

Question 185-019

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

Code Content:

[\[§ 185-16K\(4\)\]](#) *Fines. Any person, including but not limited to a landowner, a landowner's agent or a contractor, who violates any provision or requirement of this Ordinance shall be penalized in accordance with 30-A M.R.S.A. § 4452.*

The note following § 185-16K(4) regarding the penalties in 30-A M.R.S.A. § 4452 reads: "Current penalties include fines of not less than \$100 nor more than \$2,500 per violation for each day that the violation continues. However, in a resource protection district the maximum penalty is increased to \$5,000." The statute now authorizes a fine of up to \$10,000 for violations within a resource protection district:

3. Civil penalties. The following provisions apply to violations of the laws and ordinances set forth in subsection 5. Except for paragraph H, monetary penalties may be assessed on a per-day basis and are civil penalties.

A. The minimum penalty for starting construction or undertaking a land use activity without a required permit is \$100, and the maximum penalty is \$2,500.

B. The minimum penalty for a specific violation is \$100, and the maximum penalty is \$5,000.

B-1. Notwithstanding paragraph B, the maximum penalty is \$10,000 for any violation of a law or an ordinance set forth in subsection 5, paragraph Q, if the violation occurs within an area zoned for resource protection. (Note: Subsection 5, paragraph Q, lists: "Shoreland zoning ordinances adopted pursuant to Title 38, sections 435 to 447, including those that were state-imposed;")

Pick one option from list below

☐ Change \$5,000 to \$10,000.

☒ Revise as follows:

Strike the note following 185-16K(4). The reference to the statute is adequate.

☐ Do not revise.

☐ Defer decision until after Code publication.

Question 185-020

[Chapter 185 Shoreland Zoning](#)
[§ 185-17 Definitions.](#)

Code Content:

[\[§ 185-17\]](#) *Please refer to previous pages for standards.*

The first line in § 185-17, Definitions, is "Please refer to previous pages for standards." It is not clear what this wording means or what standards are being referred to. Typically the first sentence in a definitions section would read: "As used this chapter, the following terms shall have the meanings indicated" or similar language.

Pick one option from list below

☒ Revise first sentence in § 185-17 to read "As used this chapter, the following terms shall have the meanings indicated:"

☐ Revise as follows:

☐ Defer decision until after Code publication.

Question 185-021

[Chapter 185 Shoreland Zoning](#)
[§ 185-17 Definitions.](#)

Code Content:

[\[AGRICULTURE\]](#) *The production, storage, keeping, harvesting, grading, packaging, processing, boarding or maintenance, for sale, lease, or personal use, of plants and animals useful to humans, including but not limited to: forages and sod crops; grains and seed crops; dairy animals and dairy products; poultry and poultry products; livestock, including beef cattle, sheep, swine, horses, ponies, mules, or goats or any mutations or hybrids thereof, including the breeding and grazing of any or all of such animals; bees and apiary products; fur animals; trees and forest berries; fruits and vegetables; nursery, floral, ornamental and green house products. **Agriculture does not include forestry or gardens, as defined in this chapter.** Please refer to § 185-15V.*

The definition of "agriculture" in § 185-17 includes the following: "Agriculture does not include forestry or gardens, as defined in this chapter." The terms "forestry" and "garden" are not defined or otherwise used in this chapter

Pick one option from list below

☒ Delete "as defined in this chapter."

☐ Revise as follows:

☐ Defer decision until after Code publication.

Question 185-022

[Chapter 185 Shoreland Zoning](#)
[§ 185-17 Definitions.](#)

Code Content:

[\[§ 185-17{9}A\]](#)

Section 185-17 includes a lengthy definition of "backlots" which refers to "wireless telecommunications facilities as defined in this section." The term "wireless telecommunications facilities" is not defined in this section. We question whether a definition of "backlot" is needed in Chapter 185 as this term is never used in this chapter.

Pick one option from list below

- ☒ Delete definition of "backlots" from § 185-17.
- ☐ Retain definition of "backlots" and revise to read "wireless telecommunications tower and facility as defined in Chapter 120, Land Use, § 120-301."
- ☐ Revise as follows:

- ☐ Defer decision until after Code publication.

Question 185-023

[Chapter 185 Shoreland Zoning](#)
[§ 185-17 Definitions.](#)

Code Content:

[\[CAMPGROUND \(PERSONAL\)\]](#) Any premises providing temporary accommodation for campers in any recreational vehicle or tent and used exclusively by **the owner of the property and his or campsites** and may not be utilized for more than 120 calendar days, excluding storage or a recreational unit. Refer to § 185-15E(1).

The definition of "campground (personal)" in § 185-17 does not make sense and appears to be missing wording. The definition of "campground, personal" in the Land Use Ordinance reads: "Any premises providing temporary accommodation on three or fewer campsites in a recreational vehicle or tent and used exclusively by the owner of the property and his or her family and friends. The definition of a personal campground does not include the storage of recreational vehicles.

Pick one option from list below

☒ Revise to match the definition from the Land Use Ordinance.

☐ Revise as follows:

☐ Defer decision until after Code publication.

Question 185-024

[Chapter 185 Shoreland Zoning](#)
[§ 185-17 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. § 2231, Subsection 1, or a marijuana product.*

The definition of "marijuana" in § 185-17 refers to the definition of industrial hemp 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 "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 185-025

[Chapter 185 Shoreland Zoning](#)
[§ 185-17 Definitions.](#)

Code Content:

[\[SUBDIVISION\]](#) *A subdivision is a division of a tract or parcel of land as defined in 30-A M.R.S.A. § 4401, as amended from time to time; provided, however, that the Town of Windham does hereby elect to count lots of 40 or more acres as lots for purposes of subdivision review. See [Appendix A for the State of Maine Subdivision definition.](#)*

The definition of "subdivision" in § 185-17 ends with: "See Appendix A for the State of Maine Subdivision definition." The copy we received of the Shoreland Zoning Ordinance did not include this appendix. If this appendix simply includes a copy of the definition from 30-A M.R.S.A. § 4401, which is already referenced in this definition, perhaps it is not needed.

Pick one option from list below

- ☒ Delete "See Appendix A for the State of Maine Subdivision definition."
- ☐ Include Appendix A; copy enclosed/attached.
- ☐ Revise as follows:

- ☐ Defer decision until after Code publication.

Question 192-001

[Chapter 192 Solid Waste](#)
[§ 192-3 Definitions and word usage.](#)

Code Content:

[\[ECOMAINE\]](#) *Ecomaine, formerly Regional Waste Systems, Inc., a noncapital stock, nonprofit corporation created pursuant to [Title 30, Chapter 203](#), and Title 13, Chapter 81, of the Maine Revised Statutes, or any successor thereto or assignee thereof.*

The definition of "ecomaine" in § 192-3 refers to Title 30, Chapter 203, of the Maine statutes. Former Title 30, Chapter 203, Interlocal Cooperation, was repealed in 1987. Should this reference be updated to Title 30-A, Chapter 115, Interlocal Cooperation?

Pick one option from list below

- ☒ Update reference to Title 30-A, Chapter 115.
- ☐ Revise as follows:
- ☐ Do not revise.
- ☐ Defer decision until after Code publication.

Question 192-002

[Chapter 192 Solid Waste](#)
[§ 192-3 Definitions and word usage.](#)

Code Content:

[FACILITY] *The facility described in the waste-handling agreement between the Town of Windham and ecomaine, formerly Regional Waste Systems, Inc., dated May 1, 1985, and subsequent amendments thereto.*

The definition of "facility" in § 192-3 refers to an agreement between the Town and ecomaine dated May 1, 1985. The definition of "waste handling agreement" in this section gives the date of this agreement as May 5, 1985. Which date is correct?

Pick one option from list below

- ☐ Correct date is May 1, 1985.
- ☐ Correct date is May 5, 1985.
- ☒ Revise as follows:
- ☐ Defer decision until after Code publication.

Question 192-003

[Chapter 192 Solid Waste](#)
[§ 192-3 Definitions and word usage.](#)

Code Content:

[WASTE HANDLING AGREEMENT] *A certain waste handling agreement dated May 5, 1985 between the Municipality and RWS.*

In the definition of "waste handling agreement" in § 192-3 the reference to "RWS" could be revised to read "ecomaine, formerly Regional Waste Systems, Inc.," for consistency with the rest 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 192-004

Chapter 192 Solid Waste

§ 192-12 Hauling, collection, renewal, transportation and disposal.

Code Content:

[§ 192-12A] Every commercial or industrial use or activity located within the Town shall haul, collect, remove, transport and dispose of commercial solid waste generated within the Town by itself or by agreement with a licensed commercial refuse transporter; provided, however, that all such hauling, collection, removal, transportation and disposal must be consistent with this Ordinance. Residential units shall haul, collect, remove, transport and dispose of residential refuse generated within the Town by agreement with a licensed residential refuse transporter or by hauling, collecting, removing, transporting and disposing of their own residential refuse generated within the Town at a solid waste disposal facility designated by the Town Council; provided, however, that all such hauling, collection, removal, transportation and disposal must be consistent with this Ordinance.

Section 192-12A provides that "Residential units shall haul, collect, remove, transport and dispose of residential refuse generated within the Town by agreement with a licensed residential refuse transporter" or by transporting their waste to the designated disposal facility. Section 192-9A provides: "The Town shall collect acceptable waste and recyclable materials from dwellings in the Town as provided in this ordinance." Section 192-9 also provides for the Town to enter into contracts with commercial haulers "for the collection and transport of acceptable waste and recyclable materials from dwellings in the Town." There appears to be a conflict between § 192-12, which indicates that residents must contract directly with a residential refuse transporter, and § 192-9, which indicates that the Town provides for residential refuse collection.

Pick one option from list below

☒ Revise as follows:

Residential units may haul, collect, remove, transport...

- ☐ Revise as follows: (revisions attached).
- ☐ Do not revise.
- ☐ Defer decision until after Code publication.

Question 192-005

Chapter 192 Solid Waste

§ 192-12 Hauling, collection, renewal, transportation and disposal.

Code Content:

[§ 192-12B] Any agreement for the hauling, collection, removal, transportation and disposal of commercial solid waste or residential refuse generated within the Town shall be by private contract between the person and the commercial refuse transporter or residential refuse transporter licensed by the Town for the purpose of hauling, collection, removal, transportation and disposal of such commercial solid waste or residential refuse.

Sections 192-12 through 192-15 refer to a "commercial refuse transporter" and "residential refuse transporter." Section 192-3 of this chapter includes definitions of "commercial or industrial solid waste hauler" and "commercial refuse collector"; the definition of "tipping fee" in § 192-3 refers to "commercial or industrial solid waste haulers" and "residential refuse haulers"; and the terms "commercial hauler" and "hauler" are used in § 192-9. Are any updates needed to make the terminology used in this chapter consistent?

Pick one option from list below

☐ Change "commercial or industrial solid waste hauler" and "commercial hauler" to "commercial refuse transporter"; change "residential refuse hauler" to "residential refuse transporter"; change "hauler" to "transporter"; delete the definition of "commercial refuse collector."

☒ Revise as follows:

change all references to commercial refuse transporter and residential refuse transporter to hauler

☐ Do not revise.

☐ Defer decision until after Code publication.

Question 192-006

[Chapter 192 Solid Waste](#)
[§ 192-13 License required: application.](#)

Code Content:

[\[§ 192-13C\]](#) Any person wishing to obtain a commercial or residential refuse collector license shall present a written application therefor on a form provided by the Town, accompanied by payment of a fee of \$500 for each license requested and a copy of a valid contract with the Town of Windham for disposal of all acceptable waste collected in the Town of Windham, such contract to remain in effect throughout the license year. A commercial or residential refuse collector license shall be issued by the Town Manager (the "Issuing Authority"). All fees collected shall be for the use of the Town.

Section 192-13C sets a fee of \$500 for refuse collector licenses. Is this fee up to date?

Pick one option from list below

☒ Replace "of \$500" with "set by the Town Council."

☐ Revise as follows:

☐ Do not revise.

☐ Defer decision until after Code publication.

Question 192-007

[Chapter 192 Solid Waste](#)
[§ 192-13 License required: application.](#)

Code Content:

[\[§ 192-13C\]](#) Any person wishing to obtain a **commercial or residential refuse collector license** shall present a written application therefor on a form provided by the Town, accompanied by payment of a fee of \$500 for each license requested and a copy of a valid contract with the Town of Windham for disposal of all acceptable waste collected in the Town of Windham, such contract to remain in effect throughout the license year. A commercial or residential refuse collector license shall be issued by the Town Manager (the "Issuing Authority"). All fees collected shall be for the use of the Town.

For consistency with the rest of § 192-13 and §§ 192-12, 192-14 and 192-15 of this chapter, the term "commercial or residential refuse collector license" in § 192-13C and D should be changed to "commercial or residential refuse transporter license."

Pick one option from list below

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

Question 192-008

[Chapter 192 Solid Waste](#)
[§ 192-16 Violations and penalties.](#)

Code Content:

[\[§ 192-16A\]](#) *Whoever violates any of the provisions of this Ordinance shall be subject to a civil violation and may be punished by a fine of not more than \$1,000 for the first violation and not more than \$2,000 for the second and subsequent violations, plus costs, including attorney's fees and costs, which fine shall be recovered on complaint to the use of the Town. Each day upon which any continuing violation of any provisions of this Ordinance shall occur shall constitute a separate violation, and each incident of disposal of solid waste in violation of this Ordinance shall constitute a separate violation. In addition, the Town may seek equitable relief, including but not limited to injunctive relief and indemnification of the Town's liquidated damages to ecomaine, and attorney's fees and costs to ensure compliance with the terms of this Ordinance.*

Section 192-16A sets the penalty for violations of Chapter 192, Solid Waste, at not more than \$1,000 for a first offense and not more than \$2,000 for a second and subsequent offenses. Is this penalty still satisfactory?

Pick one option from list below

☐ Revise as follows:

☒ Do not revise.

☐ Defer decision until after Code publication.

Question 198-001

[Chapter 198 Storm Drainage System](#)
[Article I Non-Stormwater Discharge](#)
[§ 198-2 Definitions.](#)

Code Content:

[REGULATED SMALL MS4] Any Small MS4 regulated by the State of Maine "General Permit for the Discharge of Stormwater from Small Municipal Separate Storm Sewer Systems" dated **June 3, 2003** ("General Permit"), including all those located partially or entirely within an Urbanized Area (UA) and those additional Small MS4s located outside a UA that as of the issuance of the General Permit have been designated by the DEP as Regulated Small MS4s.

The definition of "regulated small MS4" in § 198-2 refers to a general permit dated June 3, 2003. This date is also referenced in § 198-10. Is an update needed? In the Post-Construction Stormwater Management Ordinance, Chapter 201, Article II, in the Manuscript, the definition of "regulated small MS4" in § 201-18 refers to a general permit with an effective date of July 1, 2008:

REGULATED SMALL MS4 – Any small MS4 regulated by the State of Maine General Permit for the Discharge of Stormwater from Small Municipal Separate Storm Sewer Systems (General Permit), effective **July 1, 2008**, including all those located partially or entirely within an urbanized area (UA) and those additional small MS4s located outside a UA that as of the issuance of the General Permit have been designated by the DEP as regulated small MS4s.

Pick one option from list below

☒ Delete "dated June 3, 2003" and "effective July 1, 2008" so that no specific date is included for the general permit.

☐ Revise as follows:

☐ Do not revise.

☐ Defer decision until after Code publication.

Question 198-002

[Chapter 198 Storm Drainage System](#)
[Article I Non-Stormwater Discharge](#)
[§ 198-2 Definitions.](#)

Code Content:

[\[URBANIZED AREA \("UA"\)\]](#) *The areas of the State of Maine so defined by the latest decennial (2000) census by the U.S. Bureau of the Census.*

The definition of "urbanized area" in § 198-2 refers to the latest decennial census as the 2000 census. Should 2000 be updated to 2020 or simply deleted?

Pick one option from list below

- ☒ Delete "(2000)."
- ☐ Change 2000 to 2020.
- ☐ Revise as follows:
- ☐ Do not revise.
- ☐ Defer decision until after Code publication.

Question 198-003

[Chapter 198 Storm Drainage System](#)
[Article II Catch Basin Discharge](#)
[§ 198-15 Required activities.](#)

Code Content:

[\[§ 198-15D\]](#) *Payment to the Town of a \$25 filing fee, plus \$25 for each catch basin if the annual inspection under Subsection B is performed by the Public Works Department, or payment of a \$25 filing fee if the report is completed and signed by a certified professional engineer registered in the State of Maine.*

Section 198-15D sets a filing fee of \$25 for annual inspections of stormwater or nonstormwater discharge systems; this subsection also provides for an additional fee of \$25 per catch basin if the annual inspection is performed by the Town's Public Works Department. Is any revision desired?

Pick one option from list below

☒ Revise to read "Payment to the Town of a filing fee, plus a fee for each catch basin if the annual inspection under Subsection B is performed by the Public Works Department, or payment of a filing fee if the report is completed and signed by a certified professional engineer registered in the State of Maine. Fees shall be set by the Town Council."

☐ Revise as follows:

☐ Do not revise.

☐ Defer decision until after Code publication.

Question 198-004

[Chapter 198 Storm Drainage System](#)
[Article II Catch Basin Discharge](#)
[§ 198-15 Required activities.](#)

Code Content:

[\[§ 198-15D\]](#) *Payment to the Town of a \$25 filing fee, plus \$25 for each catch basin if the annual inspection under Subsection B is performed by the Public Works Department, or payment of a \$25 filing fee if the report is completed and signed by a **certified professional engineer registered in the State of Maine.***

In § 198-15D should "engineer registered in the State of Maine" be revised to "engineer licensed in the State of Maine"? Title 32, Chapter 19, of the Maine statutes provides for licensing of engineers.

Pick one option from list below

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

Question 201-001

[Chapter 201 Stormwater Management](#)
[Article I Surface Water Protection](#)
[§ 201-2 Authority.](#)

Code Content:

[\[§ 201-2\]](#) *This Ordinance has been prepared in accordance with the provisions of 38 M.R.S.A. §§ 435 through **449.***

Section 201-2 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 201-002

[Chapter 201 Stormwater Management](#)
[Article I Surface Water Protection](#)
[§ 201-6 Soils.](#)

Code Content:

[\[§ 201-6\]](#) *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. Licensed, registered or certified professionals may include Maine Certified Soil Scientists, **Maine Registered Professional Engineers**, Maine State Certified Geologists and other licensed, registered or certified professionals who have proof of 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 groundwater 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.*

Section 201-6 refers to Maine registered professional engineers. Section 201-9E also refers to a "registered engineer." Should "registered" be changed to "licensed" in these references? Engineers in Maine are now required to be licensed pursuant to Title 32, Chapter 19, of the Maine statutes.

Pick one option from list below

- ☒ Change "registered" to "licensed" in §§ 201-6 and 201-9E.
- ☐ Revise as follows:
- ☐ Do not revise.
- ☐ Defer decision until after Code publication.

Question 201-003

[Chapter 201 Stormwater Management](#)
[Article I Surface Water Protection](#)
[§ 201-11 Stormwater runoff.](#)

Code Content:

[\[§ 201-11E\(1\)\(a\)\[4\]\]](#) Fifteen Points for the installation of rock-lined drip edges or other infiltration system to serve no less than 50% of the new impervious area on the site. Test pit information certified by a Licensed Site Evaluator; Certified Soil Scientists (CSS) or Certified Geologist (CG) must show that three feet of separation exists between the Seasonal High Groundwater Table and the bottom of any proposed infiltration structure. Infiltration systems must be sized to accommodate one inch of runoff from contributing impervious areas within the structure (this will include an assumption of 30% void space in washed stone) and designed in accordance with the details following approved engineering practices and techniques as published by the Maine Department of Environmental Best Management Practices (BMPs).

The following wording appears four times in § 201-11 and is incomplete: "as published by the Maine Department of Environmental Best Management Practices (BMPs)." Should this wording read "as published in the Maine Department of Environmental Protection's Best Management Practices (BMPs)"?

Pick one option from list below

☒ Revise to read "as published in the Maine Department of Environmental Protection's Best Management Practices (BMPs)."

☐ Revise as follows:

☐ Defer decision until after Code publication.

Question 201-004

[Chapter 201 Stormwater Management](#)
[Article I Surface Water Protection](#)
[§ 201-11 Stormwater runoff.](#)

Code Content:

[\[§ 201-11E\(1\)\(b\)\[2\]\]](#) Five Points deducted for *clearing more than 50% disturbance.*

In § 201-11E(1)(b)[2] is the wording "clearing more than 50% disturbance" correct?

Pick one option from list below

☒

Revise as follows:

☐

Do not revise.

☐

Defer decision until after Code publication.

Question 201-005

[Chapter 201 Stormwater Management](#)
[Article I Surface Water Protection](#)
[§ 201-12 Conditions of permits.](#)

Code Content:

[\[§ 201-12\]](#) *Permits granted under this article may be made subject to additional conditions or restrictions to ensure conformity with the purposes and provisions of this article. Each application for a building permit shall be accompanied by the building permit fee set by the Town. Each application to the Code Enforcement Officer for a permit to erect a new building or structure or to enlarge or to move an existing one shall be accompanied by a site plan showing the measurements of the lot and of all buildings, driveways, yards and parking spaces, drainage ways, storm drains, streams existing and proposed, the intended use of land and buildings shall be indicated clearly. Additional measures may be required in order to comply with this ordinance, such as drainage ways and easements, soil erosion control measures, and all features to be installed for compliance with this Ordinance. Any other application for a building permit and any application for a permit shall be accompanied by a description of the intended use or use of the land and buildings and such further details as the Code Enforcement Officer may require for a clear understanding of the case.*

The third sentence in § 201-12 is incorrect; the inclusion of both "showing" and "shall be indicated clearly" does not make sense. Perhaps the following revision could be made:

Each application to the Code Enforcement Officer for a permit to erect a new building or structure or to enlarge or to move an existing one shall be accompanied by a site plan showing the measurements of the lot and of all buildings, driveways, yards and parking spaces[,]. Drainage ways, storm drains, streams, existing and proposed, and the intended use of land and buildings shall be indicated clearly.

Pick one option from list below

☒ Revise as suggested.

☐ Revise as follows:

☐ Defer decision until after Code publication.

Question 201-006

[Chapter 201 Stormwater Management](#)
[Article I Surface Water Protection](#)
[§ 201-12 Conditions of permits.](#)

Code Content:

[\[§ 201-12\]](#) *Permits granted under this article may be made subject to additional conditions or restrictions to ensure conformity with the purposes and provisions of this article. Each application for a building permit shall be accompanied by the building permit fee set by the Town. Each application to the Code Enforcement Officer for a permit to erect a new building or structure or to enlarge or to move an existing one shall be accompanied by a site plan showing the measurements of the lot and of all buildings, driveways, yards and parking spaces, drainage ways, storm drains, streams existing and proposed, the intended use of land and buildings shall be indicated clearly. Additional measures may be required in order to comply with this ordinance, such as drainage ways and easements, soil erosion control measures, and all features to be installed for compliance with this Ordinance. Any other application for a building permit and any application for a permit shall be accompanied by a description of the intended use or use of the land and buildings and such further details as the Code Enforcement Officer may require for a clear understanding of the case.*

In § 201-12 is the wording "the intended use or use of the land" correct? Is the inclusion of "use" twice a mistake, or is wording missing, such as "the intended use or existing use of the land"?

Pick one option from list below

- ☐ Revise to read "the intended use of the land."
- ☐ Revise to read "the intended use or existing use of the land."
- ☒ Revise as follows:

...a description of the proposed use and existing use of the land...

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

Question 201-007

[Chapter 201 Stormwater Management](#)
[Article I Surface Water Protection](#)
[§ 201-13 Appeals.](#)

Code Content:

[\[§ 201-13A\]](#) *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 201-13A provides for the creation and appointment of the Board of Appeals and is an exact duplicate of § 185-16I(1) in Chapter 185, Shoreland Zoning. The Board of Appeals is also provided for in Chapter 120, Land Use, Article 11, Board of Appeals. We typically see a single ordinance providing for the establishment of the Board of Appeals. Note also that the wording "the following statutes shall apply" is not really appropriate in the context of a local ordinance. As noted with respect to § 185-16I(1), the Town might to consider replacing § 201-13A with a reference to the Land Use Ordinance as follows:

A. Board of Appeals. See Chapter 120, Land Use, Article 11, Board of Appeals.

Pick one option from list below

☒ Revise as suggested.

☐ Revise as follows:

☐ Do not revise.

☐ Defer decision until after Code publication.

Question 201-008

[Chapter 201 Stormwater Management](#)
[Article I Surface Water Protection](#)
[§ 201-14 Procedure.](#)

Code Content:

[\[§ 201-14A\]](#) 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 201-14 establishes procedures for the Board of Appeals. We recommend that the Town consider whether any of the provisions in this section should be removed or revised in light of the procedures for the Board of Appeals already provided in the Land Use Ordinance, Chapter 120, Article 11, Board of Appeals. For example, § 201-14A provides that "The Board of Appeals shall meet twice each month." In the Land Use Ordinance, § 120-1103A(1) provides: "The Board of Appeals shall meet at least once a month, unless no applications are pending."

Pick one option from list below

☒ Revise as follows:

Kristin? - multiple references to board of appeals function/meetings in multiple ordinances
(Can creation and procedure exist only in LOU)

- ☐ Revise as follows: (revisions attached).
- ☐ Do not revise.
- ☐ Defer decision until after Code publication.

Question 201-009

[Chapter 201 Stormwater Management](#)
[Article I Surface Water Protection](#)
[§ 201-14 Procedure.](#)

Code Content:

[\[§ 201-14D\]](#) Appeals. Any person and any municipal official or board of officials aggrieved by a decision of the Code Enforcement Officer or who wishes to request a variance from this article or who wishes a use permit may file an application with the Board of Appeals. An appeal of a decision made by the Code Enforcement Officer must be filed within 30 days of the date of the decision. Application materials submitted to the Board must include a completed application form, including a location and site plan if appropriate, and **a fee of \$200**, which must be submitted to the Code Enforcement Officer at the time the appeal request is submitted. All application materials must be submitted for the Board's review at least 14 days prior to the Board meeting at which the applicant wishes to be heard. All meetings of the Board are public hearings. At the public hearing, the applicant or his representative must appear before the Board to present the proposal and to answer questions. Other interested parties, such as adjacent property owners, will also be permitted to speak for or against the appeal. Written notice of the decision of the Board shall be sent to the appellant within seven days of the date of the decision. Any aggrieved party may appeal from the decision of the Board to the Superior Court within 45 days of the decision date.

Section 201-14D sets a fee of \$200 for a variance application. According to the fee schedule attached to the Land Use Ordinance as Appendix A the current fee is \$400.

Pick one option from list below

☒ Revise to read "a fee set by the Town Council."

☐ Revise as follows:

☐ Do not revise.

☐ Defer decision until after Code publication.

Question 201-010

[Chapter 201 Stormwater Management](#)
[Article I Surface Water Protection](#)
[§ 201-14 Procedure.](#)

Code Content:

[\[§ 201-14F\]](#) *Reconsideration. In accordance with 30-A M.R.S.A. § 2691, Subsection 3F, the Board may reconsider any decision reached under this section **within 30 days** of its prior decision. A vote to reconsider and the action taken on that reconsideration must occur and be completed within 30 days of the date of the vote on the original decision. The Board may conduct additional hearings and receive additional evidence and testimony as provided in this section.*

The time frame of 30 days which is stated twice in § 201-14F for reconsideration of a decision by the Board of Appeals should be 45 days pursuant to 30-A M.R.S.A. § 2691, Subsection 3F, which provides as follows (emphasis added):

*The board may reconsider any decision reached under this section **within 45 days** of its prior decision. A request to the board to reconsider a decision must be filed within 10 days of the decision that is to be reconsidered. A vote to reconsider and the action taken on that reconsideration must occur and be completed **within 45 days** of the date of the vote on the original decision. The board may conduct additional hearings and receive additional evidence and testimony as provided in this subsection.*

Pick one option from list below

☒ Change 30 days to 45 days.

☐ Revise as follows:

☐ Do not revise.

☐ Defer decision until after Code publication.

Question 201-011

[Chapter 201 Stormwater Management](#)
[Article I Surface Water Protection](#)
[§ 201-14 Procedure.](#)

Code Content:

[\[§ 201-14G\]](#) *Expiration date. The right of any variance from the terms of this article 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 201-14G 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 Surface Water Protection 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 201-012

[Chapter 201 Stormwater Management](#)
[Article I Surface Water Protection](#)
[§ 201-15 Enforcement.](#)

Code Content:

[\[§ 201-15B\(3\)\]](#) *The Code Enforcement Officer shall keep a complete record of all essential transactions of the office, including applications submitted, permits granted or denied, variances granted or denied, revocation actions, revocation of permits, appeals, court actions, violations investigated, violations found, and fees collected. On a biennial basis, a summary of this record shall be submitted to the Director of the Bureau of Land Quality Control within the Department of Environmental Protection.*

In § 201-15B(3) we question whether the last sentence is still needed: "On a biennial basis, a summary of this record shall be submitted to the Director of the Bureau of Land Quality Control within the Department of Environmental Protection." The following similar wording was deleted from 38 M.R.S.A. § 441, Subsection 3C, in 2013: "On a biennial basis, beginning in 1992, a summary of this record must be submitted by March 1 to the Director of the Bureau of Land Quality Control within the Department of Environmental Protection."

Pick one option from list below

☒ Delete the last sentence of § 201-15B(3).

☐ Revise as follows:

☐ Do not revise.

☐ Defer decision until after Code publication.

Question 201-013

[Chapter 201 Stormwater Management](#)
[Article I Surface Water Protection](#)
[§ 201-15 Enforcement.](#)

Code Content:

[\[§ 201-15D\]](#) *Fines. Any person, including but not limited to a landowner, a landowner's agent or a contractor, who orders or conducts any activity in violation of this article shall be penalized in accordance with 30-A M.R.S.A. § 4452. Current penalties include fines of not less than \$100 nor more than \$2,500 per violation for each day that the violation continues.*

Section 201-15D sets a penalty for violations of Article I, Surface Water Protection, in accordance with 30-A M.R.S.A. § 4452. This penalty reflects current statutory provisions and should not be changed.

Question 201-014

[Chapter 201 Stormwater Management](#)
[Article II Post-Construction Stormwater Management](#)
[§ 201-18 Definitions.](#)

Code Content:

[\[URBANIZED AREA \("UA"\)\]](#) The areas of the State of Maine so defined by the **latest decennial (2000) census** by the U.S. Bureau of the Census.

The definition of "urbanized area" in § 201-18 refers to the latest decennial census as the 2000 census. Should 2000 be updated to 2020 or simply deleted?

Pick one option from list below

- ☒ Delete "(2000)."
- ☐ Change 2000 to 2020.
- ☐ Revise as follows:

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

Question 201-015

[Chapter 201 Stormwater Management](#)
[Article II Post-Construction Stormwater Management](#)
[§ 201-21 Post-construction stormwater management plan compliance.](#)

Code Content:

[\[§ 201-21A\(4\)\]](#) *In addition, any persons required to file an annual certification under this § 201-21 shall include with the annual certification payment in the amount of _____ Dollars (\$ _____) to pay the administrative and technical costs of review of the annual certification.*

Section 201-21A(4) provides for an annual certification payment to cover the administrative and technical costs of annual certification review. The amount has been left blank. Does the Town wish to add a payment amount?

Pick one option from list below

☒ Revise as follows: "... payment in the amount set by the Town Council to pay the administrative and technical costs ..."

☐ Revise as follows:

☐ Defer decision until after Code publication.

Question 204-001

[Chapter 204 Streets and Sidewalks](#)

[Article I Excavations](#)

[§ 204-5 Fees.](#)

Code Content:

[\[§ 204-5\]](#) A **fee of \$100** shall be paid for each issuance and/or renewal of an excavation permit.

Section 204-5 sets a fee of \$100 for excavation permit issuance or renewal. Is this fee up to date?

Pick one option from list below

☒ Replace "of \$100" with "set by the Town Council."

☐ Revise as follows:

☐ Do not revise.

☐ Defer decision until after Code publication.

Question 204-002

[Chapter 204 Streets and Sidewalks](#)

[Article I Excavations](#)

[§ 204-17 Violations and penalties.](#)

Code Content:

[\[§ 204-17A\]](#) Any person, firm or corporation who violates any of the provisions of this article shall be guilty of a civil violation and, upon conviction thereof, shall be **fin***ed not less than \$25 nor more than \$500*. Each day that such violation continues shall constitute a separate offense.

Section 204-17A sets a penalty for violations of Article I, Excavations, at not less than \$25 nor more than \$500. Is this penalty still satisfactory?

Pick one option from list below

☐ Revise as follows:

☒ Do not revise.

☐ Defer decision until after Code publication.

Question 204-003

[Chapter 204 Streets and Sidewalks](#)
[Article II Street Naming and Addressing](#)
[§ 204-24 New construction and subdivisions.](#)

Code Content:

[\[§ 204-24A\]](#) *New construction. Whenever any residence or other structure is constructed or developed, it shall be the duty of the new owner to obtain an assigned number from the Assessing Department. This shall be done at the time of the issuance of the building permit. Prior to the issuance of any building permits, the Code Enforcement Officer shall ensure that a street sign has been erected. Prior to issuance of **occupancy permits** for new structures, the Code Enforcement Officer shall ensure that the proper location numbers are displayed on the building.*

In § 204-24A should "occupancy permits" be changed to "certificates of occupancy"? See Chapter 120, Land Use, § 120-1003, Certificate of occupancy.

Pick one option from list below

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

Question 204-004

[Chapter 204 Streets and Sidewalks](#)
[Article II Street Naming and Addressing](#)
[§ 204-26 Enforcement.](#)

Code Content:

[\[§ 204-26\]](#) *The Code Enforcement Officer, with the advice and consent of the Town Manager, is authorized to institute or cause to be instituted by the Town Council, in the name of the Town of Windham, any and all actions, legal or equitable, that may be appropriate or necessary for the enforcement of this article; provided, however, that this section shall not prevent any person entitled to equitable relief from enjoining any act contrary to the provisions of this article.*

Section 204-26 authorizes the Code Enforcement Officer to enforce Article II, Street Naming and Addressing, but no penalty is prescribed for violations of this article. Should a penalty be added?

Pick one option from list below

☐ Revise as follows:

☒ Do not revise.

☐ Defer decision until after Code publication.

Question 215-001

[Chapter 215 Towing and Towing Businesses](#)
[§ 215-11 License fee.](#)

Code Content:

[\[§ 215-11\]](#) An annual license registration fee for each towing business requesting placement on the towing rotation list shall be \$100. An annual vehicle administrative fee for each vehicle shall be \$50. These fees will be payable in advance and non-refundable. The administrative fee for each tow vehicle is vehicle specific and non-transferable. These fees are not in lieu of required state inspections, but merely to assure that the vehicles are properly registered, have an appropriate inspection sticker and meet the requirements of this ordinance. (Notation: To accommodate the change in the renewal date cited in § 215-10, only for the year 2020, the annual license fee for each towing business will be \$50. The fee for each tow vehicle will be \$25.)

Section 215-11 sets a license registration fee of \$100 for towing businesses on the towing rotation list, with an additional fee of \$50 for each tow vehicle. Provision is also made for an annual license fee of \$50 and tow vehicle fee of \$25 for the year 2020 only. Is any revision desired?

Pick one option from list below

- ☒ Revise to state that fees are set by the Town Council; delete the last sentence stating the fees for 2020.
- ☐ Revise as follows:

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

Question 215-002

[Chapter 215 Towing and Towing Businesses](#)
[§ 215-12 Regulation of rates.](#)

Code Content:

[\[§ 215-12\]](#) *Maximum rates for services* regulated by this chapter may be established.

Section 215-12 provides that "Maximum rates for services regulated by this chapter may be established." A table of rates then follows which the notes in the copy for this chapter indicate was adopted by the Town Council in October 2015. Does this table reflect the current rates, and should these rates be included in the Code? An alternative would be to revise § 215-12 to read as follows:

Maximum rates for services regulated by this chapter may be established by the Town Council and filed in the office of the Town Clerk.

Pick one option from list below

☒ Remove table of rates from § 215-12 and revise wording as suggested.

☐ Revise as follows:

☐ Do not revise.

☐ Defer decision until after Code publication.

Question 228-001

[Chapter 228 Vehicles and Traffic](#)

[Article I Speeding](#)

[§ 228-6 Violations and penalties.](#)

Code Content:

[\[§ 228-6\]](#) *Violation of the speed limits established by this article shall be considered a traffic infraction and subject the offender to a civil penalty in an amount of not less than \$25 nor more than \$100.*

Section 228-6 sets a penalty of not less than \$25 nor more than \$100 for violations of Article I, Speeding. Is this penalty still satisfactory? The current maximum fine for a traffic infraction under 29-A M.R.S.A. § 103 is \$500: "The exclusive penalty for a traffic infraction is a fine of not less than \$25 nor more than \$500, unless specifically authorized, or suspension of a license, or both."

Pick one option from list below

☒ Change maximum fine from \$100 to \$500.

☐ Revise as follows:

☐ Do not revise.

☐ Defer decision until after Code publication.

Question 228-002

[Chapter 228 Vehicles and Traffic](#)
[Article II Traffic and Parking](#)
[§ 228-7 Definitions.](#)

Code Content:

[\[DISABILITY PARKING\]](#) *A person shall not park a vehicle in a parking stall specifically designated and clearly marked for persons with physical disabilities unless the vehicle is equipped with a special designating plate or displays placard issued by the Secretary of State under the provisions of and in compliance with 29-A M.R.S.A. § 521. A person shall not park in an access aisle adjacent to a disability parking space regardless of whether the person has been issued a disability registration plate or removable placard by the State of Maine. Disability access aisles shall be marked by painting on the pavement a rectangular box with white or yellow diagonal stripes.*

The text which appears as a definition of "disability parking" in § 228-7 does not actually define the term "disability parking." This wording prohibits unauthorized parking in designated parking stalls; it is not a definition. In addition, the first sentence contains essentially the same restriction as § 228-14A, Disability parking. We recommend that this wording be moved to § 228-14A, Disability parking, and combined with the existing wording in that subsection so that it reads as follows:

§ 228-14. Parking.

A. Disability parking. It shall be unlawful for any vehicle to park in a disability parking space without bearing a special registration plate or placard issued under 29-A M.R.S.A. § 521 or a similar plate issued by another state. ~~A person shall not park a vehicle in a parking stall specifically designated and clearly marked for persons with physical disabilities unless the vehicle is equipped with a special designating plate or displays a placard issued by the Secretary of State under the provisions of and in compliance with 29-A M.R.S.A. § 521.~~ A person shall not park in an access aisle adjacent to a disability parking space regardless of whether the person has been issued a disability registration plate or removable placard by the State of Maine or another state. Disability access aisles shall be marked by painting on the pavement a rectangular box with white or yellow diagonal stripes.

Pick one option from list below

☒ Revise as suggested.

☐ Revise as follows:

☐ Do not revise.

☐ Defer decision until after Code publication.

Question 228-003

[Chapter 228 Vehicles and Traffic](#)
[Article II Traffic and Parking](#)
[§ 228-8 Traffic control devices.](#)

Code Content:

[\[§ 228-8B\]](#) All traffic control devices shall conform to the manual and specifications which may be approved by the **State Highway Commission**; but, on such devices as the State Highway Commission has issued no regulation, they shall be such devices as are approved by the Chief of Police. All traffic control devices so erected and not inconsistent with the provisions of state law or this article shall be official traffic control devices.

In § 228-8B should the references to the State Highway Commission be updated to the State Department of Transportation?

Pick one option from list below

- ☐ Update to the State Department of Transportation.
- ☒ Revise as follows: [change both references to Maine D.O.T.](#)
- ☐ Do not revise.
- ☐ Defer decision until after Code publication.

Question 228-004

[Chapter 228 Vehicles and Traffic](#)
[Article II Traffic and Parking](#)
[§ 228-9 Stopping, standing and parking.](#)

Code Content:

[\[§ 228-9A\(5\)\]](#) Oversize vehicles. A driver of a vehicle having an overall length of 30 feet or more shall not stop or park on any public way, for not more than eight hours.

Section 228-9A(5) currently reads "shall not stop or park...for not more than eight hours." It appears the second "not" should be deleted so that this wording reads "shall not stop or park on any public way for ~~not~~ more than eight hours."

Pick one option from list below

- ☒ Revise to read "shall not stop or park on any public way for more than eight hours."
- ☐ Revise as follows:

- ☐ Defer decision until after Code publication.

Question 228-005

[Chapter 228 Vehicles and Traffic](#)

[Article II Traffic and Parking](#)

[§ 228-9 Stopping, standing and parking.](#)

Code Content:

[\[§ 228-9B\(1\)\]](#) *No commercial vehicle in excess of 10,000 pounds gross weight shall be allowed to stop, stand, or otherwise park upon any street in excess of two eight hours, except when in active use for the loading or unloading of merchandise or materials, or for the construction or reconstruction of said street.*

In § 228-9B(1) the wording "in excess of two eight hours" does not make sense. Should this wording read "two hours" or "eight hours"?

Pick one option from list below

- ☐ Revise to read "in excess of two hours."
- ☐ Revise to read "in excess of eight hours."
- ☒ Revise as follows: in excess of eight hours in a twenty-four hour period, except...
- ☐ Defer decision until after Code publication.

Question 228-006

[Chapter 228 Vehicles and Traffic](#)
[Article II Traffic and Parking](#)
[§ 228-10 Signs.](#)

Code Content:

[\[§ 228-10A\]](#) *The provisions of this article for which signs are required shall be enforced against an alleged violator if, at the time and place of the alleged violation, an official sign is not in proper position and sufficiently legible to be seen by an ordinarily observant person.*

In § 228-10A the wording "an official sign is not in proper position" apparently should read "an official sign is in proper position" as follows:

The provisions of this article for which signs are required **shall be enforced** against an alleged violator if, at the time and place of the alleged violation, an official sign is ~~not~~ in proper position and sufficiently legible to be seen by an ordinarily observant person.

Pick one option from list below

☒ Revise as suggested.

☐ Revise as follows:

☐ Defer decision until after Code publication.

Question 228-007

[Chapter 228 Vehicles and Traffic](#)

[Article II Traffic and Parking](#)

[§ 228-12 Powers and duties of Chief of Police.](#)

Code Content:

[\[§ 228-12A\(6\)\]](#) *Determine and designate intersections where traffic conditions require some type of traffic control, but where traffic volumes, both vehicular and pedestrian, and other factors indicate that neither traffic signals nor stop signs are warranted and to erect at every such place a sign stating "yield right-of-way." Every such yield right-of-way sign shall conform in design and color to specifications adopted by the **State Highway Department** of the State of Maine. Every such sign shall be reflectorized to provide good visibility after dark. The driver of a vehicle approaching a yield-right-of-way sign shall slow to the legal speed for such intersection, yielding the right-of-way to all traffic on the intersection street which is so close as to constitute an immediate hazard.*

In § 228-12A(6) should the reference to the State Highway Department be updated to the State Department of Transportation?

Pick one option from list below

☐ Update to State Department of Transportation.

☒ Revise as follows:

☐ Do not revise.

☐ Defer decision until after Code publication.

Question 228-008

[Chapter 228 Vehicles and Traffic](#)
[Article II Traffic and Parking](#)
[§ 228-14 Parking.](#)

Code Content:

[\[§ 228-14B\]](#) *No person shall stand or park a vehicle upon any roadway for the principal reason of:*

Section 228-14B provides that: "No person shall stand or park a vehicle upon any roadway for the principal reason of: (1) Displaying it for sale. (2) Washing, greasing, or repairing such vehicle except for repairs necessitated by an emergency. (3) The primary purpose of advertising." Section 228-9A(6) contains essentially the same restrictions: "A person shall not park a vehicle on any public way for the principal purpose of washing, lubricating, or displaying it for sale, or repairing it, except for changing tires or making other emergency repairs." Could one of these subsections be removed?

Pick one option from list below

☐ Delete § 228-9A(6).

☒ Delete § 228-14B.

☐ Revise as follows:

☐ Do not revise.

☐ Defer decision until after Code publication.

Question 228-009

[Chapter 228 Vehicles and Traffic](#)

[Article II Traffic and Parking](#)

[§ 228-21 Violations and penalties.](#)

Code Content:

[\[§ 228-21\]](#) Any violation of any provision of this article shall be a traffic infraction. A violation or a traffic infraction shall be punished by a **fine of not less than \$25 nor more than \$200.**

Section 228-21 sets a penalty of not less than \$25 nor more than \$200 for violations of Article II, Traffic and Parking. Is this penalty still satisfactory? The current maximum fine for a traffic infraction under 29-A M.R.S.A. § 103 is \$500: "The exclusive penalty for a traffic infraction is a fine of not less than \$25 nor more than \$500, unless specifically authorized, or suspension of a license, or both."

Pick one option from list below

☒ Change maximum fine from \$200 to \$500.

☐ Revise as follows:

☐ Do not revise.

☐ Defer decision until after Code publication.

Question 228-010

[Chapter 228 Vehicles and Traffic](#)
[Article II Traffic and Parking](#)
[§ 228-21 Violations and penalties.](#)

Code Content:

[\[§ 228-21\]](#) Any violation of any provision of this article shall be a **traffic infraction**. A violation or a traffic infraction shall be punished by a fine of not less than \$25 nor more than \$200.

Section 228-21 sets a penalty for violations of Article II, Traffic and Parking, of not less than \$25 nor more than \$200. Section 228-14A of Article II deals with disability parking. Pursuant to 30-A M.R.S.A. § 3009, Subsection D(3), the fine for a disability parking violation is required to be not less than \$200 nor more than \$500; see text below. Should a separate penalty for disability parking violations be included in § 228-21?

30-A M.R.S.A. § 3009D:

(2-A) Enforcement of disability parking restrictions must be in accordance with Title 29-A, section 521, subsection 9-A.

(3) Any vehicle or motorcycle parked in a parking space clearly marked as a disability parking space and that does not bear a special registration plate or placard issued under Title 29-A, section 521 or 523, or a similar plate issued by another state, must be cited for a fine of not less than \$200 and not more than \$ 500. "Clearly marked" includes painted signs on pavement and vertical standing signs that are visible in existing weather conditions.

Pick one option from list below

☒ Add: to § 228-21: "except that a violation of § 228-14A, Disability parking, shall be punished by a fine of not less than \$200 nor more than \$500."

☐ Revise as follows:

☐ Do not revise.

☐ Defer decision until after Code publication.

Question 228-011

[Chapter 228 Vehicles and Traffic](#)

[Article II Traffic and Parking](#)

[§ 228-22 No-parking/tow-away zones.](#)

Code Content:

[\[§ 228-22F\]](#) *Within 15 feet of any fire hydrant, including dry hydrants, unless otherwise specified by action of the Town Council.*

There are two different sections in Chapter 228, Article II, which prohibit parking within 15 feet of a fire hydrant. Section 228-9A(1)(d) prohibits stopping or parking a vehicle "Within 15 feet of a fire hydrant, except as otherwise designated by the Chief of Police." Section 228-22F then prohibits parking "Within 15 feet of any fire hydrant, including dry hydrants, unless otherwise specified by action of the Town Council." Should one of these subsections be deleted?

Pick one option from list below

☐ Delete § 228-9A(1)(d).

☐ Delete § 228-22F.

☐ Revise as follows:

☒ Do not revise.

☐ Defer decision until after Code publication.

Question 228-012

[Chapter 228 Vehicles and Traffic](#)
[Article II Traffic and Parking](#)
[§ 228-24 Idling prohibited.](#)

Code Content:

[\[§ 228-24\]](#) The **idling of buses**, heavy-duty vehicles, heavy-duty recovery vehicles, trucks, tractors, truck-tractors, trailers and semitrailers, as those terms as defined in Title 29-A M.R.S.A. while stopped, standing or parked in a residentially used area between the hours of 10:00 p.m. and 6:00 a.m. except as provided for in compliance with traffic signals or signs, at the direction of a police officer or while buses are in the act of loading or unloading passengers. This prohibition shall not apply to emergency vehicles of the police department, sheriff's office, fire department, nor to any public or private ambulances, nor to any public works or public utility vehicles where actually engaged in the performance of emergency or operational duties necessary to be performed by said public departments or public utilities, nor to any vehicle owned by or performing for the United States of America or the State of Maine.

In § 228-24 the first sentence is incomplete. If the intent of this sentence is to prohibit the idling of certain vehicles, the wording "is prohibited" should be included. Perhaps the following revisions could be made:

The idling of buses, heavy-duty vehicles, heavy-duty recovery vehicles, trucks, tractors, truck-tractors, trailers and semitrailers, as those terms ~~as~~ are defined in 29-A M.R.S.A. § 101, while stopped, standing or parked in a residentially used area is prohibited between the hours of 10:00 p.m. and 6:00 a.m. except as provided for in compliance with traffic signals or signs, at the direction of a police officer or while buses are in the act of loading or unloading passengers.

Pick one option from list below

☒ Revise as suggested.

☐ Revise as follows:

☐ Defer decision until after Code publication.

Question 228-013

[Chapter 228 Vehicles and Traffic](#)
[Article III Motorized Vehicles](#)
[§ 228-27 Violations and penalties.](#)

Code Content:

[\[§ 228-27\]](#) Any violation of this article shall result in the imposition of a fine of not less than \$25 nor more than \$100 or impoundment of the motorized vehicle for a period of not more than five days, including the date of the offense. All fines shall be recovered on complaint to the use of the Town of Windham Maine.

Section 228-27 sets a penalty of not less than \$25 nor more than \$100 for violations of Article III, Motorized Vehicles, and includes an alternate penalty of five days' impoundment of the offending motorized vehicle. Is this penalty still satisfactory?

Pick one option from list below

☐ Revise as follows:

☒ Do not revise.

☐ Defer decision until after Code publication.

Question 228-014

[Chapter 228 Vehicles and Traffic](#)

[Article IV All-Terrain Vehicles](#)

[§ 228-29 Written permission of owner; violations and penalties.](#)

Code Content:

[\[§ 228-29A\]](#) *No person shall operate an ATV on the private property of another or on Town-owned property without written permission of the property owner.*

Article IV of Chapter 228, adopted in 1986, prohibits the operation of all-terrain vehicles on private property or Town property without permission of the property owner. The Town Attorney should be consulted as to whether this article is still needed in light of 12 M.R.S.A. § 13157-A, Operation of ATVs, which was added to the statutes in 2003 and includes the following restriction: "A person may not operate an ATV on the land of another without the permission of the landowner or lessee." We note that 12 M.R.S.A § 13201 limits local regulation of all-terrain vehicles as follows:

A municipality or political subdivision of the State may not enact any ordinance, law or rule regulating or charging a fee for the hunting, trapping or fishing for any species of fish or wildlife; the operation, registration or numbering of all-terrain vehicles, watercraft or snowmobiles or any other subject matter relating to all-terrain vehicles, watercraft or snowmobiles regulated under chapter 935 or 937 or under any other provisions of this Part, except that a municipality may regulate the operation of all-terrain vehicles on municipal property and on rights-of-way and easements held by that municipality.

Pick one option from list below

☐ Revise as follows:

☐ Do not revise.

☒ Defer decision until after Code publication.

Question 228-015

[Chapter 228 Vehicles and Traffic](#)

[Article IV All-Terrain Vehicles](#)

[§ 228-29 Written permission of owner; violations and penalties.](#)

Code Content:

[\[§ 228-29B\]](#) *Anyone violating this article shall pay the fine of \$25 for the first offense and \$100 for the second and each subsequent violation, in addition to impoundment and storage fees.*

Section 228-29B sets a penalty of \$25 for a first violation and \$100 for a second and subsequent violation of Article IV, All-Terrain Vehicles. Is this penalty still satisfactory?

Pick one option from list below

☐ Revise as follows:

☒ Do not revise.

☐ Defer decision until after Code publication.

Question 228-016

[Chapter 228 Vehicles and Traffic](#)
[Article IV All-Terrain Vehicles](#)
[§ 228-30 Impoundment.](#)

Code Content:

[\[§ 228-30\]](#) *The Windham Police Department can impound the machine of any child under the age of 15 riding unaccompanied by an adult or any unregistered machine driven by any person. Impoundment shall be for a period not to exceed five days for the first offense, for a period not to exceed 10 days for a second offense and for a period not to exceed 30 days for any subsequent offense. The police officer impounding the vehicle under this article shall notify the operator, in writing, at the time of impoundment, of the location of the impoundment and the requirements for release. Further, any such vehicles operated in violation of any provision of this article upon which a complaint was issued or a fine is unpaid shall be impounded and stored until all fees for all outstanding violations and any fees for impoundment and storage have been paid*

In § 228-30 the wording "fees for all outstanding violations" apparently should read "fines for all outstanding violations."

Pick one option from list below

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

Question 228-017

[Chapter 228 Vehicles and Traffic](#)
[Article IV All-Terrain Vehicles](#)
[§ 228-31 Fines to be recovered by Town.](#)

Code Content:

[\[§ 228-31\]](#) *All impoundment fines shall be recovered to the use of the Town of Windham.*

In § 228-31 the wording "impoundment fines" apparently should read "impoundment fees." Section 228-30 refers to "any fees for impoundment and storage." A fine would be imposed for violation of this article.

Pick one option from list below

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

Question 228-018

[Chapter 228 Vehicles and Traffic](#)

[Article V Weight Limits](#)

[§ 228-38 Violations and penalties.](#)

Code Content:

[\[§ 228-38\]](#) Any violation of this Ordinance shall be a civil infraction subject to **a fine of not less than \$250 nor more than \$1,000**. Each violation shall be deemed a separate offense. In addition to any fine, the municipality may seek restitution for the cost of repairs to any damaged way or bridge and reasonable attorney fees and costs. Prosecution shall be in the name of the municipality and shall be brought in the Maine District Court.

Article V, Weight Limits, of Chapter 228 was recently adopted by the Town in May 2021 and accordingly no changes to the penalty would appear to be needed. The minimum fine of \$250 is consistent with 29-A M.R.S.A. § 2395, Ways requiring special protection, which provides "A violation of this section is a traffic infraction punishable by a fine, which may not be suspended, of not less than \$250."

Pick one option from list below

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

Question 236-001

[Chapter 236 Wind Energy](#)
[Article I Small Wind Energy Systems](#)
[§ 236-7 Fee schedule.](#)

Code Content:

[\[§ 236-7A\]](#) Code Enforcement Officer review: \$200, plus mailing costs.

The fee schedule in § 236-7 should be reviewed to ensure it is up-to-date. The schedule is as follows:

A. Code Enforcement Officer review: \$200, plus mailing costs.

B. Planning Board review: \$400, plus mailing costs.

Pick one option from list below

☒ Revise to read "The fees for Code Enforcement Officer review and Planning Board review are set by the Town Council."

☐ Revise as follows:

☐ Do not revise.

☐ Defer decision until after Code publication.

Question 240-001

[Chapter 240 Wireless Telecommunications Facilities](#)

Attached to Chapter 240 is a fee schedule dated July 28, 2011, listing the fees related to wireless telecommunications facilities applications as \$400 for site plan review and \$250 for co-location review. These fees are also included in Appendix A, Fee Schedule, attached to the Land Use Ordinance. We recommend that the fee schedule attached to Chapter 240 be removed so that these fees are included in just one location, Appendix A of the Land Use Ordinance, which seems to be the main fee schedule. We can add a note in Chapter 240 to see Appendix A for the fees. If the fees are retained in both chapters a conflict could be created if the fees are amended in one place but not the other.

Pick one option from list below

- ☒ Remove fee schedule from Chapter 240; covered by Appendix A of the Land Use Ordinance.
- ☒ Revise as follows:

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

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

Question 240-002

[Chapter 240 Wireless Telecommunications Facilities](#)

Should any provisions be included in Chapter 240 with respect to small wireless facilities, pursuant to 30-A M.R.S.A. § 4362, Small wireless facilities, added in 2019 (L. 2019, c. 223)? This statute provides in part:

Notwithstanding any zoning or land use ordinance to the contrary, a small wireless facility must be a permitted use within the public right-of-way, subject to permitting requirements and duly adopted, nondiscriminatory conditions otherwise applicable to permitted uses within the municipality and consistent with state and federal law, including, without limitation, any permitting requirements in Title 35-A, chapter 25.

Pick one option from list below

- ☐ Revise as follows:

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

Question 240-003

[Chapter 240 Wireless Telecommunications Facilities](#)
[§ 240-2 Authority.](#)

Code Content:

[\[§ 240-2\]](#) *This ordinance is adopted pursuant to the enabling provisions of Article VIII, Part 2, Section 1, of the Maine Constitution, the provisions of 30-A M.R.S.A. § 3001 (Home Rule), the provisions of the **Planning and Land Use Regulation Act**, 30-A M.R.S.A. § 4212 et seq., and the provisions of Article I, Section 2, of the Charter of the Town of Windham, Maine.*

In § 240-2 we question whether the following correction should be made: "the provisions of the Planning and Land Use Regulation Act, 30-A M.R.S.A. § ~~4212~~ 4301 et seq." Section 4212 of Title 30-A deals with administration of subsurface wastewater disposal rules. Chapter 187, Planning and Land Use Regulation, of Title 30-A begins with § 4301.

Pick one option from list below

☐ Revise as suggested.

☒ Revise as follows:

4312 et seq.

☐ Do not revise.

☐ Defer decision until after Code publication.

Question 240-004

[Chapter 240 Wireless Telecommunications Facilities](#)
[§ 240-7 Approval process.](#)

Code Content:

[\[§ 240-7B\(1\)\]](#) Application for Planning Board approval. All applicants seeking approval of a wireless telecommunications facility under this ordinance shall submit 12 copies of an application, including site plans and related information, to the **Community Development Office** at least 14 days prior to the Planning Board meeting at which the applicant wishes the proposal to be heard. The application shall include the following information:

In Chapter 240 there are three references to the Community Development Office and there is one reference to the Community Development Department. The title "Community Development" is not used anywhere else in the Town's Code.

Pick one option from list below

☒ Change "Community Development Office" and "Community Development Department" to "Planning Department."

☐ Revise as follows:

☐ Defer decision until after Code publication.

Question 240-005

[Chapter 240 Wireless Telecommunications Facilities](#)
[§ 240-7 Approval process.](#)

Code Content:

[\[§ 240-7B\(1\)\(a\)\[1\]\]](#) A site plan prepared and certified by a professional engineer registered in the State of Maine indicating the following information:

There are two references in Chapter 240 to a professional engineer registered in Maine, in § 240-7B(1)(a)[1] and (h). In addition, § 240-7B(1)(a)[1][i] refers to "the name, registration number, and seal of the professional engineer who prepared the site plan." Engineers are now licensed in Maine, not registered. See Title 32, Chapter 19, of the Maine statutes.

Pick one option from list below

☒ Change "registered" to "licensed" and change "registration number" to "license number."

☐ Revise as follows:

☐ Do not revise.

☐ Defer decision until after Code publication.

Question 240-006

[Chapter 240 Wireless Telecommunications Facilities](#)
[§ 240-7 Approval process.](#)

Code Content:

[\[§ 240-7B\(1\)\(j\)\]](#) Identification of districts, sites, buildings, structures or objects, significant in American history, architecture, archaeology, engineering or culture, that are listed, or eligible for listing, in the National Register of Historic Places [see 16 U.S.C. § 470w(5); 36 CFR 60 and 800].

There are three references in Chapter 240 to 16 U.S.C. § 470w(5) which was repealed and replaced in 2014 by 54 U.S.C. § 300308. We will update these references accordingly.

Question 240-007

[Chapter 240 Wireless Telecommunications Facilities](#)
[§ 240-13 Expiration of approval.](#)

Code Content:

[\[§ 240-13B\]](#) *Prior to the expiration of the Planning Board's approval of a wireless telecommunications facility, an applicant may apply for a one year extension to the Planning Board's approval if the applicant can demonstrate that extraordinary or unusual circumstances beyond his control have caused a delay in the construction of the facility. Any request for an extension shall be made, in writing, at least 60 days prior to the date of expiration, and shall be submitted to the **Planning Administrator** (i.e. Town Planner). In addition, no more than two one-year extensions shall be granted by the Planning Board for any approval under this ordinance.*

Section 240-13B refers to the Planning Administrator. This title is not used anywhere else in the Town Code. Other references are to the Planning Director.

Pick one option from list below

- ☐ Change "Planning Administrator" to "Planning Director."
- ☒ Revise as follows:

...submitted to theTown Planner.

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

Question 240-008

[Chapter 240 Wireless Telecommunications Facilities](#)
[§ 240-13 Expiration of approval.](#)

Code Content:

[\[§ 240-13C\]](#) For the purposes of this ordinance, "substantial improvement" shall mean two or more of the following: the creation of a gravel drive to the site of the proposed facility (if one is required), the construction of at least 40% of the tower's height, and/or a completed foundation or concrete pad for any proposed buildings or structures associated with the facility. In all cases, the Planning Board shall make a finding that substantial construction has occurred when granting any request for an extension to a prior approval.

In § 240-13C the term "substantial improvement" is incorrect and should be "substantial construction." The term used in the rest of § 240-13 is "substantial construction." Section 240-13A, for example, provides that "Failure to commence substantial construction of any wireless telecommunications facility approved under this ordinance within two years of the date of final Planning Board approval shall render the plan null and void." In § 240-13C the last sentence provides: "In all cases, the Planning Board shall make a finding that substantial construction has occurred when granting any request for an extension to a prior approval."

Pick one option from list below

- ☒ Change "substantial improvement" to "substantial construction."
- ☐ Change "substantial construction" to "substantial improvement."
- ☐ Revise as follows:

- ☐ Defer decision until after Code publication.

Question 240-009

[Chapter 240 Wireless Telecommunications Facilities](#)
[§ 240-21 Permitted use within zoning districts.](#)

Code Content:

[\[§ 240-21A\]](#) *Notwithstanding any zoning district regulations to the contrary, wireless telecommunications facilities shall be a permitted use in the following zoning districts within the Town of Windham, Maine: Farm (F), Farm Residential (FR), Light Density Residential (RL), Commercial I (C-1), Commercial II (C-2), Commercial III (C-3), Industrial (I), and Enterprise Development (ED).*

Section 240-21A lists the zoning districts where wireless telecommunications facilities are a permitted use. This subsection could be updated to include the Village Commercial (VC) District, which was added to the Land Use Ordinance in 2010 and lists wireless telecommunications facilities as a permitted use.

Pick one option from list below

- ☒ Add the Village Commercial (VC) District to § 240-21A.
- ☐ Revise as follows:
- ☐ Do not revise.
- ☐ Defer decision until after Code publication.