

Question 120-057

[Chapter 120 Land Use](#)

[Article 7 Signs](#)

[§ 120-710 Off-premises signs permitted in all districts.](#)

Code Content:

[\[§ 120-710B\]](#) *Categorical signs. Categorical signs as defined by 23 M.R.S.A. § 1913-A as amended, and as enforced by the Maine Department of Transportation shall be permitted in any zone without permit unless otherwise provided for in this chapter. Signs bearing political messages relating to an election, primary or referendum, provided that these signs may not be placed prior to six weeks before the election, primary or referendum to which they relate and must be removed by the candidate or political committee not later than one week thereafter. Categorical signs shall not exceed 32 square feet in area.*

Section 120-710B includes the following incomplete sentence: "Signs bearing political messages relating to an election, primary or referendum, provided that these signs may not be placed prior to six weeks before the election, primary or referendum to which they relate and must be removed by the candidate or political committee not later than one week thereafter." This wording appears to have been copied from 23 M.R.S.A. § 1913-A, Subsection H, which was deleted in 2015 (L. 2015, c. 403). As this wording was removed from the statute, should it also be deleted from § 120-710B? If this wording is retained, it needs to be revised to clarify the intent and make a complete sentence. Is this wording supposed to indicate that these signs are permitted?

Pick one option from list below

☐ Delete "Signs bearing political messages relating to an election, primary or referendum, provided that these signs may not be placed prior to six weeks before the election, primary or referendum to which they relate and must be removed by the candidate or political committee not later than one week thereafter."

☐ Revise as follows:

☐ Defer decision until after Code publication.

Question 120-058

[Chapter 120 Land Use](#)

[Article 7 Signs](#)

[§ 120-710 Off-premises signs permitted in all districts.](#)

Code Content:

[\[§ 120-710D\]](#) Religious and civic organizations. In addition to *religious and civic organization signs defined as categorical signs pursuant to 23 M.R.S.A. § 1913-A*, the Town Council may authorize the erection of up to a maximum of four signs, not to exceed 32 square feet each, for groups of religious or civic organizations in the community. Each such religious or civic organization identified shall be credited with five square feet in area toward the total sign size allowed.

Section 120-710D refers to "religious and civic organization signs defined as categorical signs pursuant to 23 M.R.S.A. § 1913-A." That section, as amended in 2015 (L. 2015, c. 403), does not specifically mention religious or civic organizations.

Pick one option from list below

☐ Delete "In addition to religious and civic organization signs defined as categorical signs pursuant to 23 M.R.S.A. § 1913-A."

☐ Revise as follows:

☐ Do not revise.

☐ Defer decision until after Code publication.

Question 120-059

[Chapter 120 Land Use](#)

[Article 7 Signs](#)

[§ 120-712 Signs prohibited in all districts.](#)

Code Content:

[\[§ 120-712C\]](#) *Banners, pennants, ribbons, streamers, spinners or other similar devices that contain advertisements, except as provided for in § 120-702 of this article.*

In § 120-712, Signs prohibited in all districts, Subsections C and K are incomplete. We recommend the following revisions:

C. Banners, pennants, ribbons, streamers, spinners or other similar devices that contain advertisements are prohibited, except as provided for in § 120-702 of this article.

K. All exterior inflatable advertising signs are prohibited.

Pick one option from list below

☐ Revise as suggested.

☐ Revise as follows:

☒ Defer decision until after Code publication.

Question 120-060

[Chapter 120 Land Use](#)
[Article 8 Site Plan Review](#)
[§ 120-803 Review and approval authority.](#)

Code Content:

[\[§ 120-803B\]](#) *Staff Review Committee established. **There is hereby created a Staff Review Committee.** The Staff Review Committee shall consist of the Director of Planning (Planner), Director of Code Enforcement, Fire Chief, Director of Public Works, or their designees, and a designee of the Town Manager.*

Section 120-803 establishes the Staff Review Committee, and this Committee is authorized to review site plans for minor developments. There are also references in this chapter to a Development Review Committee. Section 120-808A, for example, provides that "The Development Review Committee, for minor developments, or the Planning Board, for major developments, may waive any of the submission requirements of § 120-811 based upon a written request by the applicant." Should "Development Review Committee" be changed to "Staff Review Committee"?

Pick one option from list below

- ☒ Change "Development Review Committee" to "Staff Review Committee."
- ☐ Change "Staff Review Committee" to "Development Review Committee."
- ☐ Revise as follows:

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

Question 120-061

[Chapter 120 Land Use](#)

[Article 8 Site Plan Review](#)

[§ 120-807 Review procedures for major developments.](#)

Code Content:

[\[§ 120-807F\(1\)\(b\)\]](#) *Maine Department of Environmental Protection, under the Natural Resources Protection Act or **Stormwater Law**, or if an MEPDES wastewater discharge license is needed.*

In § 120-807F(1)(b) it is not clear what is meant by the "Stormwater Law." Is this meant to be a reference to 06-096 CMR Ch. 500, Stormwater Management?

Pick one option from list below

☒ Change "Stormwater Law" to 06-096 CMR Ch. 500, Stormwater Management

☐ Revise as follows:

☐ Do not revise.

☐ Defer decision until after Code publication.

Question 120-062

[Chapter 120 Land Use](#)

[Article 8 Site Plan Review](#)

[§ 120-807 Review procedures for major developments.](#)

Code Content:

[\[§ 120-807F\(1\)\(g\)\]](#) *A Maine licensed professional civil engineer if individual wells serving each building site are to be used. The Board may also require the applicant to submit the results of water quality tests as performed for, or by, the State of Maine **Department of Health and Welfare**.*

In § 120-807F(1)(g) we will update the reference to the Department of Health and Welfare to the Department of Health and Human Services.

Question 120-063

[Chapter 120 Land Use](#)
[Article 8 Site Plan Review](#)
[§ 120-811 Submission requirements.](#)

Code Content:

[\[§ 120-811B\(2\)\(h\)\]](#) *A traffic impact study, prepared by a Maine licensed professional engineer, demonstrating the impact of the proposed project on the capacity, level of service and safety of adjacent streets, if the project or expansion will generate 50 or more trips during the a.m. or p.m. peak hour based upon the latest edition of the trip generation manual of the **Institution of Traffic Engineers**, or if required by the Planning Board.*

In § 120-811B(2)(h) we will update the reference to the Institution of Traffic Engineers to the Institute of Transportation Engineers, the current title of this organization.

Question 120-064

[Chapter 120 Land Use](#)
[Article 8 Site Plan Review](#)
[§ 120-813 Commercial district design standards.](#)

Code Content:

[\[§ 120-813B\(2\)\(b\)\]](#) *Circulation patterns for parking lots with more than 40 spaces shall be designed by a traffic engineer to meet the **Zoning and Site Plan Review Ordinances**. The Planning Board may require a traffic engineer for smaller lots where there are particular public safety issues.*

In § 120-813B(2)(b) can "Zoning and Site Plan Review Ordinances" be revised to "Land Use Ordinance"? This subsection is taken from the booklet Town of Windham Design Guidelines, adopted by the Town Council on July 26, 2005, pursuant to the note which precedes § 120-813A.

Pick one option from list below

☒ Revise to Land Use Ordinance.

☐ Revise as follows:

☐ Do not revise.

☐ Defer decision until after Code publication.

Question 120-065

[Chapter 120 Land Use](#)
[Article 8 Site Plan Review](#)
[§ 120-814 Post-approval activities.](#)

Code Content:

[§ 120-814D(1)] *At least 15 days prior to commencing construction of required improvements, the developer shall notify the Planner in writing of commencement of construction so that the Planner can cause observations to be made of all specifications and requirements of the approved plans shall be met.*

In § 120-814D(1) the following wording does not make sense: "so that the Planner can cause observations to be made of all specifications and requirements of the approved plans shall be met." Perhaps the following revision could be made: "so that the Planner can cause observations to be made ~~of~~ to ensure that all specifications and requirements of the approved plans shall be met."

Pick one option from list below

☒ Revise as suggested.

☐ Revise as follows:

☐ Defer decision until after Code publication.

Question 120-066

[Chapter 120 Land Use](#)
[Article 9 Subdivision Review](#)
[§ 120-902 Statutory review criteria.](#)

Code Content:

[\[§ 120-902\]](#) *When reviewing any application for a subdivision, as defined by Article 3, the Review Authority shall find that **the following criteria as found in** 30-A M.R.S.A. § 4404 have been met, as well as all applicable provisions of this chapter and other sections of this Article 9 have been met, before granting approval (see § 120-911, Performance and design standards).*

Section 120-902 refers to "the following criteria as found in 30-A M.R.S.A. § 4404." Subsections A through T of this section appear to have been copied from 30-A M.R.S.A. § 4404, Subsections 1 through 20. The Town might want to consider whether it is appropriate or necessary for text from the statutes to be copied and included in the ordinance in this manner. If the criteria in 30-A M.R.S.A. § 4404 is used, a simple reference to that section would seem to be sufficient. Also, inconsistencies can develop when the statute is amended and the Town does not make a corresponding revision to § 120-902. For example, the statute was amended in 2009 (L. 2009, c. 356) to add a new Subsection 14-A, Farmland, as shown below which is not included in § 120-902.

14-A. Farmland. All farmland within the proposed subdivision has been identified on maps submitted as part of the application. Any mapping of farmland may be done with the help of the local soil and water conservation district;

Pick one option from list below

☒ Delete Subsections A through T and revise § 120-902 to read: "When reviewing any application for a subdivision, as defined by Article 3, the Review Authority shall find that the criteria as found in 30-A M.R.S.A. § 4404 have been met, as well as all applicable provisions of this chapter and other sections of this Article 9, before granting approval (see § 120-911, Performance and design standards)."

☐ Retain Subsections A through T and add new "Farmland" subsection as set forth above.

☐ Revise as follows:

☐ Do not revise.

☐ Defer decision until after Code publication.

Question 120-067

[Chapter 120 Land Use](#)
[Article 9 Subdivision Review](#)
[§ 120-902 Statutory review criteria.](#)

Code Content:

[\[§ 120-902K\]](#) *Surface waters; outstanding river segments. Whenever situated entirely or partially within the watershed of any pond or lake or within 250 feet of **any wetland, great pond or river** as defined in 38 M.R.S.A. §§ 435 through 490, the proposed project will not adversely affect the quality of such body of water or unreasonably affect the shoreline of such body of water.*

Section 120-902K refers to "any wetland, great pond or river as defined in 38 M.R.S.A. §§ 435 through 490." Section 490 was repealed in 2011. We recommend updating this reference to 38 M.R.S.A. § 435 et seq. See the corresponding wording in 30-A M.R.S.A. § 4404, Subsection 11.

Pick one option from list below

- ☒ Revise reference to 38 M.R.S.A. § 435 et seq.
- ☐ Revise as follows:
- ☐ Do not revise.
- ☐ Defer decision until after Code publication.

Question 120-068

[Chapter 120 Land Use](#)
[Article 9 Subdivision Review](#)
[§ 120-907 Review procedures for major subdivisions.](#)

Code Content:

[\[§ 120-907C\(4\)\(f\)\]](#) *If the Board decides to hold a public hearing, it shall hold the hearing within 30 days of determining it has received a complete application, and shall publish a notice of the date, time and place of the hearing in a newspaper of local circulation at least two times, the date of the first publication to be at least seven days prior to the hearing. In addition, the notice of the hearing shall be posted in Town Hall at least seven days prior to the hearing. A copy of the notice shall be sent by First Class mail **to within 500 feet of the property** under review and to the applicant, at least seven days prior to the hearing.*

Wording is missing in the last sentence of § 120-907C(4)(f). Based on similar wording elsewhere in this chapter we will make the following correction: "A copy of the notice shall be sent by First Class mail to the owners of all properties within 500 feet of the property under review and to the applicant, at least seven days prior to the hearing."

Question 120-069

[Chapter 120 Land Use](#)
[Article 9 Subdivision Review](#)
[§ 120-908 Waivers.](#)

Code Content:

[\[§ 120-908C\(2\)\(b\)\[12\]\]](#) *The Town's ability to provide the subdivision with public safety services.*

The wording in § 120-908C(2)(b)[12], taken together with the lead-in wording at the beginning of Subsection (b), does not make sense:

(b) The waiver will not result in the following: [12] The Town's ability to provide the subdivision with public safety services.

The following correction could be made:

(b) The waiver will not result in the following: [12] An adverse impact on the Town's ability to provide the subdivision with public safety services.

Pick one option from list below

☒ Revise as suggested.

☐ Revise as follows:

☐ Defer decision until after Code publication.

Question 120-070

[Chapter 120 Land Use](#)
[Article 9 Subdivision Review](#)
[§ 120-911 Performance and design standards.](#)

Code Content:

[\[§ 120-911A\(3\)\(a\)\]](#) *Street line monuments. Monuments shall be set at all street intersections and points of curvature, but no further than 750 feet apart along street lines without curves or intersections. Street line monuments shall be granite and have minimum dimensions of four inches square at the top and four feet in length. The monuments shall be set in the ground with the top of the monuments no more than six inches above the final grade level. A drill hole at least 0.5 inch deep shall locate the point or points described above and include the registration number of the Maine Licensed Professional Land Surveyor that set the monuments. Monuments shall be capable of being detected by commonly used magnetic or electronic equipment, as required by the **Maine Board of Registration of Land Surveyors**.*

In § 120-911A(3)(a) and (b) we will update the two references to the Maine Board of Registration of Land Surveyors to the Maine Board of Licensure for Professional Land Surveyors.

Question 120-071

[Chapter 120 Land Use](#)

[Article 9 Subdivision Review](#)

[§ 120-911 Performance and design standards.](#)

Code Content:

[\[§ 120-911H\(1\)\(b\)\]](#) No subdivision shall increase any contaminant concentration in the ground water at any subdivision water supply well or any project boundary to more than the Primary Drinking Water Standards. No subdivision shall increase any contaminant concentration in the ground water at said locations to more than the Secondary Drinking Water Standards. **A hydrogeological evaluation demonstrating that the groundwater concentrations of nitrate as nitrogen meet the Maximum Contaminant Level standard of 10 mg/L of the EPA's National Primary Drinking Water Regulations at the project boundaries.** Where past land activities, such as agriculture, indicate the potential for high background levels of nitrate nitrogen or other groundwater contaminants, the Planning Board may require testing to determine background levels and may place limitations on total groundwater discharges to ensure safe drinking water supplies for existing and/or proposed households.

In § 120-911H(1)(b) we question whether the words "shall be submitted" should be added as follows to make a complete sentence: "A hydrogeological evaluation shall be submitted demonstrating that the groundwater concentrations of nitrate as nitrogen meet the Maximum Contaminant Level standard of 10 mg/L of the EPA's National Primary Drinking Water Regulations at the project boundaries."

Pick one option from list below

☐ Revise as suggested.

☒ Revise as follows:

"A hydrogeological evaluation shall demonstrate that the groundwater concentrations of nitrate...

☐ Defer decision until after Code publication.

Question 120-072

[Chapter 120 Land Use](#)

[Article 9 Subdivision Review](#)

[§ 120-911 Performance and design standards.](#)

Code Content:

[\[§ 120-911M\(4\)\(g\)\]](#) *Basic access design standards for low and medium volume accesses. The following minimum access design standards shall apply to all low and medium volume street and private road accesses connecting to external streets:*

The second note in Table 2, Access Design Standards for Low and Medium Volume Accesses, in § 120-911M(4)(g) is missing an ordinance adoption date. It is not clear whether this reference is to the original adoption of the Land Use Ordinance in 2009 or a subsequent amendment. The note reads:

Minimum access spacing shall be the distance measured from the edge of an internal subdivision access excluding radii to the edge of a neighboring access excluding radii. This distance standard shall not cause access to be denied to a parcel of land existing as of **[Date of Ordinance Adoption]**, and not in common ownership with the lot to which access is sought via the proposed street.

Pick one option from list below

☐ Replace "[Date of Ordinance Adoption]" with "September 22, 2009" (date of adoption of Land Use Ordinance).

☒ Revise as follows:

See Attached revisions to Section 900, 800, and Appendix B

(Delete Table 2 (date reference no longer needed) and reference the table in Appendix B)

☐ Defer decision until after Code publication.

Staff note:

Table 2 should be deleted and add reference to Table 2 in Appendix B. Same with Table 1 in that same section – see attached jpg and spreadsheet with Appendix B revisions.

Question 120-073

[Chapter 120 Land Use](#)
[Article 9 Subdivision Review](#)
[§ 120-912 Final approval and filing.](#)

Code Content:

[\[§ 120-912G\]](#) *No subdivision plan shall be released for recording at the Registry of Deeds until the required performance guarantee has been posted. If an approved plan is not recorded in the Registry of Deeds within three years of the original approval, it shall become null and void. If a plan has received a phased approval, the first phase shall be recorded within three years of the original approval and subsequent phases shall be recorded within five years of the original approval. If a phased plan is not recorded within those time periods, the phases that have not been recorded shall become null and void.*

Section 120-912G indicates that a subdivision plan has to be recorded in the Registry of Deeds within three years of the original approval. Is this time frame correct? We note that 30-A M.R.S.A. § 4408 provides: "Upon approval of a subdivision plan, plat or document under section 4403, subsection 5, a municipality may not require less than 90 days for the subdivision plan, plat or document to be recorded in the registry of deeds."

Pick one option from list below

☐ Revise as follows:

☒ Do not revise.

☐ Defer decision until after Code publication.

Question 120-074

[Chapter 120 Land Use](#)
[Article 9 Subdivision Review](#)
[§ 120-914 Post-approval activities.](#)

Code Content:

[\[§ 120-914B\(3\)\]](#) *Improvements not constructed to plan. If the Town's representative shall find, upon investigation of the improvements performed before the expiration date of the performance bond, that any of the required improvements have not been constructed in general conformance with plans and specifications filed by the subdivider, he shall so report to the Town Manager, Public Works Director, **Building Inspector**, and Town Planner. The Town Planner shall then notify the subdivider and, if necessary, the bonding company or bank, and take all necessary steps to preserve the municipality's rights under the bond or letter of credit.*

In § 120-914B(3) should "Building Inspector" be changed to "Code Enforcement Officer"? There are no other references in the Land Use Ordinance to a Building Inspector.

Pick one option from list below

- ☒ Change "Building Inspector" to "Code Enforcement Officer."
- ☐ Revise as follows:
- ☐ Do not revise.
- ☐ Defer decision until after Code publication.

Question 120-075

[Chapter 120 Land Use](#)
[Article 11 Board of Appeals](#)
[§ 120-1101 Establishment.](#)

Code Content:

[\[§ 120-1101\]](#) *The **Board of Appeals** of the Town of Windham is established pursuant to the authority of 30-A M.R.S.A. § 2691.*

The titles "Board of Appeals" and "Zoning Board of Appeals" are both used in the Town Code. The majority of references are to the "Board of Appeals." For consistency, should "Zoning Board of Appeals" be changed to "Board of Appeals"?

Pick one option from list below

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

Question 120-076

[Chapter 120 Land Use](#)
[Article 11 Board of Appeals](#)
[§ 120-1103 Procedure.](#)

Code Content:

[\[§ 120-1103A\(5\)\]](#) Evidence. The Board may receive any oral or documentary evidence but **shall not provide** as a matter of policy for the exclusion of irrelevant, immaterial or unduly repetitious evidence. Every party has the right to present the party's case or defense by oral or documentary evidence, to submit rebuttal evidence and to conduct any cross-examination that is required for a full and true disclosure of the facts.

In 30-A M.R.S.A. § 2691, Board of Appeals, Subsection D provides: "The board may receive any oral or documentary evidence **but shall provide** as a matter of policy for the exclusion of irrelevant, immaterial or unduly repetitious evidence." The corresponding wording in § 120-1103A(5) reads as follows: "The Board may receive any oral or documentary evidence **but shall not provide** as a matter of policy for the exclusion of irrelevant, immaterial or unduly repetitious evidence." Should the wording "shall not provide" read "shall provide"?

Pick one option from list below

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

Question 120-077

[Chapter 120 Land Use](#)
[Article 11 Board of Appeals](#)
[§ 120-1103 Procedure.](#)

Code Content:

[\[§ 120-1103C\(2\)\(b\)\]](#) The Board of Appeals or Code Enforcement Officer may **request the services of the consultation**. Such consultation shall be limited to reasonable and necessary review, as allowed by the pertinent ordinance, which exceeds the expertise of Town staff or their ability to review the application materials within the time limits otherwise required by law or ordinance.

In § 120-1103C(2)(b) should the wording "request the services of the consultation" read "request the services of the consultant"?

Pick one option from list below

- ☐ Revise to "request the services of the consultant."
- ☒ Revise as follows:
- ☐ Do not revise.
- ☐ Defer decision until after Code publication.

Question 120-078

[Chapter 120 Land Use](#)
[Article 11 Board of Appeals](#)
[§ 120-1106 Variance.](#)

Code Content:

[\[§ 120-1106A\(5\)\]](#) *Conditions of approval. **In granting appeals under this section,** the Board of Appeals may impose such conditions as it deems necessary in furtherance of the intent and purpose of this chapter.*

Section 120-1106A(5) begins "In granting appeals under this section." Section 120-1106 deals with variances. Should this wording read "In granting variances under this section"?

Pick one option from list below

- ☐ Revise to read "In granting variances under this section."
- ☒ Revise as follows: In granting a variance under this section,... [In granting a variance under this section, ...](#)
- ☐ Do not revise.
- ☐ Defer decision until after Code publication.

Question 120-079

[Chapter 120 Land Use](#)
[Article 11 Board of Appeals](#)
[§ 120-1106 Variance.](#)

Code Content:

[\[§ 120-1106C\]](#) *Disability variance. The Board of Appeals may grant a variance to an owner of a dwelling for the purpose of making that dwelling accessible to a person with a disability who resides in or regularly uses the dwelling.*

Section 120-1106C, Disability variance, is based on 30-A M.R.S.A. § 4353, Subsection 4-A, which was amended in 2009 and 2015 to add the following provisions for a disability variance for a garage. The Town might want to review revised Subsection 4-A and consider whether this type of variance should also be authorized.

B. If authorized by the zoning ordinance establishing the board, the board may grant a variance to an owner of a dwelling who resides in the dwelling and who is a person with a permanent disability for the construction of a place of storage and parking for a noncommercial vehicle owned by that person and no other purpose. The width and length of the structure may not be larger than 2 times the width and length of the noncommercial vehicle. The owner shall submit proposed plans for the structure with the request for the variance pursuant to this paragraph to the board.

The person with the permanent disability shall prove by a preponderance of the evidence that the person's disability is permanent.

For purposes of this paragraph, "noncommercial vehicle" means a motor vehicle as defined in Title 29-A, section 101, subsection 42 with a gross vehicle weight of no more than 6,000 pounds, bearing a disability registration plate issued pursuant to Title 29-A, section 521 and owned by the person with the permanent disability.

The board may impose conditions on the variance granted pursuant to this subsection.

All medical records submitted to the board and any other documents submitted for the purpose of describing or verifying a person's disability are confidential.

Pick one option from list below

☐ Add above variance provisions to § 120-1106C, Disability variance.

☐ Revise as follows:

☐ Do not revise.

☒ Defer decision until after Code publication.

Question 120-080

[Chapter 120 Land Use](#)
[Article 11 Board of Appeals](#)
[§ 120-1106 Variance.](#)

Code Content:

[\[§ 120-1106C\(3\)\]](#) For the purposes of this subsection, a disability has the same meaning as **a physical or mental handicap under 5 M.R.S.A. § 4553** and the term "structures necessary for access to or egress from the dwelling" is defined to include railing, wall or roof systems necessary for the safety or effectiveness of the structure.

Section 120-1106C(3) refers to a physical or mental handicap under 5 M.R.S.A. § 4553. This statute was amended in 1991 to change "handicap" to "disability."

Pick one option from list below

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

Question 120-081

[Chapter 120 Land Use](#)
[Article 11 Board of Appeals](#)
[§ 120-1106 Variance.](#)

Code Content:

[§ 120-1106D(4)] *Under its home rule authority, a municipality may, in an ordinance adopted pursuant to this subsection, adopt additional limitations on the granting of a variance from the dimensional standards of a zoning ordinance. A zoning ordinance also may explicitly delegate to the municipal reviewing authority the ability to approve development proposals that do not meet the dimensional standards otherwise required, in order to promote cluster development, to accommodate lots with insufficient frontage or to provide for reduced setbacks for lots or buildings made nonconforming by municipal zoning. As long as the development falls within the parameters of such an ordinance, the approval is not considered the granting of a variance. This delegation of authority does not authorize the reduction of dimensional standards required under the mandatory shoreland zoning laws, 38 M.R.S.A. Chapter 3, Subchapter 1, Article 2-B.*

Section 120-1106D(4) consists of wording which appears as the last paragraph in Subsection 4-C of 30-A M.R.S.A. § 4353. We question whether this wording was copied and included in the Town's ordinance by mistake, as it really does not make sense as part of local ordinance. The purpose of this wording is to grant to municipalities the authority to "adopt additional limitations on the granting of a variance from the dimensional standards of a zoning ordinance." If the Town wants to exercise this authority and adopt such additional limitations, those limitations should be included in § 120-1106, but this authorizing statute should not be included, or at least the wording needs to be changed so that it makes sense as part of the Town's ordinance.

Pick one option from list below

☒ Delete § 120-1106D(4).

☐ Revise as follows:

☐ Do not revise.

☐ Defer decision until after Code publication.

Question 120-082

[Chapter 120 Land Use](#)
[Article 12 Impact Fees](#)
[§ 120-1201 General.](#)

Code Content:

[\[§ 120-1201F\(2\)\]](#) *Any fees that are not spent or obligated by contract for the specified improvement by the end of the calendar quarter immediately following 10 years for the date the fee as paid shall be returned to the owner of the property at the time the refund is due or its designee without interest.*

Section 120-1201F(2) does not make sense. Perhaps the following revisions could be made: "Any fees that are not spent or obligated by contract for the specified improvement by the end of the calendar quarter immediately following 10 years ~~for~~ after the date the fee ~~as~~ is paid shall be returned to the owner of the property at the time the refund is due or its designee without interest."

Pick one option from list below

☒ Revise as suggested.

☐ Revise as follows:

☐ Defer decision until after Code publication.

Question 120-083

[Chapter 120 Land Use](#)

[Article 12 Impact Fees](#)

[§ 120-1202 North Windham sidewalk impact fee.](#)

Code Content:

[\[§ 120-1202A\]](#) *Description of the improvements. The North Windham Sidewalk Impact Fee will be used to partially fund the construction of public sidewalks to accommodate pedestrian movement in the Commercial 1 zoning district as set forth in the Town's 21st Century Downtown Plan (see [North Windham Sidewalk Impact Fee Methodology dated June 14, 2013](#), in Appendix E). This includes improvements in the following areas: Roosevelt Trail (Route 302), Tandberg Trail (Route 35 and 115), River Road, and Manchester Drive.*

Section 120-1202A gives the date of the North Windham Sidewalk Impact Fee Methodology as June 14, 2013. Section 120-1202D(2) gives the date as May 14, 2014. Both of these dates appear to be incorrect. In Appendix E the North Windham Sidewalk Impact Fee Methodology Table has a date of May 14, 2013.

Pick one option from list below

☒ Change both dates to May 14, 2013.

☐ Revise as follows:

☐ Defer decision until after Code publication.

Question 120-084

[Chapter 120 Land Use](#)

[Article 12 Impact Fees](#)

[§ 120-1204 North Route 302 road improvements impact fee.](#)

Code Content:

[\[§ 120-1204D\(2\)\(e\)\]](#) *The Planning Board or Town Planner shall establish a payment schedule which apportions the impact fee to component parts of the development based on the estimated trip generation for each component part. Depending on the nature of the development, a component part may be a lot, building, dwelling unit (as defined in the Windham Zoning Ordinance), unit of occupancy (as defined in the Windham Zoning Ordinance) or some combination thereof. The payment schedule shall specify the portion of the impact fee attributable to each component part and the point during the construction of the development at which the impact fee for each component part must be paid. The payment schedule shall be incorporated into the Planning Board's written approval document and endorsed on any final plan for the development.*

Section 120-1204D(2)(e) refers to a "unit of occupancy (as defined in the Windham Zoning Ordinance)." There is no definition of "unit of occupancy" in the Land Use Ordinance. The only other section in Chapter 120 where the term "unit of occupancy" appears is § 120-706F(8): "Each owner of a lot or unit of occupancy which is identified or advertised on a Commercial Subdivision Sign shall be responsible for any violations of this chapter arising out of the erection or maintenance of the Commercial Subdivision Sign and shall be deemed an owner of the sign under § 120-703 of this chapter." Perhaps this sentence could be revised to read as follows:

The Planning Board or Town Planner shall establish a payment schedule which apportions the impact fee to component parts of the development based on the estimated trip generation for each component part. Depending on the nature of the development, a component part may be a lot, building, dwelling unit (as defined in § 120-301), unit of occupancy or some combination thereof.

Pick one option from list below

☒ Revise as suggested.

☐ Revise as follows:

☐ Defer decision until after Code publication.

Question 128-001

[Chapter 128 Marijuana Businesses](#)

Attached to Chapter 128, Marijuana Businesses, is a schedule of fees. Does the Town want this schedule to be included in the Code? If it is retained, are any updates needed to this schedule?

Pick one option from list below

☒ Remove schedule of fees; add to § 128-6A: "The current schedule of fees set by the Town Council is on file with the Town Clerk."

☐ Revise as follows:

☐ Do not revise.

☐ Defer decision until after Code publication.

Question 128-002

[Chapter 128 Marijuana Businesses](#)
[§ 128-1 Purpose and authority.](#)

Code Content:

[\[§ 128-1\]](#) *This Ordinance is enacted pursuant to authority granted under 30-A M.R.S. § 3001, 22 M.R.S. § 2423-A (14) and 28-B M.R.S. § 402. The purpose of this Ordinance is to set forth procedures and standards for the issuance of local licenses for Marijuana Businesses in order to protect public health, safety and welfare.*

Section 128-1 includes a reference to 22 M.R.S. § 2423-A, Subsection 14. That subsection was repealed in 2019 (L. 2019, c. 331).

Pick one option from list below

☐ Delete reference to 22 M.R.S. § 2423-A, Subsection 14.

☐ Revise as follows:

☐ Defer decision until after Code publication.

Question 128-003

[Chapter 128 Marijuana Businesses](#)
[§ 128-2 Definitions.](#)

Code Content:

[\[MARIJUANA BUSINESS\]](#) *An Adult Use Marijuana Store, Medical Marijuana Caregiver Retail Store, **Medical Marijuana Caregiver, Medical Marijuana Caregiver (home occupation)**, Marijuana Cultivation Facility, Marijuana Manufacturing Facility or Marijuana Testing Facility, all as defined in Chapter 120, Land Use.*

There are several references in Chapter 128 to a "medical marijuana caregiver" and "medical marijuana caregiver (home occupation)." The terms defined in the Land Use Ordinance are "medical marijuana registered caregiver" and "medical marijuana registered caregiver (home occupation)." See Article 3 of Chapter 120, Land Use.

Pick one option from list below

- ☐ Revise to "medical marijuana registered caregiver" and "medical marijuana registered caregiver (home occupation)."
- ☐ Revise as follows:

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

Question 128-004

[Chapter 128 Marijuana Businesses](#)
[§ 128-2 Definitions.](#)

Code Content:

[OWNER] *A person whose beneficial interest in a Marijuana Business is such that the person bears risk of loss other than as an insurer, has an opportunity to gain profit from the operation or sale of a Marijuana Business and/or has a controlling interest in a **Marijuana Establishment**.*

The term "marijuana establishment" appears three times in Chapter 128. All other references are to "marijuana business," which is also defined in § 128-2. For consistency, should "marijuana establishment" be changed to "marijuana business"?

Pick one option from list below

- ☐ Change "marijuana establishment" to "marijuana business."
- ☐ Revise as follows:

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

Question 128-005

[Chapter 128 Marijuana Businesses](#)
[§ 128-5 Review procedures.](#)

Code Content:

[\[§ 128-5D\]](#) For renewal licenses, the application, review process and reviewing authority shall be the same as for initial licenses. If any official consulted by the Town Clerk finds that a renewal license application should not be approved, or if the Town Council so orders, the application shall be forwarded to the Town Council for further review. In such case, the Town Council shall, upon review of all staff recommendations and applicable laws, make the final determination as to whether the renewal license should be issued and/or any conditions to be attached. All renewal applications for **Adult Use Retail Stores** or Medical Marijuana Caregiver Retail Stores shall be reviewed by the Town Council, which shall issue a renewal license only upon a finding that the Store has in the past license term been operating in accordance with this Ordinance as well as with the Store's previously submitted Operations Plan.

In § 128-5D we recommend changing "adult use retail stores" to "adult use marijuana stores" as that is the term used in the rest of this chapter.

Pick one option from list below

- ☐ Revise to "adult use marijuana stores."
- ☐ Revise as follows:
- ☐ Do not revise.
- ☐ Defer decision until after Code publication.

Question 128-006

[Chapter 128 Marijuana Businesses](#)
[§ 128-11 Appeals.](#)

Code Content:

[\[§ 128-11A\(3\)\]](#) Appeal by the applicant of any **permit** granted by the Town Clerk with conditions to which the applicant/Licensee objects.

In § 128-11A(3) the word "permit" should be "license" for consistency with the rest of this chapter, which provides for issuance of a license. We will change "permit" to "license."

Question 128-007

[Chapter 128 Marijuana Businesses](#)
[§ 128-12 Enforcement and penalties.](#)

Code Content:

[\[§ 128-12\]](#) *The operation of any Marijuana Business without the required license or in violation of the requirements of this Ordinance shall be a violation of this Ordinance. The Windham Town Council or its designee shall enforce the provisions of this chapter. A violation of any provision of this chapter shall be a civil violation, and a civil penalty in accordance with 30-A M.R.S. § 4452 shall apply. Current penalties include fines of not less than \$100 nor more than \$2,500 per violation for each day that the violation continues. The penalty for operating a Marijuana Business without a valid license shall be \$500 per day. The Windham Town Council may also revoke or suspend the license after notice and hearing.*

Section 128-12 sets a penalty of \$500 per day for operating a marijuana business without a valid license. Is any revision needed?

Pick one option from list below

☐ Revise as follows:

☐ Do not revise.

☐ Defer decision until after Code publication.

Question 131-001

[Chapter 131 Mass Gatherings](#)
[§ 131-3 Exemptions.](#)

Code Content:

[\[§ 131-3B\]](#) *Public school functions involving student population and staff and held on school property and **approved by the School Committee.***

Section 131-3B provides exemption from the provisions of Chapter 131 for functions approved by the School Committee. The School Committee is not mentioned anywhere else in the Code. Is this the correct title? Note that Chapter 149, Parades, Races and Assemblies, contains similar exemption provisions for the "School Department."

Pick one option from list below

☒ Change "School Committee" to:

☐ Revise as follows:

☐ Do not revise.

☐ Defer decision until after Code publication.

Question 131-002

[Chapter 131 Mass Gatherings](#)
[§ 131-5 License required: fee and procedure.](#)

Code Content:

[\[§ 131-5A\(1\)\]](#) *Licenses for minor mass gatherings shall require a license issued by the Town Manager according to the procedure contained herein, except those provisions relating to the requirement for public hearing and approval by the Town Council. Appeals from a denial of a minor mass gathering application may be made in writing to the Town Council and must be filed with the Town Clerk within five working days of the date of the denial.*

In § 131-5A(1) the wording "Licenses...shall require a license" does not make sense. We will delete "Licenses for" in § 131-5A(1) and (2) as follows:

(1) ~~Licenses for~~ Minor mass gatherings shall require a license issued by the Town Manager according to the procedure contained herein, except those provisions relating to the requirement for public hearing and approval by the Town Council. Appeals from a denial of a minor mass gathering application may be made in writing to the Town Council, and must be filed with the Town Clerk within five working days of the date of the denial.

(2) ~~Licenses for~~ Major mass gatherings shall require a license issued by the Town Council according to the procedure contained herein.

Question 131-003

[Chapter 131 Mass Gatherings](#)

[§ 131-5 License required: fee and procedure.](#)

Code Content:

[\[§ 131-5B\(5\)\]](#) *Application fees shall be due when the application is filed, shall not be refundable, and shall be as follows:*

Section 131-5B(5) sets application fees for mass gathering licenses as follows:

- (a) Not-for-profit organizations applying for a minor or major mass gathering license shall pay an application fee of \$1.
- (b) Individuals and for-profit organizations applying for a minor mass gathering license shall pay an application fee of \$100.
- (c) Individuals and for-profit organizations applying for a major mass gathering license shall pay an application fee of \$250.

Is any revision needed to these fees?

Pick one option from list below

- ☒ Remove fees and change "shall be as follows" to "shall be set by the Town Council."
- ☐ Revise as follows:

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

Question 131-004

[Chapter 131 Mass Gatherings](#)
[§ 131-6 Enforcement, penalty, assignability.](#)

Code Content:

[\[§ 131-6\]](#) *The Code Enforcement Officer will enforce this Ordinance. Violation of this Ordinance constitutes a civil violation punishable by a civil penalty of \$1,000 for each violation. Each day such violation continues shall constitute a separate offense. Licenses issued under this ordinance are not transferable or assignable, without prior approval of the Town Council.*

Section 131-6 sets the penalty for violating Chapter 131, Mass Gatherings, at a civil penalty of \$1,000 for each 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 137-001

[Chapter 137 Motion-Picture Theaters](#)
[§ 137-3 Application fee.](#)

Code Content:

[\[§ 137-3\]](#) *Each application shall be accompanied by a fee according to the following schedule: \$200 per screen, except for the initial year when the fee will be prorated based on the number of months remaining before the next license expiration date as established in § 137-4 of this ordinance.*

Section 137-3 sets a fee of \$200 per screen for license applications to operate motion-picture theaters. Is any revision desired?

Pick one option from list below

☒ Revise to read "a fee according to the schedule established by the Town Council, except for the initial year..."

☐ Revise as follows:

☐ Do not revise.

☐ Defer decision until after Code publication.

Question 137-002

[Chapter 137 Motion-Picture Theaters](#)
[§ 137-5 Prohibited exhibits.](#)

Code Content:

[\[§ 137-5\]](#) No licensee shall exhibit any motion picture which, in whole or in part, depicts nudity, sexual conduct, sexual excitement or sadomasochistic abuse, when it:

Section 137-5 prohibits the exhibition of motion pictures depicting nudity or sexual conduct. This prohibition would appear to be in conflict with the Land Use Ordinance, which allows adult business establishments as a permitted use in the C1, C2 and C3 Commercial Districts. See the definition of "adult business establishment" in Chapter 120, Land Use, § 120-301, which includes theaters and the display of motion pictures.

Pick one option from list below

☒ Add to § 137-5: "This section shall not apply to an adult business establishment operating in accordance with Chapter 120, Land Use, of the Town Code."

☐ Revise as follows:

☐ Do not revise.

☐ Defer decision until after Code publication.

Question 137-003

[Chapter 137 Motion-Picture Theaters](#)
[§ 137-6 Violations and penalties.](#)

Code Content:

[\[§ 137-6\]](#) Any violation of this chapter may subject the offender to **a civil penalty of not more than \$100** or, after notice and hearing, suspension or revocation of this license, or both.

Section 137-6 sets a civil penalty of not more than \$100 for violations of Chapter 137, Motion-Picture Theaters. Is this penalty still satisfactory?

Pick one option from list below

☐ Revise as follows:

☒ Do not revise.

☐ Defer decision until after Code publication.

Question 149-001

[Chapter 149 Parades, Races and Assemblies](#)

Chapter 149, Parades, Races and Assemblies, does not include a penalty 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 149-002

[Chapter 149 Parades, Races and Assemblies](#)
[§ 149-3 Exemptions.](#)

Code Content:

[\[§ 149-3B\]](#) *A governmental agency acting within the scope of its functions including but not limited to the **School Department**.*

Section 149-3B provides that functions of the School Department may be exempt from the provisions of Chapter 149. The School Department is not mentioned anywhere else in the Code. Note that Chapter 131, Mass Gatherings, provides for similar exemptions for the "School Committee." Is a revision needed?

Pick one option from list below

☒ Revise as follows:

R.S.U. #14 School Board

☐ Do not revise.

☐ Defer decision until after Code publication.

Question 149-003

[Chapter 149 Parades, Races and Assemblies](#)
[§ 149-8 Duties of applicant and permittee.](#)

Code Content:

[\[§ 149-8B\]](#) *Other duties. A **licensee** under this chapter shall comply with all directions and conditions set forth in the permit and all applicable laws and ordinances.*

Chapter 149 provides for issuance of a permit for parades and assemblies. For consistency, we will change "licensee" in § 149-8B and C to "permittee" and change "license" to "permit" in § 149-9.

Question 153-001

[Chapter 153 Pawnbrokers and Secondhand Dealers](#)

Chapter 153, Pawnbrokers and Secondhand Dealers, does not include a penalty for violations. Should a penalty be added? Pursuant to 30-A M.R.S.A. § 3961 a fine of up to \$100 can be imposed for failure to obtain a license:

The municipal officers of any municipality may grant licenses to persons of good moral character to be pawnbrokers in the municipality for one year, unless sooner revoked by the municipal officers for violation of law. Whoever carries on such a business without a license commits a civil violation for which a forfeiture of not more than \$100 may be adjudged.

Pick one option from list below

☒ Revise as follows:

See provided attachment.

☐ Do not revise.

☐ Defer decision until after Code publication.

Question 153-002

[Chapter 153 Pawnbrokers and Secondhand Dealers](#)

[§ 153-5 License transferability.](#)

Code Content:

[\[§ 153-5\]](#) No license issued pursuant to the provisions of this chapter shall thereafter be transferred to another person or firm. Upon the termination or transfer of a business or occupation, the successor shall make new application for **a permit or license**. No part of a license fee shall be refunded in the event the licensed activity ceases prior to the expiration of the license. Licensees must notify the Town Clerk's office when they are relocating to a new location or changing to a different vehicle (mobile secondhand dealers only) or automated collection device, i.e. cellphone collection kiosk, etc. An inspection by the Code Enforcement Officer and Fire Inspector of the new business location or vehicle or device shall be required prior to the transfer of such license.

Section 153-5 includes the following: "Upon the termination or transfer of a business or occupation, the successor shall make new application for a permit or license." There is no other mention in Chapter 153 of a permit. Should "permit or license" be revised to "license"?

Pick one option from list below

☒ Change "permit or license" to "license."

☐ Revise as follows:

☐ Do not revise.

☐ Defer decision until after Code publication.

Question 153-003

[Chapter 153 Pawnbrokers and Secondhand Dealers](#)
[§ 153-5 License transferability.](#)

Code Content:

*[\[§ 153-5\]](#) No license issued pursuant to the provisions of this chapter shall thereafter be transferred to another person or firm. Upon the termination or transfer of a business or occupation, the successor shall make new application for a permit or license. No part of a license fee shall be refunded in the event the licensed activity ceases prior to the expiration of the license. Licensees must notify the Town Clerk's office when they are relocating to a new location or changing to a different vehicle (mobile secondhand dealers only) or automated collection device, i.e. cellphone collection kiosk, etc. An inspection by the Code Enforcement Officer and **Fire Inspector** of the new business location or vehicle or device shall be required prior to the transfer of such license.*

Section 153-5 refers to the Fire Inspector. The term "Fire Inspector" does not appear anywhere else in Chapter 153 or elsewhere in the Town Code. Other references in Chapter 153 are to the Fire/Rescue Chief.

Pick one option from list below

- ☐ Change "Fire Inspector" to "Fire/Rescue Chief."
- ☒ Revise as follows:
- ☐ Do not revise.
- ☐ Defer decision until after Code publication.

Question 157-001

[Chapter 157 Peddling and Soliciting](#)
[§ 157-6 License fee.](#)

Code Content:

[\[§ 157-6\]](#) The **license fee shall be \$50** and shall be paid at the time of filing the application.
Background check fee of \$20 will be paid for each person going door to door.

Section 157-6 sets a fee of \$50 for a peddling and soliciting license. In addition, this section sets a background check fee of \$20 for each door-to-door peddler or solicitor. Are these fees up to date?

Pick one option from list below

- ☒ Change "\$50" and "of \$20" to "set by the Town Council."
☐ Revise as follows:

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

Question 157-002

[Chapter 157 Peddling and Soliciting](#)
[§ 157-13 Violations and penalties.](#)

Code Content:

[\[§ 157-13\]](#) Anyone found guilty of violating any provision of this chapter shall be subject to a fine of **not less than \$50 nor more than \$200**. Each day that such violation continues shall be deemed to be a new offense.

Section 157-13 sets the penalty for violating Chapter 154, Peddling and Soliciting, at not less than \$50 nor more than \$200. Is this penalty still satisfactory?

Pick one option from list below

- ☐ Revise as follows:

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

Question 165-001

[Chapter 165 Property Assessed Clean Energy](#)

Chapter 165 establishes a property assessed clean energy (PACE) program and appears satisfactory as written, provided that it reflects current procedures.

Pick one option from list below

☐ Revise as follows:

☒ Do not revise.

☐ Defer decision until after Code publication.

Question 173-001

[Chapter 173 Residency Restrictions for Sex Offenders](#)
[§ 173-1 Authority.](#)

Code Content:

*[\[§ 173-1B\]](#) The Planning Department with the assistance of the Police Department shall prepare, maintain, and **file with the Town Clerk** an Official Map showing prohibited locations as defined by this ordinance. The Planning Department will update the map at least annually to reflect any changes in the locations of any Restricted Property and Setbacks and file the updated map with the Town Clerk.*

Attached to Chapter 173, Residency Restrictions for Sex Offenders, are nine maps showing the restricted areas. Does the Town want these maps to be included in the Code? Section 173-1B indicates that the maps are to be filed with the Town Clerk.

Pick one option from list below

☒ Remove maps.

☐ Retain maps.

☐ Revise as follows:

☐ Defer decision until after Code publication.

Question 173-002

[Chapter 173 Residency Restrictions for Sex Offenders](#)
[§ 173-5 Violation: injunctive relief and penalties.](#)

Code Content:

[\[§ 173-5A\]](#) *A Designated Sex Offender who, 30 days after written notice from the Town of Windham, is in violation of § 173-3A of this Ordinance shall be subject to an action brought by the Town of Windham to enforce the requirements of this ordinance. The Town of Windham may seek injunctive relief to require compliance with the provisions of this ordinance. The Town of Windham may also seek a penalty in the minimum amount of \$500 per day, for each day of violation of § 173-3 of this Ordinance after 30 days. In the event the Town of Windham is the prevailing party in any action under this Ordinance, is shall be entitled to an award of its reasonable attorney's fees, court costs and the costs of any expert witness fees incurred by the Town of Windham.*

Section 173-5A authorizes a minimum penalty of \$500 for violations of the residency restrictions prescribed in Chapter 173 by a sex offender; the same penalty is prescribed in § 173-5B for property owners leasing or renting a residence to a sex offender in violation of this chapter. Is any revision desired to this penalty?

Pick one option from list below

☐ Revise as follows:

☒ Do not revise.

☐ Defer decision until after Code publication.

Question 181-001

[Chapter 181 Sewers](#)

[Article II Definitions](#)

[§ 181-5 Definitions and word usage.](#)

Code Content:

[\[PRIVATE WASTEWATER DISPOSAL SYSTEM\]](#) *Nonpublic sewage disposal facilities as permitted under the [State of Maine Plumbing Code, Part II, Subsurface Wastewater Disposal Regulations](#), or nonpublic wastewater facilities as licensed by the DEP.*

There are three references in Chapter 181 to the State of Maine Plumbing Code, Part II, Subsurface Wastewater Disposal Regulations. Is this meant to be a reference to the Maine Subsurface Waste Water Disposal Rules promulgated by the Department of Health and Human Services? See 10-144 CMR Ch. 241.

Pick one option from list below

☒ Update "State of Maine Plumbing Code, Part II, Subsurface Wastewater Disposal Regulations" to "Maine Subsurface Waste Water Disposal Rules, 10-144 CMR Ch. 241."

☐ Revise as follows:

☐ Do not revise.

☐ Defer decision until after Code publication.

Question 181-002

[Chapter 181 Sewers](#)

[Article IV Private Wastewater Disposal Systems](#)

[§ 181-9 Permit required.](#)

Code Content:

*[\[§ 181-9A\]](#) Before commencement of construction of a private wastewater disposal system or nonpublic wastewater facilities licensed by the DEP, the owner shall first obtain a written permit signed by the Plumbing Inspector. The application for a subsurface wastewater disposal permit shall be made on a form furnished by the **Division of Health Engineering, Maine Department of Human Services**, which the applicant shall supplement by any plans, specifications and other information as is deemed necessary by the Plumbing Inspector. A permit and inspection fee as established by the Town Council shall be paid to the Code Enforcement Officer at the time the application is filed.*

Section 181-9A contains an outdated reference to the Division of Health Engineering, Maine Department of Human Services. The correct current reference appears to be the Division of Environmental and Community Health in the Department of Health and Human Services.

Pick one option from list below

☒ Update to Division of Environmental and Community Health, Maine Department of Health and Human Services.

☐ Revise as follows:

☐ Defer decision until after Code publication.

Question 181-003

[Chapter 181 Sewers](#)

[Article IV Private Wastewater Disposal Systems](#)

[§ 181-13 Imposition of additional requirements.](#)

Code Content:

[\[§ 181-13\]](#) *No statement contained in this article shall be construed to interfere with any additional requirements that may be imposed by the Town's Health Officer, **Building Inspector** or Code Enforcement Officer.*

Section 181-13 refers to the Building Inspector, a title not generally used in the rest of the Town Code. Is a revision needed?

Pick one option from list below

- ☒ Delete reference to Building Inspector.
- ☐ Revise as follows:
- ☐ Do not revise.
- ☐ Defer decision until after Code publication.

Question 181-004

[Chapter 181 Sewers](#)

[Article V Building Sewers and Connections](#)

[§ 181-14 Permit required.](#)

Code Content:

[\[§ 181-14B\]](#) *Any person proposing a new discharge into the system or a substantial change in the volume or character of pollutants that are being discharged into the system shall notify the Superintendent at least 45 days prior to the proposed change or connection and shall comply with **Maine Revised Statutes Annotated, Title 38, Chapter 3, Subchapter I, § 361**, as determined by the Superintendent.*

Section 181-14B includes a reference to 38 M.R.S.A. § 361. That section was repealed in 1989 and appears to have dealt with the terms of office of the members of the State Board of Environmental Protection.

Pick one option from list below

- ☒ Delete "and shall comply with Maine Revised Statutes Annotated, Title 38, Chapter 3, Subchapter I, § 361, as determined by the Superintendent."
- ☐ Revise as follows:

- ☐ Defer decision until after Code publication.

Question 181-005

[Chapter 181 Sewers](#)

[Article V Building Sewers and Connections](#)

[§ 181-20 Connection by Town.](#)

Code Content:

[\[§ 181-20\]](#) *If an existing entrance or connection to the public sewer **is not available** for a new building sewer connection, the owner shall notify the Superintendent two business days before the expected time of connection. All such connections at the public sewer shall be made by the Town or its agent at the owner's expense.*

In § 181-20 we question whether the wording "is not available" should read "is available" as shown below. If an entrance/ connection is not available, how could the connection be made?

If an existing entrance or connection to the public sewer is ~~not~~ available for a new building sewer connection, the owner shall notify the Superintendent two business days before the expected time of connection. All such connections at the public sewer shall be made by the Town or its agent at the owner's expense.

Pick one option from list below

☐ Revise as suggested.

☐ Revise as follows:

☐ Do not revise.

☒ Defer decision until after Code publication.

Question 181-006

[Chapter 181 Sewers](#)

[Article VI Use of Public Sewers](#)

[§ 181-33 Industrial waste monitoring.](#)

Code Content:

[\[§ 181-33\]](#) *The municipality shall develop and the Superintendent shall enforce pretreatment regulations for existing and new sources of pollution that are discharged or proposed to be discharged into the municipality-owned wastewater treatment facilities as set forth in Title 40, Chapter 1, **Part 128** and Part 403 of the final rules of the United States Environmental Protection Agency.*

In § 181-33 the reference to Title 40, Chapter 1, Part 128, of the Code of Federal Regulations is incorrect. There is no Part 128 in Title 40, Chapter 1. Part 129 is titled "Toxic Pollutant Effluent Standards."

Pick one option from list below

☒ Revise to read "as set forth in the rules of the United States Environmental Protection Agency in 40 CFR Parts 129 and 403."

☐ Revise as follows:

☐ Defer decision until after Code publication.

Question 181-007

Chapter 181 Sewers

Article VII Power and Authority of Superintendent

§ 181-42 Violations and penalties.

Code Content:

[§ 181-42] Any person who shall continue any violation beyond the time limit provided for in § 181-41 shall be guilty of a misdemeanor and, on conviction thereof, shall **be fined in an amount not less than \$100** for each violation. Each day in which any such violation shall continue shall be deemed a separate offense.

Section 181-42 sets a penalty of not less than \$100 for violations of Chapter 181, Sewers. Is this penalty still satisfactory? Should a maximum fine be included?

Pick one option from list below

☐ Revise as follows:

☒ Do not revise.

☐ Defer decision until after Code publication.

Question 181-008

[Chapter 181 Sewers](#)
[Article VIII Sewer Extensions](#)
[§ 181-45 New subdivisions.](#)

Code Content:

[\[§ 181-45\]](#) Any person who subdivides land within the Town, of which any part either is located within 1,500 feet of a public sanitary sewer or is located so that it can be connected to such a public sanitary sewer without undue hardship, as determined by the Planning Board, shall, if such subdivision has not been finally approved before the effective date of this chapter, and assuming capacity exists in the sewer system as determined by the Town Council, at his own expense, construct, for dedication to the Town, a sanitary sewer extension to serve all structures within such subdivision which will require the disposal of wastewater. Such sanitary sewer shall be designed by a **registered engineer**, its design shall be approved by the Town, and its design, construction and acceptance shall be in accordance with the provisions of §§ 181-48 and 181-49.

There are several references in Chapter 181 to a "registered engineer." Engineers are now licensed in Maine, not registered. See Title 32, Chapter 19, of the Maine statutes. Should "registered engineer" be changed to "licensed engineer" or "professional engineer"?

Pick one option from list below

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

Question 185-001

[Chapter 185 Shoreland Zoning](#)
[§ 185-2 Authority.](#)

Code Content:

[\[§ 185-2\]](#) This Ordinance has been prepared in accordance with the provisions of 38 M.R.S.A §§ 435 through **449**.

Section 185-2 includes a reference to 38 M.R.S.A. § 449 which was repealed in 2011. This section could be revised to refer to 38 M.R.S.A. § 435 et seq. or 38 M.R.S.A. §§ 435 through 448.

Pick one option from list below

- ☒ Revise to 38 M.R.S.A. § 435 et seq.
- ☐ Revise to 38 M.R.S.A. §§ 435 through 448.
- ☐ Revise as follows:
- ☐ Do not revise.
- ☐ Defer decision until after Code publication.

Question 185-002

[Chapter 185 Shoreland Zoning](#)

[§ 185-4 Effective date and repeal of formerly adopted ordinance.](#)

Code Content:

[\[§ 185-4A\]](#) *The effective date of this chapter is _____, as adopted by the Windham Town Council on _____. This Ordinance shall not be effective unless approved by the Commissioner of the Department of Environmental Protection. A certified copy of the Ordinance, or Ordinance Amendment, attested and signed by the Municipal Clerk, shall be forwarded to the Commissioner for approval. If the Commissioner fails to act on this Ordinance or Ordinance Amendment, within 45 days of his/her receipt of the Ordinance, or Ordinance Amendment, it shall be automatically approved.*

In § 185-4A the first sentence includes two blank lines for the adoption date and effective date. It is not clear whether this wording derives from the original adoption of this ordinance in 1974 or one of the many subsequent amendments. The correct dates should be filled in or this sentence should be removed.

Pick one option from list below

☒ Remove this sentence.

☐ Revise as follows:

☐ Defer decision until after Code publication.

Question 185-003

[Chapter 185 Shoreland Zoning](#)
[§ 185-13 Establishment of districts.](#)

Code Content:

[\[§ 185-13A\(1\)\]](#) Areas within 250 feet, horizontal distance, of the upland edge of freshwater wetlands and wetlands associated with great ponds and rivers, which are rated "moderate" or "high" value waterfowl and wading bird habitat, including nesting and feeding areas, by the Maine Department of Inland Fisheries and Wildlife (MDIF&W) that are depicted on a Geographic Information System (GIS) data layer maintained by either MDIF&W or **the Department** as of May 1, 2006. For the purposes of this subsection "wetlands associated with great ponds and rivers" shall mean areas characterized by non-forested wetland vegetation and hydric soils that are contiguous with a great pond or river, and have a surface elevation at or below the water level of the great pond or river during the period of normal high water. "Wetlands associated with great ponds or rivers" are considered to be part of that great pond or river.

In § 185-13A(1) is the reference to "the Department" meant to be a reference to the Maine Department of Environmental Protection?

Pick one option from list below

- ☒ Change "the Department" to "the Maine Department of Environmental Protection."
- ☐ Revise as follows:
- ☐ Do not revise.
- ☐ Defer decision until after Code publication.

Question 185-004

[Chapter 185 Shoreland Zoning](#)
[§ 185-14 Table of Land Uses.](#)

In Table 1, Land Uses in the Shoreland Zone, Rows 3 and 4 are blank and two different rows have the number 29 (Parking facilities and Marinas). Can the rows in this table be renumbered to eliminate the blank lines for Rows 3 and 4 and the duplicate number 29?

Pick one option from list below

- ☐ Renumber the rows in Table 1 as suggested.
- ☒ Revise as follows:

See provided table. (Remove numbers and sort land uses alphabetically.)

- ☐ Defer decision until after Code publication.

Question 185-005

[Chapter 185 Shoreland Zoning](#)
[§ 185-14 Table of Land Uses.](#)

In Table 1, Land Uses in the Shoreland Zone, Note 10 following the table reads: "Except for commercial uses otherwise listed in this Table, such as marinas and campgrounds, that are allowed in the respective district." There are no corresponding references to Note 10 within the table itself. We question whether a reference to Note 10 should be included in the table in Row 15C, Commercial, following "NO" under the SP and RP Districts.

Pick one option from list below

- ☐ Add reference to Note 10 in Row 15C, Commercial, following "NO" under the SP and RP Districts.
- ☒ Revise as follows:

Add Note 10 to Commercial following NO under LR and RP districts.

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

Question 185-006

[Chapter 185 Shoreland Zoning](#)
[§ 185-15 Land use standards.](#)

Code Content:

*[\[§ 185-15\]](#) All land use activities within the shoreland zone shall conform with the following provisions, if applicable. No development in excess of 2,000 square feet of floor space or 25,000 square feet of development, as defined in § 185-17, shall commence until the Planning Board has reviewed and approved the plans. Subject to this section are nonresidential uses, public and semi-public buildings and multifamily units, whether or not such development includes a subdivision or re-subdivision of a site. Excepted from this section are the construction of residential single or two-family dwellings or accessory buildings thereto or agricultural uses. **All applications for site plan approval shall be accompanied by a fee payable by check to the Town of Windham. (Please refer to § 140-38 of the Land Use Ordinance as amended 10-24-1989 for standards.)***

In § 185-15 the opening paragraph ends with a cross-reference to a section of the Land Use Ordinance as amended in 1989. In the current Land Use Ordinance, site plan review requirements are contained in Section 800. See Chapter 120, Article 8, Site Plan Review, in the Manuscript.

Pick one option from list below

☐ Update to read "Please refer to Chapter 120, Land Use, Article 8, Site Plan Review, of the Town Code."

☒ Revise as follows:

Replace full paragraph with: "All land use activities within the shoreland zone shall conform with the following provisions, if applicable. Site Plan Review may also be applicable to development in the shoreland zone. Please refer to Chapter 120, Land Use, Article 8, Site Plan Review, of the Town Code."

☐ Defer decision until after Code publication.

Question 185-007

[Chapter 185 Shoreland Zoning](#)
[§ 185-15 Land use standards.](#)

Code Content:

[\[§ 185-15B\(3\)\]](#) Flood elevation. The lowest floor elevation or openings of all buildings and structures, including basements, shall be elevated at least one foot above the elevation of the one-hundred-year flood, the flood of record, or in the absence of these, the flood as defined by soil types identified as recent floodplain soils. **In those municipalities that participate in the national Flood Insurance Program** and have adopted the April 2005 version, or later version, of the Floodplain Management Ordinance, accessory structures may be placed in accordance with the standards of that ordinance and need not meet the elevation requirements of this subsection.

In § 185-15B(3) the last sentence is taken from the model ordinance and should be tailored to reflect the Town's own circumstances. The Town adopted the Floodplain Management Ordinance in 2014; see Chapter 82, Floodplain Management, in the Manuscript. Accordingly, it would appear that this sentence should be revised as follows:

~~In those municipalities that participate in the national Flood Insurance Program and have adopted the April 2005 version, or later version, of the Floodplain Management Ordinance,~~ Accessory structures may be placed in accordance with the standards of ~~that ordinance~~ Chapter 82, Floodplain Management, of the Town Code and need not meet the elevation requirements of this subsection.

Pick one option from list below

☐ Revise as suggested.

☒ Revise as follows:

☐ Do not revise.

☒ Defer decision until after Code publication.

Question 185-008

[Chapter 185 Shoreland Zoning](#)
[§ 185-15 Land use standards.](#)

Code Content:

[\[§ 185-15I\(1\)\]](#) *The use of signs in the General Development District shall be governed by § 120-706 of Chapter 120, Land Use (standards in Commercial Districts.) The use of signs in the Resource Protection and Limited Residential Districts shall be governed by § 140-37A of the Land Use Ordinance. Signs advertising home occupations should conform to the guidelines stated in § 120-705D, Identification signs, of Chapter 120, Land Use.*

Section 185-15I(1) includes the following: "The use of signs in the Resource Protection and Limited Residential Districts shall be governed by § 140-37A of the Land Use Ordinance." It is not clear how this reference should be updated to reflect the current Land Use Ordinance. See Chapter 120, Article 7, Signs, in the Manuscript.

Pick one option from list below

- ☒ Update to § 120-702, General.
- ☐ Revise as follows:
- ☐ Defer decision until after Code publication.

Question 185-009

[Chapter 185 Shoreland Zoning](#)
[§ 185-15 Land use standards.](#)

Code Content:

[\[§ 185-15J\(3\)\]](#) *Plan required. When required by the Code Enforcement Officer or the Planning Board, stormwater management plans shall be designed utilizing the most recent approved version of the Cumberland County Soil and Water Conservation District's "Maine Erosion and Sediment Control Handbook for Best Management Practices". Completed plans, when required above, may be reviewed by the Cumberland County Soil and Water Conservation District, or other qualified group. Prior to the issuance of a building permit, the Code Enforcement Officer or Planning Board may require the applicant to obtain plan approval from the Water Resource Commission.*

Section 185-15J(3) refers to the Water Resource Commission. We were unable to verify this title. Is this meant to be a reference to the Maine Water Resources Planning Committee?

Pick one option from list below

- ☐ Revise to Maine Water Resources Planning Committee.
- ☒ Revise as follows:
- ☐ Do not revise.
- ☐ Defer decision until after Code publication.

Question 185-010

[Chapter 185 Shoreland Zoning](#)
[§ 185-15 Land use standards.](#)

Code Content:

[\[§ 185-15M\(3\)\(a\)\]](#) *All debris, stumps, and similar material shall be removed for disposal in an approved location, or shall be buried on-site. Only materials generated on-site may be buried or covered on-site. The State of Maine Solid Waste Laws, 38 M.R.S.A. § 1310 and Chapter 404 of the Department of Environmental Protection's regulations may contain other applicable provisions regarding disposal of such materials.*

In § 185-15M(3)(a) the reference to Chapter 404 of the Department of Environmental Protection's regulations is no longer correct. There is no Chapter 404 in the current regulations. Also the reference to 38 M.R.S.A. § 1310 apparently should be to 38 M.R.S.A. § 1301. In the current state model ordinance this sentence reads: "The State of Maine Solid Waste Laws, 38 M.R.S.A., section 1301 and the solid waste management rules, Chapters 400-419 of the Department of Environmental Protection's regulations may contain other applicable provisions regarding disposal of such materials."

Pick one option from list below

☒ Revise to read "The State of Maine solid waste laws, 38 M.R.S.A. § 1301 et seq., and the solid waste management rules of the Department of Environmental Protection, 06-096 CMR Chs. 400 through 419, may contain other applicable provisions regarding disposal of such materials."

☐ Revise as follows:

☐ Defer decision until after Code publication.

Question 185-011

[Chapter 185 Shoreland Zoning](#)
[§ 185-15 Land use standards.](#)

Code Content:

[\[§ 185-15N\(3\)\]](#) Areas greater than 40,000 square feet. Agricultural activities involving tillage of soil greater than 40,000 square feet in surface area, or the spreading, disposal or storage of manure within the shoreland zone shall require a Soil and Water Conservation Plan number to be filed with the Planning Board. Nonconformance with the provisions of said plan shall be considered to be a violation of this Ordinance.

Section 185-15N(3) requires a "Soil and Water Conservation Plan number" to be filed. Is the inclusion of the word "number" correct?

Pick one option from list below

- ☐ Delete "number" so wording reads "shall require a Soil and Water Conservation Plan to be filed with the Planning Board."
- ☐ Revise as follows:

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

Question 185-012

[Chapter 185 Shoreland Zoning](#)
[§ 185-15 Land use standards.](#)

Code Content:

[\[§ 185-15R\(7\)\]](#) The removal of vegetation associated with emergency response activities conducted by the Department, the U.S. Environmental Protection Agency, the U.S. Coast Guard, and their agents.

In § 185-15R(7) is the reference to "the Department" meant to be a reference to the Maine Department of Environmental Protection?

Pick one option from list below

- ☒ Change "the Department" to "the Maine Department of Environmental Protection."
- ☐ Revise as follows:
- ☐ Do not revise.
- ☐ Defer decision until after Code publication.

Question 185-013

[Chapter 185 Shoreland Zoning](#)
[§ 185-15 Land use standards.](#)

Code Content:

[\[§ 185-15U\]](#) *Soils. All land uses shall be located on soils in or upon which the proposed uses or structures can be established or maintained without causing adverse environmental impacts, including severe erosion, mass soil movement, improper drainage, and water pollution, whether during or after construction. Proposed uses requiring subsurface waste disposal, and commercial or industrial development and other similar intensive land uses, shall require a soils report based on an on-site investigation and be prepared by state certified professionals. Certified persons may include Maine Certified Soil Scientists, **Maine Registered Professional Engineers**, Maine State Certified Geologists and other persons who have training and experience in the recognition and evaluation of soil properties. The report shall be based upon the analyses of the characteristics of the soil and surrounding land and water areas, maximum ground water elevation, presence of ledge, drainage conditions, and other pertinent data which the evaluator deems appropriate. The soils report shall include recommendations for a proposed use to counteract soil limitations where they exist. Soil conditions that are inappropriate or uncorrectable in an environmentally acceptable manner shall be sufficient grounds for denial, even though the proposed use is otherwise permitted in that zone.*

In § 185-15U should the reference to Maine registered professional engineers be updated to Maine licensed professional engineers? Engineers are now licensed pursuant to Title 32, Chapter 19, of the Maine statutes.

Pick one option from list below

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

Question 185-014

[Chapter 185 Shoreland Zoning](#)
[§ 185-15 Land use standards.](#)

Code Content:

[\[§ 185-15W\]](#) *Archaeological sites. Any proposed land use activity involving structural development or soil disturbance on or adjacent to sites listed on, or eligible to be listed on the National Register of Historic Places, shall be submitted by the applicant to the Maine Historic Preservation Commission for review and comment, at least 30 days prior to action being taken by the permitting authority. The CEO shall consider comments received from the Commission within 60 days from receipt of the comments prior to rendering a decision on the application.*

Section 185-15W requires submission to the Maine Historic Preservation Commission at least 30 days prior to action by the permitting authority. In the current model ordinance this time frame is 20 days. The model also does not include the requirement that the comments be considered within 60 days. See 06-096 CMR Ch. 1000, § 15, Subsection W, which provides:

Any proposed land use activity involving structural development or soil disturbance on or adjacent to sites listed on, or eligible to be listed on the National Register of Historic Places, as determined by the permitting authority, shall be submitted by the applicant to the Maine Historic Preservation Commission for review and comment, at least twenty (20) days prior to action being taken by the permitting authority. The permitting authority shall consider comments received from the Commission prior to rendering a decision on the application.

Pick one option from list below

☒ Revise § 185-15W to match the current wording of the model ordinance.

☐ Revise as follows:

☐ Do not revise.

☐ Defer decision until after Code publication.

Question 185-015

[Chapter 185 Shoreland Zoning](#)
[§ 185-16 Administration.](#)

Code Content:

[\[§ 185-16D\(1\)\]](#) *Within 35 days of the date of receiving a written application, the Planning Board or Code Enforcement Officer, as indicated in § 185-14, shall notify the applicant in writing either that the application is a complete application, or, if the application is incomplete, that specified additional material is needed to make the application complete. The Planning Board or the Code Enforcement Officer, as appropriate, shall approve, approve with conditions, or deny all permit application, including all requested information. However, if the Planning Board has a waiting list of applications, a decision on the application shall occur within 60 days after the first available date on the Planning Board's agenda following receipt of the completed application, or within 35 days of the public hearing, if one is held. Permits shall be approved if the proposed use or structure is found to be in conformance with the purposes and provisions of this Ordinance.*

In § 185-16D(1) we question whether the reference to 60 days should read 35 days. In the current state model ordinance this sentence reads: "However, if the Planning Board has a waiting list of applications, a decision on the application shall occur within 35 days after the first available date on the Planning Board's agenda following receipt of the completed application, or within 35 days of the public hearing, if the proposed use or structure is found to be in conformance with the purposes and provisions of this Ordinance." See 06-096 CMR Ch. 1000, § 16D.

Pick one option from list below

- ☒ Change 60 days to 35 days.
- ☒ Revise as follows:
- ☐ Do not revise.
- ☐ Defer decision until after Code publication.

Question 185-016

[Chapter 185 Shoreland Zoning](#)
[§ 185-16 Administration.](#)

Code Content:

[\[§ 185-16I\(1\)\]](#) *Appointment. There is hereby created a Board of Appeals of the Town of Windham created pursuant to the authority of 30-A M.R.S.A. § 2691. The members of the Board shall be residents of the Town. In accordance with the statutes, the following statutes shall apply:*

Section 185-16I(1) provides for the creation and appointment of the Board of Appeals. The inclusion of this subsection is puzzling as the appointment of the Board of Appeals is provided for in the Town's Land Use Ordinance. In addition, the wording "the following statutes shall apply" which appears in § 185-16I(1) seems inappropriate in the context of the Town's ordinance. As § 185-16I(1) appears to duplicate provisions in Chapter 120, Land Use, Article 11, Board of Appeals, perhaps this subsection could be replaced with a reference to the Land Use Ordinance as follows:

(1) Board of Appeals. See Chapter 120, Land Use, Article 11, Board of Appeals.

Pick one option from list below

☒ Replace § 185-16I(1) with reference to the Land Use Ordinance as suggested.

☐ Revise as follows:

☐ Do not revise.

☐ Defer decision until after Code publication.

Question 185-017

[Chapter 185 Shoreland Zoning](#)
[§ 185-16 Administration.](#)

Code Content:

[\[§ 185-16I\(3\)\(h\)\]](#) *Expiration date. The right of any variance from the terms of this chapter granted by the Board of Appeals shall expire if the work or change permitted under the variance is not begun within six months or substantially completed within **18 months** of the date of the vote by the Board.*

Section 185-16I(3)(h) provides that a variance expires if the work or change permitted under the variance is not substantially completed within 18 months of the date of the vote by the Board. In the Land Use Ordinance this time frame is one year. See § 120-1106A(6) (copy below). Should the time frame for a variance under the Land Use Ordinance and the Shoreland Zoning Ordinance be the same?

(6) Sunset provision. The right of any variance from the terms of this chapter granted by the Board of Appeals shall expire if the work or change permitted under the variance is not: (a) Begun within six months of the date of the Board's vote, or (b) Substantially completed within **one year** of the date of the Board's vote.

Pick one option from list below

☒ Change 18 months to one year.

☐ Revise as follows:

☐ Do not revise.

☐ Defer decision until after Code publication.

Question 185-018

[Chapter 185 Shoreland Zoning](#)
[§ 185-16 Administration.](#)

Code Content:

[\[§ 185-16J\(1\)\]](#) Meetings. *The Board of Appeals shall meet twice each month as called by the Chair. A quorum of the Board necessary to conduct an official Board meeting shall consist of at least three members. A majority vote of the quorum is required for the passage or denial of any appeal.*

Section 185-16J(1) indicates that the Board of Appeals meets twice a month. This provision conflicts with the Land Use Ordinance, which states that "The Board of Appeals shall meet at least once a month, unless no applications are pending." See § 120-1103A(1). The Town might want to consider whether any provisions in § 185-16 could be removed as covered by the Land Use Ordinance to avoid this kind of conflict.

Pick one option from list below

☒ Change "twice each month" to "at least once each month, unless no applications are pending."

☐ Revise as follows:

☐ Do not revise.

☐ Defer decision until after Code publication.