ 87-26\]](#) *An appeal from any final decision of the municipal officers shall be taken by any party to the **Superior Court** in accordance with the provisions of Rule 80B of the Maine Rules of Civil Procedure.*

Section 87-26 provides for appeals on decisions related to bottle clubs to be taken to the Superior Court. In 28-A M.R.S.A. § 161-B, appeals first go to the Bureau of Alcoholic Beverages and Lottery Operations. An appeal of the Bureau's decision can then be taken to Superior Court:

*4. Appeal to bureau. Any applicant aggrieved by the decision of the municipal officers or county commissioners under this section may appeal to the bureau. The bureau shall hold a public hearing in the city, town or unincorporated place where the premises are situated. In acting on such an appeal, the bureau may consider all of the requirements referred to in subsection 3.*

*A. If the decision appealed is approval of the application, the bureau may reverse the decision if it was arbitrary or based on an erroneous finding.*

*B. If the decision appealed is denial of the application, the bureau may reverse the decision and register the bottle club under section 161 only if it finds by clear and convincing evidence that the decision was without justifiable cause.*

*5. Appeal to Superior Court. Any person or governmental entity aggrieved by a bureau decision under this section may appeal the decision to the Superior Court.*

**Pick one option from list below**

☒ Revise to read "An appeal from any final decision of the municipal officers shall be taken by any party to the Bureau of Alcoholic Beverages and Lottery Operations in accordance with 28-A M.R.S.A. § 161-B.

☐ Revise as follows:

☐ Do not revise.

☐ Defer decision until after Code publication.

Question 87-008

[Chapter 87 Food and Beverage Businesses](#)

[Article II Bottle Clubs](#)

[§ 87-27 Violations and penalties.](#)

**Code Content:**

[\[§ 87-27\]](#) *In addition to any action which the municipal officers may take, violation of any provision of this article shall be a civil violation, and a fine not exceeding \$500 may be imposed. Each day that a violation continues will be treated as a separate offense.*

Section 87-27 sets a fine of not more than \$500 for violations of Article II, Bottle Clubs. Is this penalty still satisfactory?

**Pick one option from list below**

☐ Revise as follows:

☒ Do not revise.

☐ Defer decision until after Code publication.



Question 87-009

[Chapter 87 Food and Beverage Businesses](#)

[Article III Victualers](#)

[§ 87-31 Fees.](#)

**Code Content:**

[\[§ 87-31\]](#) *Fees shall be as follows:*

Section 87-31 sets fees for victualer licenses as follows:

- A. Victualer without on-site consumption of liquor: \$100.
- B. Victualer with on-site consumption of beer and wine: \$250.
- C. Victualer with on-site consumption with liquor: \$400.
- D. Nonprofit organization: \$1.

Is any revision desired to these fees?

**Pick one option from list below**

☒ Remove fees and revise first line to read "Fees shall be set by the Town Council for the following types of licenses."

☐ Revise as follows:

☐ Do not revise.

☐ Defer decision until after Code publication.

Question 87-010

[Chapter 87 Food and Beverage Businesses](#)

[Article IV Liquor Licenses](#)

[§ 87-33 Licensing Board.](#)

**Code Content:**

[\[§ 87-33B\]](#) *Applications for renewal. The Town Clerk may approve applications for the renewal of liquor licenses on behalf of the Municipal Officers upon the positive recommendation of the Police Department, Fire Department, Code Enforcement and Deputy Tax Collector. The Town Clerk may, for any reason, refer a liquor license renewal application to the Municipal Officers. Should there be any objection to the liquor license renewal application, or should any complaint be filed against the license holder, the renewal application shall be referred to the Municipal Officers for consideration.*

In § 87-33B is "Code Enforcement" meant to be a reference to the Code Enforcement Department or the Code Enforcement Officer?

**Pick one option from list below**

- ☒ Revise to Code Enforcement Department.
- ☐ Revise to Code Enforcement Officer.
- ☒ Revise as follows:
- ☐ Defer decision until after Code publication.

Question 87-011

[Chapter 87 Food and Beverage Businesses](#)

[Article IV Liquor Licenses](#)

[§ 87-35 Fees.](#)

***Code Content:***

[\[§ 87-35\]](#) A nonrefundable **filing fee of \$25**, plus the cost of advertising, shall be paid to the Town at the time of application for an original or renewal liquor license.

Section 87-35 sets a fee of \$25 for a liquor license application. Is any revision desired?

**Pick one option from list below**

☒ Replace "of \$25" with "set by the Town Council."

☐ Revise as follows:

☐ Do not revise.

☐ Defer decision until after Code publication.

Question 87-012

[Chapter 87 Food and Beverage Businesses](#)  
[Article V Off-Premises Catering Licenses](#)  
[§ 87-38 Purpose.](#)

**Code Content:**

[\[§ 87-38\]](#) This off-premises catering **license authorizes** a Class A restaurant, hotel or club licensed to sell spirits, wine and malt liquor at planned events or gatherings to be held at locations other than the licensee's premises.

Section 87-38 does not make sense and appears to be missing wording. Pursuant to similar wording in 28-A M.R.S.A. § 1052 the following correction could be made: "This off-premises catering license authorizes a Class A restaurant, hotel or club licensed to sell spirits, wine and malt liquor to conduct off-premises catering of spirits, wine and malt liquor at planned events or gatherings to be held at locations other than the licensee's premises."

**Pick one option from list below**

☒ Revise as suggested.

☐ Revise as follows:

☐ Defer decision until after Code publication.

Question 87-013

[Chapter 87 Food and Beverage Businesses](#)  
[Article V Off-Premises Catering Licenses](#)  
[§ 87-40 Fees.](#)

**Code Content:**

[\[§ 87-40\]](#) The **fee shall be \$10 per calendar day.**

Section 87-40 sets a fee of \$10 per day for off-premises catering licenses. This fee is consistent with 28-A M.R.S.A. § 1052 which provides: "The license fee for the off-premise catering license is \$10 per calendar day of the event or gathering."

**Pick one option from list below**

☒ Revise to read "The fee shall be set by the Town Council."

☐ Revise as follows:

☐ Do not revise.

☐ Defer decision until after Code publication.

## Question 95-001

### [Chapter 95 General Assistance](#)

Chapter 95 contains the Town's General Assistance Ordinance which was adopted in 2013 using the model General Assistance Ordinance prepared by the Maine Municipal Association. The Town might want to consult with its general assistance administrator as to whether any updates are needed or whether the Town should readopt this ordinance using the most current model, which is dated August 2020 and is available on the Maine Welfare Directors Association website: <https://mainewelfaredirectors.org/resource-ordinances.htm> This website also includes information on changes made to the model ordinance in 2019 and 2020.

**Pick one option from list below**

☐ Revise as follows: *[Official action to readopt model ordinance scheduled for 11/23/2021.](#)*

☐ Do not revise.

☒ Defer decision until after Code publication.

## Question 95-002

### [Chapter 95 General Assistance](#)

#### [Article III Administrative Rules and Regulations](#)

#### [§ 95-3.1 Confidentiality of information.](#)

#### ***Code Content:***

*[\[§ 95-3.1C\(2\)\]](#) Any representative of a financial institution (except national banks) or any employer of a general assistance applicant who refuses to provide necessary information to the administrator in order to verify an applicant's eligibility must state in writing the reason for the refusal. Any such person who refuses to provide information, without just cause, may be subject to a civil penalty of **not less than \$25 nor more than \$100**. Any person, including the applicant, who knowingly and willfully makes a false representation of a material fact to the administrator is committing a Class E crime (22 M.R.S.A. §§ 4314 and 4315).*

The penalty for refusal to provide information of not less than \$25 nor more than \$100 stated in § 95-3.1C(2) is prescribed by 22 M.R.S.A. § 4314(6) and should not be changed. This penalty is also stated in § 95-6.3H.

Question 95-003

[Chapter 95 General Assistance](#)  
[Article VI Determination of Eligibility](#)  
[§ 95-6.3 Verification.](#)

**Code Content:**

[\[§ 95-6.3A\]](#) Eligibility of applicant; duration of eligibility. The **overseer** shall determine eligibility each time a person applies or reapplies for general assistance. The period of eligibility will not exceed one month. At the expiration of this period applicants/recipients may reapply for assistance and the person's eligibility will be redetermined.

There are several references in § 96-6.3 to the "overseer." In the rest of this chapter the term "general assistance administrator" is used. Section 96-6.3 is the only section that refers to the "overseer."

**Pick one option from list below**

- ☒ Change "overseer" to "general assistance administrator."
- ☐ Revise as follows:
- ☐ Do not revise.
- ☐ Defer decision until after Code publication.

Question 95-004

[Chapter 95 General Assistance](#)  
[Article VI Determination of Eligibility](#)  
[§ 95-6.8 Basic necessities; maximum levels of assistance.](#)

**Code Content:**

[\[§ 95-6.8B\(2\)\(c\)\[4\]\]](#) Any landlord wishing to regularly receive rental payments from the municipality on behalf of applicants renting rooms from the landlord's own residence must, at a minimum, make a good faith effort to obtain a lodging license from the Department of Health and Human Services, **Division of Health Engineering**, pursuant to 10-144A Code of Maine Regulations, Chapter 201, as a condition of that landlord receiving future general assistance payments on behalf of his or her tenants.

In § 95-6.8B(2)(c)[4] should the reference to the Division of Health Engineering in the Department of Health and Human Services be updated to the Division of Environmental and Community Health? See <https://www.maine.gov/dhhs/mecdc/environmental-health/index.shtml>

**Pick one option from list below**

- ☐ Update to the Division of Environmental and Community Health.
- ☒ Revise as follows:  *Department of Health and Human Services,  
Office for Family Independence*
- ☐ Do not revise.
- ☐ Defer decision until after Code publication.

Question 101-001

[Chapter 101 Growth Management](#)  
[§ 101-2 Legal authority.](#)

**Code Content:**

[\[§ 101-2\]](#) *This chapter is adopted pursuant to the home rule powers as provided for in VIII-A of the Maine Constitution and 30-A M.R.S.A. §§ 3001, 4323 and 4360.*

In § 101-2 the reference to "VIII-A of the Maine Constitution" is incomplete and appears to be incorrect. There is no Article VIII-A in the Constitution; municipal home rule is provided for in Article VIII, Part Second, of the Constitution.

**Pick one option from list below**

- ☒ Revise to "Article VIII, Part Second, of the Maine Constitution."
- ☐ Revise as follows:
- ☐ Defer decision until after Code publication.

Question 101-002

[Chapter 101 Growth Management](#)  
[§ 101-7 Administration.](#)

**Code Content:**

[\[§ 101-7C\(2\)\]](#) *During each calendar year, no more than 40 growth permits shall be issued from the annual allocation to dwelling units located in the Farm District (F) and the Farm-Residential District (FR) shown on the Town of Windham Zoning Map, which is approximately the area designated as a Limited Growth Area in the Town of Windham Comprehensive Master Plan 2016 Update.*

There are two references in Chapter 101 to the "Comprehensive Master Plan 2016 Update." Should "Comprehensive Master Plan" be changed to "Comprehensive Plan"? Section 101-3 in this chapter refers to the "Comprehensive Plan" and the Land Use Ordinance (Chapter 120) uses the term "Comprehensive Plan."

**Pick one option from list below**

- ☐ Revise to "Comprehensive Plan."
- ☐ Revise as follows:
- ☐ Do not revise.
- ☒ Defer decision until after Code publication.

Question 108-001

[Chapter 108 Historic Preservation](#)

Chapter 108, Historic Preservation, does not appear to have been revised since its adoption in 1989, and § 108-6, Designated areas, is reserved and does not list any designated historic sites or structures. Is this chapter still in use?

**Pick one option from list below**

☐ Chapter 108 is obsolete; remove.

☐ Revise as follows:

☐ Do not revise.

☒ Defer decision until after Code publication.



Question 108-002

[Chapter 108 Historic Preservation](#)  
[§ 108-1 Intent and purpose.](#)

**Code Content:**

[\[§ 108-1\]](#) *This chapter is adopted pursuant to the legislative authority vested in Windham by virtue of Title 30, Maine Revised Statutes Annotated, § 1917, and in accordance with Title 30, § 2157.2.G and §§ 4961 thru 4963, and acts amendatory thereto, for the purpose of preserving, protecting and enhancing buildings and places or areas within the Town which possess particular historical, cultural or architectural significance in order to promote the educational, cultural and economic welfare of the residents of and visitors to Windham To achieve these purposes, it is intended that historic districts and related regulations be used to prevent inappropriate alterations of buildings of historic or architectural value; to preserve the essential character of neighborhoods; and to assure that new buildings or structures constructed in neighborhoods and districts of historic or architectural value are designed and built in a manner which is compatible with the character of the neighborhood or district.*

Section 108-1 contains outdated references to Title 30 of the Maine statutes which was repealed and replaced in 1987 by Title 30-A. We will update the reference to Title 30, § 1917, to 30-A M.R.S.A. § 3001 (ordinance power), and update the reference to Title 30, §§ 4961 through 4963, to 30-A M.R.S.A. § 4301 et seq. (planning and land use regulation). The reference to Title 30, § 2157 appears to be incorrect; former § 2157 in Title 30 dealt with the retirement age for municipal employees and now appears as 30-A M.R.S.A. § 2704, Mandatory retirement prohibited. This section is unrelated to the subject matter of Chapter 108, Historic Preservation.

**Pick one option from list below**

☒ Update references as indicated; delete reference to Title 30, § 2157.2.G.

☐ Revise as follows:

☐ Defer decision until after Code publication.

Question 108-003

[Chapter 108 Historic Preservation](#)  
[§ 108-3 Historic Preservation Commission.](#)

**Code Content:**

[\[§ 108-3D\]](#) Such Commission shall elect annually a **Chairman, a Vice Chairman** and a Secretary from its own membership. A majority of the number of members appointed by the Council shall constitute a quorum for the transaction of business before said Commission, but if less than such majority is present at a meeting, a majority of those present may adjourn the meeting from time to time. The Secretary shall maintain a permanent record of the activities of the Commission, including but not limited to such items as the number and types of cases reviewed and their disposition, new designations of historic sites, landmarks and districts made, resumes of Commission members, appointments to the Commission, attendance records, correspondence and minutes of all meetings. All records maintained or prepared by the Secretary are deemed public and may be inspected at reasonable times.

The titles "Chairman," "Chairperson" and "Chair" are all used in the Code. The Town might want to take this opportunity to standardize these references to "Chair" or "Chairperson."

**Pick one option from list below**

- ☒ Revise all to "Chair."
- ☐ Revise all to "Chairperson."
- ☐ Revise as follows:
- ☐ Do not revise.
- ☐ Defer decision until after Code publication.

Question 108-004

[Chapter 108 Historic Preservation](#)  
[§ 108-9 Application for certificate of appropriateness.](#)

**Code Content:**

[\[§ 108-9B\(3\)\]](#) **A fee of \$75 must be submitted** to the Town of Windham at the time the request is submitted.

Section 108-9B(3) sets a fee of \$75 for a certificate of appropriateness application. Is this fee still up to date?

**Pick one option from list below**

- ☒ Change "of \$75" to "set by the Town Council."
- ☐ Revise as follows:
- ☐ Do not revise.
- ☐ Defer decision until after Code publication.

Question 108-005

[Chapter 108 Historic Preservation](#)  
[§ 108-10 Administrative procedures.](#)

**Code Content:**

[\[§ 108-10D\]](#) *Disapproval. If the Commission determines that a certificate of appropriateness should not be issued, it shall place open its record showing the reasons for such determination and shall notify the applicant and the Code Enforcement Officer of such determination, furnishing the applicant an attested copy of the reasons therefor and the recommendations, if any, as appearing in the records of the Commission.*

In § 108-10D the wording "it shall place open its record showing the reasons for such determination" is awkward and unclear. This wording could be revised or read "it shall place upon its record the reasons for such determination."

**Pick one option from list below**

☒ Revise as suggested.

☐ Revise as follows:

☐ Defer decision until after Code publication.

Question 108-006

[Chapter 108 Historic Preservation](#)  
[§ 108-11 Standards for evaluation.](#)

**Code Content:**

*[\[§ 108-11\]](#) The standards and requirements contained in this section and in the United States Secretary of the Interior's [Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings \(1983 Edition\)](#) shall be used in review of applications for certificate of appropriateness and specifically as to procedures before demolition can take place. Design considerations and structural factors related to maintaining historic structures in good condition shall be the Commission's primary areas of focus.*

Section 108-11 refers specifically to the 1983 edition of the Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings. Is an update needed?

**Pick one option from list below**

☐ Delete "(1983 Edition)."

☐ Revise as follows:

☐ Do not revise.

☒ Defer decision until after Code publication.

Question 108-007

[Chapter 108 Historic Preservation](#)  
[§ 108-14 Violations and penalties.](#)

**Code Content:**

[\[§ 108-14\]](#) Any person who violates any provision of this chapter shall be guilty of a civil violation and shall be punished by **a fine of not more than \$100 and not less than \$25.** Each day that a violation continues shall be deemed a separate offense. Any person shall have 30 days after receipt of notice from the Code Enforcement Officer to initiate repair or cease activity.

Section 108-14 sets the penalty for violations of Chapter 108, Historic Preservation, at a fine of not less than \$25 nor more than \$100. Is this penalty still satisfactory?

**Pick one option from list below**

☐ Revise as follows:

☒ Do not revise.

☐ Defer decision until after Code publication.

Question 108-008

[Chapter 108 Historic Preservation](#)  
[§ 108-15 Appeals.](#)

**Code Content:**

[\[§ 108-15\]](#) Costs shall only be allowed in accordance with **Title 30 M.R.S.A. § 4966,** Subsection 3 D.

In § 108-15 we will update the reference to 30 M.R.S.A. § 4966 (repealed in 1987) to 30-A M.R.S.A. § 4452.

Question 120-001

[Chapter 120 Land Use](#)

Attached to Chapter 120, Land Use, as Appendix A is a fee schedule that appears to have been last updated in August 2020. Are any further updates needed to this schedule?

**Pick one option from list below**

☒ Revise as follows:

All references to Appendix A in the Land Use Ordinance should refer to the fee schedule similarly- "As found on the fee schedule established by the Town Council."

- ☐ Remove fee schedule from the Code and note that the current schedule is on file with the Town Clerk.
- ☐ Do not revise.
- ☐ Defer decision until after Code publication.

Question 120-002

[Chapter 120 Land Use](#)

[Article 1 General](#)

[§ 120-108 Conditional or contract zoning.](#)

**Code Content:**

[\[§ 120-108D\(4\)\(b\)\]](#) *The Planning Board's recommendation to the Town Council shall address the proposal's conformance with the Town's comprehensive master plan.*

Section 120-108D(4)(b) and E(2) mention the Town's comprehensive master plan. In § 120-301, the defined term is "Comprehensive Plan," and that is the term used throughout this chapter except in these two references. Should "comprehensive master plan" be changed to "Comprehensive Plan" in § 120-108D(4)(b) and E(2)?

**Pick one option from list below**

- ☒ Change "comprehensive master plan" to "Comprehensive Plan."
- ☐ Revise as follows:
- ☐ Do not revise.
- ☐ Defer decision until after Code publication.

Question 120-003

[Chapter 120 Land Use](#)

[Article 2 Nonconforming Provisions](#)

[§ 120-205 Nonconforming mobile home parks.](#)

**Code Content:**

[\[§ 120-205\]](#) *Expansion of a nonconforming mobile home park shall conform to the dimensional standards of the zoning district in which the park is situated, **granted**:*

In § 120-205 the word "granted" at the end of the opening sentence seems incorrect. We question whether "granted" should be deleted or changed to "provided that."

Expansion of a nonconforming mobile home park shall conform to the dimensional standards of the zoning district in which the park is situated, **granted**:

A. No lot within the park that is served by public sewer shall be less than the smaller of 6,500 square feet or the area of the smallest residential lot size allowed in the Town of Windham;

B. No lot within the park that is served by septic shall be less than 20,000 square feet in size; or

C. The size of any lot served by a central on-site subsurface wastewater disposal system approved by the Department of Health and Human Services shall be at least 12,000 square feet in area, provided that the overall density of the mobile home park is not greater than one home for every 20,000 square feet.

**Pick one option from list below**

☒ Change "granted" to "provided that."

☐ Revise as follows:

☐ Do not revise.

☐ Defer decision until after Code publication.

Question 120-004

[Chapter 120 Land Use](#)

[Article 2 Nonconforming Provisions](#)

[§ 120-206 Nonconforming shipping containers.](#)

**Code Content:**

[\[§ 120-206A\(2\)\(b\)\[1\]\]](#) *A nonconforming shipping container shall obtain a permit from the Code Enforcement Officer. The permit shall document the following: the container's existence, size, and location on the property.*

Section 120-206A(2)(b)[1] provides that "A nonconforming shipping container shall obtain a permit from the Code Enforcement Officer." Should this wording read "The property owner shall obtain a permit from the Code Enforcement Officer"?

**Pick one option from list below**

☒ Revise to read "The property owner shall obtain a permit from the Code Enforcement Officer."

☐ Revise as follows:

☐ Do not revise.

☐ Defer decision until after Code publication.



Question 120-005

[Chapter 120 Land Use](#)

[Article 3 Definitions](#)

[§ 120-301 Definitions.](#)

**Code Content:**

[\[AUTOMOBILE GAS STATION\]](#) Any building, land area, or other premises, or portion thereof, used for the retail dispensing or sales of vehicular fuels and as an accessory use the sale of lubricants, tires, batteries, and similar vehicle accessories. The sale of additional items or services on the same site must also be allowed by the applicable zoning district(s). (See definitions of "retail sales, minimart"; "automobile repair services, minor".)

The definition of "automobile gas station" in § 120-301 refers to the definition of "automobile repair services, minor," which definition does not exist. There is a definition for "automobile repair services" which reads:

*Establishments primarily engaged in the maintenance and repair of passenger vehicles, pickup trucks, all classes of commercial trucks and similar vehicles. The type of work typically provided includes, but is not limited to engine tune-ups and overhauls, transmission repairs, glass repair and replacement, oil changes, tire repairs and replacement, brake and muffler work, bodywork, painting and diagnostic tune-ups. (See Article 5, Performance Standards, and definition of "small engine repair.")*

Should the reference to "automobile repair services, minor" be changed to "automobile repair services"?

**Pick one option from list below**

☒ Delete "minor" so reference is to the definition of "automobile repair services."

☐ Revise as follows:

☐ Defer decision until after Code publication.

Question 120-006

[Chapter 120 Land Use](#)

[Article 3 Definitions](#)

[§ 120-301 Definitions.](#)

**Code Content:**

[\[BUSINESS AND PROFESSIONAL OFFICE\]](#) *The place of business of lawyers, accountants, financial advisors, architects, surveyors, real estate and insurance businesses, psychiatrists, counselors, and the like, or in which a business conducts its administrative, financial or clerical operations including banks, other financial services and call centers. This also includes the office functions of publishing and media businesses (see definition of "manufacturing, light" for printing operations).*

The definition of "business and professional office" in § 120-301 refers to the definition of "manufacturing, light" with respect to printing operations. There is no such definition in § 120-301. The definition of "manufacturing" in § 120-301 does not mention printing operations, nor are printing operations mentioned anywhere else in this chapter. There is a definition of "industry, light."

**Pick one option from list below**

- ☒ Change "manufacturing, light" to "industry, light."
- ☐ Delete "(see definition of 'manufacturing, light' for printing operations)."
- ☐ Revise as follows:

- ☐ Defer decision until after Code publication.

Question 120-007

[Chapter 120 Land Use](#)

[Article 3 Definitions](#)

[§ 120-301 Definitions.](#)

**Code Content:**

[\[COMPREHENSIVE PLAN\]](#) *A document or interrelated documents adopted by the Municipal Officers, containing the elements established under 30-A M.R.S.A. § 4326, Subsections 1 to 4, including the strategies for an implementation program which are consistent with the state goals and guidelines established under 30-A M.R.S.A. §§ 4311 through 4350.*

The definition of "Comprehensive Plan" in § 120-301 includes a reference to 30-A M.R.S.A. §§ 4311 through 4350. Both §§ 4311 and 4350 have been repealed. We recommend updating this reference to read 30-A M.R.S.A. § 4312 et seq.

**Pick one option from list below**

☒ Revise as suggested.

☐ Revise as follows:

☐ Do not revise.

☐ Defer decision until after Code publication.

Question 120-008

[Chapter 120 Land Use](#)  
[Article 3 Definitions](#)  
[§ 120-301 Definitions.](#)

**Code Content:**

[GROSS FLOOR AREA (GFA)] *The sum of the gross horizontal areas of all enclosed stories of a building, including cellars, basements, mezzanines, penthouses, corridors, and lobbies from the exterior face of the exterior walls, or from the center line of a common wall separating two buildings, but excluding any space with a floor-to-ceiling height of less than six feet six inches.*

In the definition of "gross floor area" in § 120-301 we question whether the word "measured" should be included as follows:  
"The sum of the gross horizontal areas of all enclosed stories of a building, including cellars, basements, mezzanines, penthouses, corridors, and lobbies, measured from the exterior face of the exterior walls, or from the center line of a common wall separating two buildings, but excluding any space with a floor-to-ceiling height of less than six feet six inches."

**Pick one option from list below**

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

Question 120-009

[Chapter 120 Land Use](#)  
[Article 3 Definitions](#)  
[§ 120-301 Definitions.](#)

**Code Content:**

[INDUSTRIAL OR COMMERCIAL STREET] *See definition of "street classification," Subsection G, industrial or commercial street.*

In the definition of "industrial or commercial street" in § 120-301 we have made the following correction, adding the underlined wording to refer to the definition of "street classification":

INDUSTRIAL OR COMMERCIAL STREET – See definition of "street classification," Subsection G, industrial or commercial street.

Question 120-010

[Chapter 120 Land Use](#)

[Article 3 Definitions](#)

[§ 120-301 Definitions.](#)

**Code Content:**

[\[MARIJUANA\]](#) *The leaves, stems, flowers and seeds of a marijuana plant, whether growing or not. "Marijuana" includes marijuana concentrate but does not include industrial hemp as defined in 7 M.R.S.A. § 2231, Subsection 1, or a marijuana product.*

The definition of "marijuana" in § 120-301 refers to industrial hemp as defined in 7 M.R.S.A. § 2231, Subsection 1. That subsection was repealed in 2019 (L. 2019, c. 528). Subsection 1-A of this section, added in 2019, includes a definition of "hemp."

**Pick one option from list below**

- ☒ Revise to read "but does not include hemp as defined in 7 M.R.S.A. § 2231, Subsection 1-A."
- ☐ Revise as follows:
- ☐ Defer decision until after Code publication.

Question 120-011

[Chapter 120 Land Use](#)

[Article 3 Definitions](#)

[§ 120-301 Definitions.](#)

**Code Content:**

[\[MEDICAL MARIJUANA REGISTERED CAREGIVER\]](#) *A person or an assistant of that person that provides care for a qualifying patient in accordance with state law and licensing and is registered with the state in accordance with state law.*

Section 120-301 includes definitions of "medical marijuana registered caregiver" and "medical marijuana registered caregiver (home occupation)." There are multiple instances in Articles 4 and 5 of this chapter where these uses are listed as "medical marijuana caregiver" and "medical marijuana caregiver (home occupation)"; in these references the word "registered" is not included. Is this acceptable, or should this terminology be made consistent?

**Pick one option from list below**

- ☒ All references should be to "medical marijuana registered caregiver" and "medical marijuana registered caregiver (home occupation)."
- ☐ All references should be to "medical marijuana caregiver" and "medical marijuana caregiver (home occupation)"
- ☐ Revise as follows:

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

Question 120-012

[Chapter 120 Land Use](#)

[Article 3 Definitions](#)

[§ 120-301 Definitions.](#)

**Code Content:**

[MOBILE HOME PARK] *Manufactured housing shall be defined according to 30-A M.R.S.A. § 4358, as amended from time to time. (See Mobile Home Park Overlay District in Article 4, Zoning Districts.)*

The definition of "mobile home park" in § 120-301 does not define the term "mobile home park" but begins "manufactured housing shall be defined." The statute cited, 30-A M.R.S.A. § 4358, includes a definition of "mobile home park" as follows:

*"Mobile home park" means a parcel of land under unified ownership approved by the municipality for the placement of 3 or more manufactured homes.*

Accordingly, it would appear that this definition should be revised as follows:

MOBILE HOME PARK – ~~Manufactured housing~~ Mobile home park shall be defined according to 30-A M.R.S.A. § 4358, as amended from time to time.

**Pick one option from list below**

☒ Revise as suggested.

☐ Revise as follows:

☐ Defer decision until after Code publication.

Question 120-013

[Chapter 120 Land Use](#)  
[Article 3 Definitions](#)  
[§ 120-301 Definitions.](#)

**Code Content:**

[\[MUNICIPAL OFFICIAL\]](#) Any elected or appointed member of the Town of Windham.

In the definition of "municipal official" in § 120-301 should "member of the Town of Windham" be revised to "official of the Town of Windham"?

**Pick one option from list below**

☒ Revise to read "Any elected or appointed official of the Town of Windham."

☐ Revise as follows:

☐ Do not revise.

☐ Defer decision until after Code publication.

Question 120-014

[Chapter 120 Land Use](#)  
[Article 3 Definitions](#)  
[§ 120-301 Definitions.](#)

**Code Content:**

[\[NATURAL AREAS AND NATURAL COMMUNITIES, UNIQUE\]](#) Areas identified by a government agency such as the **Maine Department of Conservation** Natural Areas Program as having significant value as a natural area or any areas identified in the Town's Comprehensive Plan.

There are several references in Chapter 120 to the Maine Department of Conservation. We will update these references to the Department of Agriculture, Conservation and Forestry, the current title of this Department.



Question 120-015

[Chapter 120 Land Use](#)  
[Article 3 Definitions](#)  
[§ 120-301 Definitions.](#)

**Code Content:**

[\[OFFICIAL SHORELAND ZONING MAP\]](#) *The most current map delineating the shoreland zones adopted by the Town of Windham, Maine, as amended from time to time, in accordance with the provisions of 38 M.R.S.A. §§ 435 through 439.*

The definition of "Official Shoreland Zoning Map" in § 120-301 refers to 38 M.R.S.A. §§ 435 through 439. Section 439 was repealed in 1987. We recommend revising this reference to read 38 M.R.S.A. § 435 et seq.

**Pick one option from list below**

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

Question 120-016

[Chapter 120 Land Use](#)  
[Article 3 Definitions](#)  
[§ 120-301 Definitions.](#)

**Code Content:**

[\[§ 120-301{153}B\]](#)

Subsection B of the definition of "parcel" in § 120-301 refers to the definition of "plot." No such definition exists. Should this reference be removed?

**Pick one option from list below**

- ☒ Delete the parenthetical sentence (*See definition of "plot."*) in Subsection B of the definition of "parcel."
- ☐ Revise as follows:

- ☐ Defer decision until after Code publication.

Question 120-017

[Chapter 120 Land Use](#)

[Article 3 Definitions](#)

[§ 120-301 Definitions.](#)

**Code Content:**

[\[SMALL ENGINE REPAIR\]](#) *The maintenance and repair of engines or motors used for the following types of equipment: power tools, lawn mowers, snow blowers and wood splitters. Small engine repair shall not include the maintenance or repair of engines or motors used in passenger vehicles, all-terrain vehicles (ATVs), mopeds, motorcycles and snowmobiles is prohibited.*

In the definition of "small engine repair" in § 120-301 the last sentence does not make sense, reading "Small engine repair shall not include...is prohibited." It is not clear what the wording "is prohibited" refers to; should this wording be deleted?

**Pick one option from list below**

☒ Delete "is prohibited" from the end of the sentence.

☐ Revise as follows:

☐ Defer decision until after Code publication.

Question 120-018

[Chapter 120 Land Use](#)  
[Article 3 Definitions](#)  
[§ 120-301 Definitions.](#)

**Code Content:**

[\[SUBDIVISION, AMENDED\]](#) *The division of an existing subdivision or any change of to an approved subdivision that requires Planning Board approval.*

In the definition of "subdivision, amended" in § 120-301 the wording "any change of to an approved subdivision" is incorrect. Should this wording read "any change to an approved subdivision"?

**Pick one option from list below**

☒ Revise to read "any change to an approved subdivision."

☐ Revise as follows:

☐ Defer decision until after Code publication.

Question 120-019

[Chapter 120 Land Use](#)  
[Article 4 Zoning Districts](#)  
[§ 120-401 Districts enumerated.](#)

Section 120-401 lists the Town zoning districts. This section should be reviewed to ensure that it reflects all of the Town's current districts and the names of the districts are correct and match the Town's current Zoning Map.

**Pick one option from list below**

☐ Revise as follows:

☐ Revise as follows: (revisions attached).

☒ Do not revise.

☐ Defer decision until after Code publication.

Question 120-020

[Chapter 120 Land Use](#)  
[Article 4 Zoning Districts](#)  
[§ 120-401 Districts enumerated.](#)

***Code Content:***

[\[§ 120-401A\(2\)\]](#) *General Shoreland Development District (GD).*

Section 120-401A(2) lists the General Shoreland Development District. The title used in the rest of Chapter 120 and in the Shoreland Zoning Ordinance (Chapter 185) is "General Development District." Note that § 120-401A is title "Shoreland Zoning" so it is unnecessary to repeat the word "Shoreland" in Subsection A(2).

**Pick one option from list below**

☒ Change to General Development District (GD).

☐ Revise as follows:

☐ Do not revise.

☐ Defer decision until after Code publication.

Question 120-021

[Chapter 120 Land Use](#)  
[Article 4 Zoning Districts](#)  
[§ 120-401 Districts enumerated.](#)

**Code Content:**

[\[§ 120-401A\(3\)\]](#) *Limited Residential-Recreation District (LR).*

Section 120-401A(3) lists the Limited Residential-Recreation (LR) District as a shoreland zoning district. In § 120-405C the title used is "Limited Residential District" and that is also the title used in Chapter 185, Shoreland Zoning. Which title is correct?

**Pick one option from list below**

- ☒ "Limited Residential" is correct; update § 120-401A(3) to this title.
- ☐ "Limited Residential-Recreation" is correct; update references to "Limited Residential" throughout the Code to this title.

- ☐ Revise as follows:

- ☐ Defer decision until after Code publication.

Question 120-022

[Chapter 120 Land Use](#)  
[Article 4 Zoning Districts](#)  
[§ 120-401 Districts enumerated.](#)

**Code Content:**

[\[§ 120-401B\(5\)\]](#) *Commercial District I (C1).*

Commercial Districts I, II and III are listed as C1, C2 and C3 and C-1, C-2 and C-3. Which designation is correct?

**Pick one option from list below**

- ☐ Use C1, C2 and C3.
- ☒ Use C-1, C-2 and C-3.

- ☐ Revise as follows:

- ☐ Defer decision until after Code publication.

Question 120-023

[Chapter 120 Land Use](#)  
[Article 4 Zoning Districts](#)  
[§ 120-402 Location of districts; Zoning Map.](#)

**Code Content:**

[\[§ 120-402A\]](#) *District location. The districts identified in § 120-401 are located and bounded as shown on the Official Land Use District Map, entitled "**Land Use Map** of Windham, Maine", dated May 25, 1976, as amended from time to time, and on file in the office of the Municipal Clerk. Said map is hereby incorporated in and made part of this chapter.*

Section 120-402A gives the title of the district map as the "Land Use Map." Sections 120-402 and 120-403 are the only two sections in the Town Code that use the title "Land Use Map," and § 120-402A contains the only reference to the "Official Land Use District Map." All other references are to the Zoning Map. For consistency, should §§ 120-402 and 120-403 be revised to refer to the Zoning Map?

**Pick one option from list below**

- ☐ Change "Land Use Map" to "Zoning Map" and change "Official Land Use District Map" to "Official Zoning District Map."
- ☒ Change "Zoning Map" to "Land Use Map" throughout the Code.
- ☐ Revise as follows:

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

Question 120-024

[Chapter 120 Land Use](#)  
[Article 4 Zoning Districts](#)  
[§ 120-406 Farm District \(F\).](#)

**Code Content:**

[\[§ 120-406F\(8\)\(f\)\]](#) *Service Business, Landscaping.*

In § 120-406F(8)(f) the reference to "service business, landscaping" should be updated to "contractor services, landscaping." See Article 3, Definitions. The definition of "service business, landscaping" was deleted in 2019.

**Pick one option from list below**

☒ Update to "Contractor services, landscaping."

☐ Revise as follows:

☐ Defer decision until after Code publication.

Question 120-025

[Chapter 120 Land Use](#)  
[Article 4 Zoning Districts](#)  
[§ 120-409 Medium-Density Residential District \(RM\).](#)

**Code Content:**

[\[§ 120-409E\]](#) *Dimensional standards. The following dimensional standards shall apply in the Medium-Density Residential District:*

In § 120-409E regarding the dimensional standards for the RM District the minimum frontage for a conservation subdivision is listed as 50 square feet. Frontage is typically listed in terms of feet, not square feet. Is this provision correct?

**Pick one option from list below**

☒ Change frontage for a conservation subdivision to 50 feet.

☐ Revise as follows:

☐ Do not revise; 50 square feet is correct.

☐ Defer decision until after Code publication.

Question 120-026

[Chapter 120 Land Use](#)

[Article 4 Zoning Districts](#)

[§ 120-414 Enterprise Development District \(ED\).](#)

**Code Content:**

[\[§ 120-414F\(7\)\(c\)\[3\]\]](#) *The storage, utilization, or manufacture of flammable liquids, or materials which produce flammable or explosive vapors or gases, shall be permitted in accordance with the most current edition of the National Fire Protection Association Standards for Flammable and Combustible Liquids (NFPA 30) or the most current edition of the **Building Officials and Code Administrators (BOCA) Fire Prevention Code**. The most restrictive standards shall apply.*

Section 120-414F(7)(c)[3] contains an outdated reference to the BOCA Fire Prevention Code. In Chapter 70 of the Code the Town adopts the NFPA 1 Fire Code, as adopted by the State of Maine.

**Pick one option from list below**

☒ Change "Building Officials and Code Administrators (BOCA) Fire Prevention Code" to "NFPA 1 Fire Code."

☐ Revise as follows:

☐ Do not revise.

☐ Defer decision until after Code publication.



Question 120-027

[Chapter 120 Land Use](#)

[Article 4 Zoning Districts](#)

[§ 120-414 Enterprise Development District \(ED\).](#)

**Code Content:**

[\[§ 120-414F\(7\)\(d\)\[1\]\[a\]\]](#) *All provisions of 38 M.R.S.A. Chapter 3, Protection and Improvements of Waters, and such rules and regulations adopted by the Maine Board of Environmental Protection pursuant to **the referenced purpose** shall apply.*

In § 120-414F(7)(d)[1][a] the wording "pursuant to the referenced purpose" seems incorrect.

**Pick one option from list below**

☒ Intent is to refer to 38 M.R.S.A. Chapter 3; change "the referenced purpose" to "the referenced statute."

☐ Revise as follows:

☐ Do not revise.

☐ Defer decision until after Code publication.

Question 120-028

[Chapter 120 Land Use](#)

[Article 4 Zoning Districts](#)

[§ 120-416 Aquifer Protection Overlay District Zone A \(APA\).](#)

**Code Content:**

[\[§ 120-416F\(2\)\]](#) All spreading or disposal of manure and fertilizers shall conform to the Best Management Practices handbook published by the **Maine Department of Agriculture, 1988**, and subsequent revisions and amendments.

There are two references in Chapter 120 to the Best Management Practices handbook published by the Maine Department of Agriculture in 1988 and three references to the Manual of Best Management Practices for Maine Agriculture published by the Maine Department of Agriculture in January 2007. All of these references could be updated and standardized to the following: the Manual of Best Management Practices for Maine Agriculture published by the Maine Department of Agriculture, Conservation and Forestry, as amended.

**Pick one option from list below**

☒ Revise as suggested.

☐ Revise as follows:

☐ Do not revise.

☐ Defer decision until after Code publication.

Question 120-029

[Chapter 120 Land Use](#)

[Article 4 Zoning Districts](#)

[§ 120-418 Manufactured Housing Park Overlay District \(MHPO\).](#)

The MHPO District is referred to as both the Manufactured Housing Park Overlay District and the Mobile Home Park Overlay District. Which title is correct?

**Pick one option from list below**

☐ "Mobile Home Park Overlay District" is correct.

☒ "Manufactured Housing Park Overlay District" is correct.

☐ Revise as follows:

☐ Defer decision until after Code publication.

Question 120-030

[Chapter 120 Land Use](#)

[Article 4 Zoning Districts](#)

[§ 120-418 Manufactured Housing Park Overlay District \(MHPO\).](#)

**Code Content:**

[\[§ 120-418E\(3\)\(c\)\]](#) *Water and sewage facilities for the park shall comply with all applicable regulations of the Town and the State of Maine, and all other applicable standards as set forth in the State of Maine Rules and Regulations of the Department of Health and Welfare relating to Mobile Home Parks and Camping Areas, approved and adopted November 6, 1972.*

Section 120-418E(3)(c) refers to "State of Maine Rules and Regulations of the Department of Health and Welfare relating to Mobile Home Parks and Camping Areas, approved and adopted November 6, 1972." Are these 1972 regulations still in use in the Town, or is an update needed to this reference?

**Pick one option from list below**

☐ Revise as follows:

☐ Do not revise.

☒ Defer decision until after Code publication.

Question 120-031

[Chapter 120 Land Use](#)

[Article 4 Zoning Districts](#)

[§ 120-420 Retirement Community and Care Facility Overlay District \(RCCFO\).](#)

**Code Content:**

[\[§ 120-420E\(3\)\(b\)\]](#) *Basement and first-story dwelling units. Notwithstanding the standards set forth in [§ 120-410F\(6\)](#) of the Commercial I Zoning District, dwelling units permitted in the overlay district shall be permitted in the basement or first story of a building in the RCCFO.*

Section 120-420E(3)(b) regarding basement and first-story dwelling units begins "Notwithstanding the standards set forth in § 120-410F(6) of the Commercial I Zoning District." This reference does not make sense, as the cited subsection deals with controlled access streets, reading: "For standards pertaining to controlled access streets in the C1 District see Article 3, Definitions, and Article 5, Performance Standards." There is no mention of basement or first story dwellings in § 120-410, Commercial District I (C1).

**Pick one option from list below**

- ☒ Delete "Notwithstanding the standards set forth in § 120-410F(6) of the Commercial I Zoning District."
- ☐ Revise as follows:

- ☐ Defer decision until after Code publication.

Question 120-032

[Chapter 120 Land Use](#)

[Article 5 Performance Standards](#)

[§ 120-501 Accessory apartment.](#)

**Code Content:**

[\[§ 120-501F\]](#) *All necessary building or [occupancy permits](#) shall be obtained from the Code Enforcement Officer.*

There are two references in Chapter 120 to occupancy permits, in §§ 120-501F and 120-522C(7). All other references are to a certificate of occupancy. For consistency, should "occupancy permit" be changed to "certificate of occupancy"?

**Pick one option from list below**

- ☒ Change "occupancy permit" to "certificate of occupancy."
- ☐ Revise as follows:
- ☐ Do not revise.
- ☐ Defer decision until after Code publication.

Question 120-033

[Chapter 120 Land Use](#)  
[Article 5 Performance Standards](#)  
[§ 120-504 Agriculture, poultry facility.](#)

**Code Content:**

[\[§ 120-504A\]](#) *Number of animals. These standards apply to the keeping of 13 or more poultry that are six months old or older in zoning districts in which Agriculture, Poultry Facility is either a permitted use or a conditional use. These standards do not apply to the raising and selling of any number of poultry that are under six months of age. The keeping of 12 or fewer chickens in the residential zoning districts (Farm, Farm-Residential, **Residential Light, and Residential Medium**) is governed by the standards of Chapter 15, Animals; Article II, Domesticated Chickens.*

We recommend changing references to the "Residential Light" and "Residential Medium" Districts to the Light-Density Residential District and Medium-Density Residential District, respectively, for consistency with Article 4 of this chapter.

**Pick one option from list below**

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

Question 120-034

[Chapter 120 Land Use](#)

[Article 5 Performance Standards](#)

[§ 120-507 Automobile repair services.](#)

**Code Content:**

[\[§ 120-507A\]](#) *The sale of gasoline or other petroleum products shall not be allowed as an accessory use ([see standards for Automobile Gas Station](#)).*

Section 120-507A includes the note "see standards for Automobile Gas Station." Article 5 does not include a section providing standards for automobile gas stations. There is a definition of "automobile gas station" in Article 3.

**Pick one option from list below**

☒ Revise to read: (see definition of "automobile gas station" in Article 3).

☐ Revise as follows:

☐ Do not revise.

☐ Defer decision until after Code publication.

Question 120-035

[Chapter 120 Land Use](#)  
[Article 5 Performance Standards](#)  
[§ 120-507 Automobile repair services.](#)

**Code Content:**

[\[§ 120-507C\]](#) *Automobiles may not be displayed for sale, or sold, on the premises, unless **Automobile Sales, Outdoors** is a permitted use or a conditional use in the applicable zoning district.*

Section 120-507C refers to the use "automobile sales, outdoors." Should this reference be updated to "retail sales, automobile sales"? See § 120-546. There is no other mention of "automobile sales, outdoors."

**Pick one option from list below**

☒ Change "automobile sales, outdoors" to "retail sales, automobile sales."

☐ Revise as follows:

☐ Do not revise.

☐ Defer decision until after Code publication.

Question 120-036

[Chapter 120 Land Use](#)  
[Article 5 Performance Standards](#)  
[§ 120-516 Conditional use.](#)

**Code Content:**

[\[§ 120-516B\(1\)\]](#) *Board of Appeals. The Board of Appeals shall serve as the **Review Authority** for all conditional use applications, except where the application is reviewed by the Planning Board.*

The terms "Review Authority" and "Reviewing Authority" are both used in § 120-516, Conditional uses, and elsewhere in the Code. We recommend standardizing these references.

**Pick one option from list below**

☒ Use "Review Authority."

☐ Use "Reviewing Authority."

☐ Revise as follows:

☐ Do not revise.

☐ Defer decision until after Code publication.

Question 120-037

[Chapter 120 Land Use](#)  
[Article 5 Performance Standards](#)  
[§ 120-516 Conditional use.](#)

***Code Content:***

[\[§ 120-516E\(1\)\]](#) *A non-refundable application fee as established by the Town Council.*

We recommend adding the following in § 120-516E to provide a lead-in for Subsection E(1) and (2):

E. Application fees. The application shall include:

(1) A non-refundable application fee as established by the Town Council.

(2) A peer review escrow deposit as established by the Town Council. Unexpended peer review escrow funds shall be returned to the applicant.

**Pick one option from list below**

☒ Revise as suggested.

☐ Revise as follows:

☐ Do not revise.

☐ Defer decision until after Code publication.



Question 120-038

[Chapter 120 Land Use](#)

[Article 5 Performance Standards](#)

[§ 120-522 Curb cuts and driveway openings.](#)

**Code Content:**

[\[§ 120-522B\(1\)\]](#) *F, FR, RL, RM Districts.*

In § 120-522, Curb cuts and driveway openings, Subsection B(1) applies to the F, FR, RL and RM Districts while Subsection B(2) applies to the C1, C2, C3 and I Districts. It appears that the following wording in Subsection B(1)(a) should be deleted, as it applies to the C1 District and is included in Subsection B(2):

(1) F, FR, RL, RM Districts.

(a) A parcel shall be limited to two curb cuts on the same street. ~~The Planning Board may waive this standard in the C1 District to allow a maximum of two curb cuts on a non-Arterial street if the request is part of a Site Plan or Subdivision Application. The applicable waiver criteria of Article 8, Site Plan Review, or Article 9, Subdivision Review, shall apply.~~

(2) C1, C2, C3, I Districts.

(a) A parcel shall be limited to one curb cut on the same street. The Planning Board may waive this standard in the C1 District to allow a maximum of two curb cuts on a non-Arterial street if the request is part of a Site Plan or Subdivision Application. The applicable waiver criteria of Article 8, Site Plan Review, or Article 9, Subdivision Review, shall apply.

**Pick one option from list below**

☐ Revise as suggested.

☒ Revise as follows:

\*See attached revision.

☐ Do not revise.

☐ Defer decision until after Code publication.

Question 120-039

[Chapter 120 Land Use](#)  
[Article 5 Performance Standards](#)  
[§ 120-545 Restaurants.](#)

**Code Content:**

[\[§ 120-545\]](#) *Restaurants established after [effective date]* shall meet the following standards:

Section 120-545 contains provisions for restaurants established after "[effective date]." Does the Town wish to replace the bracketed text with a date? Section 120-545 was amended December 14, 2010 by Order 10-230.

**Pick one option from list below**

- ☒ Revise with the following date:
- ☐ Do not revise.
- ☐ Defer decision until after Code publication.

Question 120-040

[Chapter 120 Land Use](#)  
[Article 5 Performance Standards](#)  
[§ 120-548 Retail sales, outdoor.](#)

**Code Content:**

[\[§ 120-548J\]](#) *These standards shall not apply to roadside standards governed by the standards for agriculture in § 120-502.*

In § 120-548J, "roadside standards" should read "roadside stands." We will make this correction.

Question 120-041

[Chapter 120 Land Use](#)  
[Article 5 Performance Standards](#)  
[§ 120-549 Retirement community.](#)

**Code Content:**

[\[§ 120-549A\]](#) *The retirement community shall meet the standards established in 42 U.S.C.A. § 4607 for housing for older persons. The property owner shall notify the Department of Code Enforcement when compliance reports have been submitted to the U.S. Department of Housing and Urban Development (HUD). The Department of Code Enforcement may request that copies of any report be sent to the Town of Windham.*

Section 120-549A refers to 42 U.S.C.A. § 4607. There is no such section in the United States Code. It is not clear what section of the United States Code the Town intended to reference. The Fair Housing Act is codified at 42 U.S.C. § 3601 et seq. and was amended by the Housing for Older Persons Act in 1995.

**Pick one option from list below**

- ☒ Revise reference to 42 U.S.C. § 3601 et seq.
- ☐ Revise as follows:
- ☐ Defer decision until after Code publication.

Question 120-042

[Chapter 120 Land Use](#)  
[Article 5 Performance Standards](#)  
[§ 120-555 Streets.](#)

**Code Content:**

[\[§ 120-555D\(7\)\(a\)\]](#) *Private roads with three or fewer lots. A statement, from the Maine licensed professional that prepared the plans, that the road was constructed in general conformance with the approved plans. The Director of Code Enforcement may observe the road to confirm that the road was constructed in general conformance with the approved plans.*

Section 120-555D(2) and (7)(a) refer to a "Maine licensed professional." The term "licensed professional" appears to be incomplete. Should the title be changed to "Maine licensed professional engineer"? Note that in § 120-555D(7)(b) the term "licensed Maine professional civil engineer" is used.

**Pick one option from list below**

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

Question 120-043

[Chapter 120 Land Use](#)  
[Article 5 Performance Standards](#)  
[§ 120-555 Streets.](#)

**Code Content:**

[\[§ 120-555D\(8\)\(e\)\]](#) Gravel surface limit. Notwithstanding other provisions of this chapter to the contrary, no gravel surfaced private road shall provide access to or serve in any way to provide compliance with the requirements of this chapter for more than the greater of 10 lots or 10 dwelling units; provided, however, that nothing in this subsection shall serve to limit the use of such private road for occasional use by and for agricultural purposes. Private roads providing access to 11 or more lots shall meet the standards for a "Major Private Road" contained in Table 3 and Table 4 of Appendix B, Street Design and Construction Standards. When determining the number of dwelling units, **the Code Officer** shall not include permitted Accessory Apartments.

There are three references in Chapter 120 to "Code Officer." Should "Code Officer" be changed to "Code Enforcement Officer"?

**Pick one option from list below**

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

Question 120-044

[Chapter 120 Land Use](#)

[Article 6 Mineral Extraction](#)

[§ 120-604 Permit application requirements.](#)

**Code Content:**

[\[§ 120-604F\]](#) *A final rehabilitation plan including seeding, planting, drainage, erosion control, final grading, shaping, and surface stabilization plans showing contours at five foot intervals. Plans shall be approved by the Cumberland County Soil Conservation Service, a Registered Forester, a Certified Soils Scientist or a Registered Maine Civil Professional Engineer. The proposed use of the property at completion of the project shall be described. A time schedule for rehabilitation shall be included. Any project which is proposed to operate for more than five years shall be designed to operate in phases, if possible.*

Section 120-604G names the Cumberland County Soil Conservation Service as an approving entity for final rehabilitation plans. Should this reference be to the Cumberland County Soil and Water Conservation District? The Soil Conservation Service (now Natural Resources Conservation Service) is a federal agency, part of the United States Department of Agriculture.

**Pick one option from list below**

- ☒ Revise as suggested.
- ☐ Revise as follows:
- ☐ Defer decision until after Code publication.

Question 120-045

[Chapter 120 Land Use](#)

[Article 6 Mineral Extraction](#)

[§ 120-604 Permit application requirements.](#)

**Code Content:**

[\[§ 120-604F\]](#) *A final rehabilitation plan including seeding, planting, drainage, erosion control, final grading, shaping, and surface stabilization plans showing contours at five foot intervals. Plans shall be approved by the Cumberland County Soil Conservation Service, a **Registered Forester**, a Certified Soils Scientist or a Registered Maine Civil Professional Engineer. The proposed use of the property at completion of the project shall be described. A time schedule for rehabilitation shall be included. Any project which is proposed to operate for more than five years shall be designed to operate in phases, if possible.*

In § 120-604F should "registered forester" be changed to "licensed forester"? See Chapter 76, Forester Licensing, of Title 32 of the Maine statutes.

**Pick one option from list below**

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

Question 120-046

[Chapter 120 Land Use](#)

[Article 6 Mineral Extraction](#)

[§ 120-604 Permit application requirements.](#)

**Code Content:**

[\[§ 120-604F\]](#) *A final rehabilitation plan including seeding, planting, drainage, erosion control, final grading, shaping, and surface stabilization plans showing contours at five foot intervals. Plans shall be approved by the Cumberland County Soil Conservation Service, a Registered Forester, a Certified Soils Scientist or a **Registered Maine Civil Professional Engineer.** The proposed use of the property at completion of the project shall be described. A time schedule for rehabilitation shall be included. Any project which is proposed to operate for more than five years shall be designed to operate in phases, if possible.*

Sections 120-604F and 120-605 to a registered Maine civil professional engineer. Chapter 19, Engineers, of Title 32 of the Maine Statutes requires engineers to be licensed. Should references in Chapter 120 to a "registered" engineer be changed to "licensed"? In addition to "registered Maine civil professional engineer" there are references in this chapter to a "registered Maine civil engineer" and "registered professional engineer." Note that the term "engineer" is defined in Article 3 to mean "A civil engineer licensed by the State of Maine" and there are references in this chapter to a "licensed engineer," "Maine licensed professional engineer," "licensed Maine professional civil engineer" and "Maine licensed professional civil engineer."

**Pick one option from list below**

☒ Change "registered" with respect to engineers to "licensed."

☐ Revise as follows:

☐ Do not revise.

☐ Defer decision until after Code publication.

Question 120-047

[Chapter 120 Land Use](#)  
[Article 6 Mineral Extraction](#)  
[§ 120-606 Performance standards.](#)

**Code Content:**

[\[§ 120-606\]](#) *Mineral extraction operations within the Town of Windham must comply with the applicable performance standards below unless a variance is first obtained from the Maine Department of Environmental Protection as set forth in **Maine Statutes Title 38, Section 490**, and approved by the Planning Board. Any existing mineral extraction operation shall be required to meet the performance standards contained within the version of this ordinance under which the mineral extraction operation was approved.*

Section 120-606, in the opening paragraph and Subsection B(6), and § 120-608 include references to Maine Statutes Title 38, Section 490, which section was repealed in 2011 (L. 2011, c. 653). It is not clear how these references should be updated. Title 38, Chapter 3, now contains Article 7, Performance Standards for Excavations for Borrow, Clay, Topsoil or Silt, and Article 8-a, Performance Standards for Quarries. Both articles provide for performance standards and variances.

**Pick one option from list below**

- ☐ References should be to Article 7: update to 38 M.R.S.A. § 490-A et seq.
- ☐ References should be to Article 8-a: update to 38 M.R.S.A. § 490-W et seq.
- ☐ Revise as follows:
- ☒ Defer decision until after Code publication.



Question 120-048

[Chapter 120 Land Use](#)  
[Article 6 Mineral Extraction](#)  
[§ 120-606 Performance standards.](#)

**Code Content:**

[\[§ 120-606B\(4\)\]](#) *Refueling operations, oil changes and other maintenance activities requiring the handling of fuels, including but not limited to petroleum products, hydraulic fluids, and other on-site activity involving the storage or use of products that, if spilled, may contaminate groundwater, must be conducted in accordance with the department's spill prevention, control and countermeasures plan. Petroleum products and other substances that may contaminate groundwater must be stored and handled over impervious surfaces that are designed to contain spills. The spill prevention, control and countermeasures plan must be posted at the site.*

Section 120-606B(4) refers to "the department's spill prevention, control and countermeasures plan." Is this a reference to the Maine Department of Environmental Protection?

**Pick one option from list below**

- ☒ Revise to "the Department of Environmental Protection's spill prevention, control and countermeasures plan."  
☐ Revise as follows:

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

Question 120-049

[Chapter 120 Land Use](#)  
[Article 6 Mineral Extraction](#)  
[§ 120-606 Performance standards.](#)

**Code Content:**

[\[§ 120-606H\(6\)\]](#) *All areas other than a working pit area that are not naturally internally drained must meet the erosion and sedimentation control standards of **Section 420-C**.*

Section 120-606H(6) includes a cross-reference to Section 420-C. The Land Use Ordinance does not contain a Section 420. Erosion control standards are included in § 120-812F.

**Pick one option from list below**

- ☒ Revise to § 120-812F.
- ☐ Revise as follows:
- ☐ Defer decision until after Code publication.

Question 120-050

[Chapter 120 Land Use](#)  
[Article 6 Mineral Extraction](#)  
[§ 120-609 Performance guarantee requirements.](#)

**Code Content:**

[\[§ 120-609A\]](#) *A surety bond issued by a commercial surety company authorized to do business within the State of Maine, or an interest bearing trust account made payable to the Town of Windham, or a letter of credit, cash, or a certified check payable to the Town of Windham, shall be posted by the owner(s) or operator(s) in an amount recommended by the Town Manager or his/her authorized agent, **with the advice of the Soil Conservation Service** and/or a Registered Maine Civil Engineer, as sufficient to guarantee conformity with the provisions of the permit approval for the rehabilitation of existing mineral extraction operations, new mineral extraction operations, and/or loam stripping operations. The performance guarantee shall also include the cost to replace any private drinking water supply within 300 feet of the property boundary of the mineral extraction operation or any supply well within an area in which the elevation of the water table will be impacted by the development (i.e., where safe yield and water quality may be impacted).*

Section 120-609A refers to the Soil Conservation Service. It is not clear what is meant by this reference. How should "Soil Conservation Service" be updated?

**Pick one option from list below**

- ☒ Update "Soil Conservation Service" to "Cumberland County Soil and Water Conservation District."
- ☐ Update "Soil Conservation Service" to "Natural Resources Conservation Service" (the national agency).
- ☐ Revise as follows:
- ☐ Defer decision until after Code publication.

Question 120-051

[Chapter 120 Land Use](#)

[Article 7 Signs](#)

[§ 120-702 General.](#)

**Code Content:**

[\[§ 120-702A\]](#) Every sign shall be maintained in a safe, presentable and good structural condition by the timely replacement of defective parts, periodic cleaning and painting when necessary. The Code Enforcement Officer shall cause to be removed any sign that endangers public safety, including signs which are materially, electrically, or structurally defective; **abandoned by reason of vacancy and is unoccupied for a period of three months or more**, except signs applicable to businesses temporarily suspended for less than six months due to a change of ownership; or signs for which no permit has been issued. The Code Enforcement Officer shall send by certified mail a notice to the owner of record of the property and/or business of the violation and require correction or removal within 14 days of the notice mailing. Any sign determined to be in violation and not corrected within the prescribed time period may be removed by the Town at the owner's expense.

In § 120-702A the wording "abandoned by reason of vacancy and is unoccupied for a period of three months or more" does not make sense; "is abandoned" has no subject. Perhaps the following revision could be made:

The Code Enforcement Officer shall cause to be removed any sign that endangers public safety, including signs which are materially, electrically, or structurally defective; any sign that is abandoned by reason of vacancy and is the property on which the sign is located being unoccupied for a period of three months or more, except signs applicable to businesses temporarily suspended for less than six months due to a change of ownership; or signs for which no permit has been issued.

**Pick one option from list below**

☒ Revise as suggested.

☐ Revise as follows:

☐ Defer decision until after Code publication.

Question 120-052

[Chapter 120 Land Use](#)

[Article 7 Signs](#)

[§ 120-705 Signs permitted in all districts.](#)

The Code Enforcement Officer and Town Attorney should be consulted as to whether revisions are needed in Article 7, Signs, to ensure that the Town's sign regulations are content neutral, pursuant to the 2015 Supreme Court decision in Reed v. Town of Gilbert. Section 120-705, for example, establishes different size and time limitations depending on whether the sign is a real estate sign, construction sign, garage sale sign, etc.

**Pick one option from list below**

☐ Revise as follows:

☐ Revise as follows: (revisions attached).

☐ Do not revise.

☒ Defer decision until after Code publication.

Question 120-053

[Chapter 120 Land Use](#)

[Article 7 Signs](#)

[§ 120-705 Signs permitted in all districts.](#)

**Code Content:**

[\[§ 120-705A\(1\)\]](#) *One temporary real estate sign not over six square feet each in area, attached to a building or freestanding, may be erected in the F, FR, RL, and RM zones without a permit advertising the sale, lease or rental of the premises upon which the sign is located, except that a lot or building with frontage on two public ways may have one six square foot sign on each public way, and shall be removed by the owner or agent of the owner within 10 days of said sale, lease or rental.*

Section 120-705A(1) begins "One temporary real estate sign not over six square feet **each** in area." As only one sign is mentioned, the inclusion of the word "each" seems incorrect. Should this wording read "One temporary real estate sign not over six square feet in area"? Similar wording is included in § 120-705A(2): "One temporary real estate sign not over 16 square feet **each** in area..."

**Pick one option from list below**

☒ Delete "each" from § 120-705A(1) and (2).

☐ Revise as follows:

☐ Do not revise.

☐ Defer decision until after Code publication.

Question 120-054

[Chapter 120 Land Use](#)

[Article 7 Signs](#)

[§ 120-705 Signs permitted in all districts.](#)

**Code Content:**

[\[§ 120-705A\(2\)\]](#) *One temporary real estate sign not over 16 square feet each in area, attached to a building or freestanding, may be erected in the C1, C2, C3, I, ED and VC zones, and on the premises of a conforming commercial use, excluding home occupations, in any zone, without a permit advertising the sale, lease or rental of the premises upon which the sign is located, except that a lot or building with frontage on two public ways may have one 16 square foot sign on each public way, and shall be removed by the owner or agent of the owner within 10 days of said sale, lease or rental. In addition, conforming existing affixed wall and freestanding signs affixed to the premises may advertise the sale, lease, or rental of the premises upon which the sign is located. Such advertising shall be removed by the owner or agent of the owner within 10 days of said sale, lease or rental.*

Section 120-705A(2) includes the word "affixed" twice. Is this correct? This sentence could be revised as follows: "In addition, conforming existing ~~affixed~~ wall and freestanding signs affixed to the premises may advertise the sale, lease, or rental of the premises upon which the sign is located."

**Pick one option from list below**

☒ Revise as suggested.

☐ Revise as follows:

☐ Do not revise.

☐ Defer decision until after Code publication.

Question 120-055

[Chapter 120 Land Use](#)

[Article 7 Signs](#)

[§ 120-706 Signs permitted in commercial districts.](#)

**Code Content:**

[\[§ 120-706A\(6\)\(a\)\[4\]\]](#) *When the sign is not designed with or uses illumination.*

In § 120-706A(6) regarding freestanding signs in commercial districts, Subsection A(6)(a) and (b) allow an increase in sign area for ground and wall signs "When the sign is not designed with or uses illumination." If the intent is to allow an increase in sign area if the sign is **not** illuminated then this wording is incorrect, as it reads "When the sign...uses illumination."

**Pick one option from list below**

☒ Revise to read "When the sign is not designed with and does not use illumination."

☐ Revise as follows:

☐ Do not revise.

☐ Defer decision until after Code publication.

Question 120-056

[Chapter 120 Land Use](#)

[Article 7 Signs](#)

[§ 120-708 Signs permitted in business park districts.](#)

**Code Content:**

[\[§ 120-708A\]](#) *On-premises signs. Outdoor advertising signs shall be permitted in the **Business Park District**. One sign affixed to the exterior of a building for each business within the park shall be permitted. Such sign shall not exceed 50 square feet in size. One double sided freestanding sign for each business within the park shall also be permitted. Such sign shall not exceed 24 square feet in size on each side. Sign illumination shall be permitted.*

Section 120-708 deals with signs in the Business Park District. There is no other mention in the Land Use Ordinance of a Business Park District.

**Pick one option from list below**

- ☒ Delete § 120-708.
- ☐ Change "in the Business Park District" to "in a business park" and change the section title to "Signs permitted in business parks."
- ☐ Revise as follows:

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