



Town of Windham

Town Offices
8 School Road
Windham, Maine

Legislation Text

File #: 18-121, **Version:** 1

I. Council Action Requested.

To approve a proposed amendment to the Mineral Extraction Moratorium Ordinance as follows:

WHEREAS, the Town Council adopted the Moratorium Ordinance on Mineral Extraction ("Moratorium") on April 24, 2018;

WHEREAS, by its terms, the Moratorium as applicable to applications for permitting or approval of mineral extraction activities that were not pending as of April 17, 2018;

WHEREAS, the Town Council's express intent was that the Moratorium would be applicable to and prevent further processing of any application that was in the staff review or sketch plan phase of review and had not been deemed complete by the reviewing authority as of the Moratorium's enactment date; and

WHEREAS, to the extent there is any ambiguity regarding how the Moratorium Ordinance should be applied to an application in the preapplication, staff review or sketch plan phases of review, the Council wishes to resolve such ambiguity and prevent any further question;

NOW THEREFORE, the Town Council hereby ordains that the proposed amendment to the Mineral Extraction Ordinance dated June 19, 2018 shall be approved.

Emergency Declaration

The Town Council declares the existence of an emergency for the reasons set forth in the Moratorium Ordinance on Mineral Extraction, and for the further reason that it is imperative to remedy as soon as possible any ambiguity as to the applicability of the Moratorium.

II. Basis for Council Action.

Council approval of this item is required because;

- a. Pursuant to Article I, Section 2 of the Charter the town "may enact reasonable by-laws, regulations and ordinances for municipal purposes, not inconsistent with the Constitution and laws of the State of Maine,"
- b. Pursuant to Article I, Section 2 of the Charter "the administration of all the fiscal, prudential and municipal affairs of said Town, with the government thereof, except as otherwise provided by this Charter, shall be and are vested in one body of seven (7) members, which shall constitute and be called the Town Council,"
- c. Pursuant to Article II, Section 3(I) of the Charter the Council shall have the power to "exercise all the legislative, financial, borrowing and other powers now or hereafter given by statute to inhabitants of towns acting in Town Meeting except as otherwise provided

herein, and also exercise all the powers now or hereafter given by statute to municipal officers of towns,” and

- d. Pursuant to Article II, Section 11(D) of the Charter and “to meet a public emergency affecting life, health, property or the public peace, the Council may adopt one or more emergency ordinances.”

III. Issue Summary.

Please refer to the attached memorandum from town attorneys Kristin Collins and Stephen Langsdorf regarding a recommended proposed amendment to the mineral extraction moratorium ordinance adopted as an emergency on April 24, 2018 and subsequently on May 22, 2018 following a public hearing.