

**§ 185-17. Definitions. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

As used in this chapter, the following terms shall have the meanings indicated:

**ABUTTING LAND** — A lot of land currently listed by the Windham Tax Assessor having a common border with, or being separated from such a common border by a right-of-way or easement, another lot of land currently listed by the Windham Tax Assessor. For the purposes of this chapter, the "owners of properties" shall be considered to be those parties currently listed by the Windham Tax Assessor against whom taxes are assessed.

**ACCESSORY STRUCTURE OR USE** — A use or structure which is incidental and subordinate to the principal use or structure. Accessory uses, when aggregated, shall not subordinate the principal use of the lot. A deck or similar extension of the principal structure or a garage attached to the principal structure by a roof or a common wall is considered part of the principal structure.

**ADULT USE MARIJUANA STORE** — A facility licensed under 28-B M.R.S.A. Chapter 1 to purchase adult use marijuana, immature marijuana plants and seedlings from a cultivation facility, to purchase adult use marijuana and adult use marijuana products from a manufacturing facility and to sell adult use marijuana, adult use marijuana products, immature marijuana plants and seedlings to consumers.

**AGGRIEVED PARTY** — An owner of land whose property is directly or indirectly affected by the granting or denial of a permit or variance under this chapter; a person whose land abuts land for which a permit or variance has been granted; or any other person or group of persons who have suffered particularized injury as a result of the granting or denial of such permit or variance.

**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 greenhouse products. Agriculture does not include forestry or gardens. Please refer to § 185-15V.

**ANTENNA** — A device for radiating or receiving radio or television signals and which is situated on a permanent foundation.

**APPLICANT** — The individual who completes the initial permit forms and accepts responsibility for compliance with pertinent rules, regulations and restrictions. The applicant may or may not be the owner. If the applicant is not the owner, he/she must have written permission to act on the owner's behalf. Refer to § 185-16C ~~(2)~~.

**AQUACULTURE** — The growing or propagation of harvestable freshwater, estuarine, or marine plant or animal species.<sup>1</sup>

**BASAL AREA** — The area of cross section of a tree stem at 4 1/2 feet above ground level and inclusive of bark.

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1. Editor's Note: The original definition of "backlots" of the 1991 Code, which immediately followed this definition, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

**Commented [SP1]:** Strike (2) to allow the entire section to be referenced.

**BASEMENT** — Any portion of a structure with a floor-to-ceiling height of six feet or more and having more than 50% of its volume below the existing ground level.

**BOAT-LAUNCHING FACILITY** — A facility designed primarily for the launching and landing of watercraft, and which may include an access ramp, docking area, and parking spaces for vehicles and trailers.

**BUREAU OF FORESTRY** — State of Maine Department of Agriculture, Conservation and Forestry, Bureau of Forestry.

**CAMPGROUND (COMMERCIAL)** — Any premises providing temporary accommodation for campers in any recreational vehicle or tent and open to the public for a fee.

**CAMPGROUND (PERSONAL)** — 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.

**CANOPY** — The more or less continuous cover formed by tree crowns in a wooded area.

**COMMERCIAL USE** — The use of lands, buildings, or structures, other than a home occupation (defined below in this section), the intent and result of which activity is the production of income from the buying and selling of goods and/or services, exclusive of rental of residential buildings and/or dwelling units.

**CORNER LOTS** — In districts where setbacks are required, such corner lots, located at the intersection of two streets, shall be deemed to have a side rather than a front setback between the principal building and the side street. Such side setback shall not be less than the front setback requirements of uses located on the side street. Such corner lots located at the intersection of two streets shall be deemed to have a side rather than a rear setback between the principal building and the abutting property on the side street. Such side setback shall not be less than the above side setback requirements of uses located on the side street. All such side setbacks described shall conform with the specific regulations related to setback space and related building height contained in the district provisions of this chapter.

**DAY-CARE CENTER** — A home or other suitable structure which meets the state's licensing requirements for a day-care center and which cares for 13 or more children.

**DAY-CARE HOME** — A home or other suitable structure which meets the state's licensing requirements for day-care homes and which cares for three to 12 children.

**DEGRADATION** — A significant decline in water body quality from present baseline conditions, including, but not limited to, turbidity, pH, dissolved oxygen content, temperature, concentrations of total coliform bacteria, and phosphorous.

**DEVELOPMENT** — Any change of land use, including but not limited to the construction of buildings, parking lots, streets or utilities or the filling or cutting of land areas or the cutting of trees, which is done as part of the site preparation. Development does not, however, include normal agricultural operations, e.g., cultivation of soil, the raising of livestock or the erection of fences, nor does it include, for the purpose of subdivision or site plan review, the erection of barns and other accessory farm buildings.

**DIMENSIONAL REQUIREMENTS** — Numerical standards relating to spatial relationships,

including but not limited to setback, lot area, shore frontage and height.

**DISABILITY** — Any disability, infirmity, malformation, disfigurement, congenital defect or mental condition caused by a bodily injury, accident, disease, birth defect, environmental conditions or illness; and also includes the physical or mental condition of a person which constitutes a substantial handicap as determined by a physician or, in the case of mental handicap, by a psychiatrist or psychologist, as well as any other health or sensory impairment which requires special education, vocational rehabilitation, or related services.

**DRIVEWAY** — A vehicular accessway less than 500 feet in length serving any permitted residential use as allowed in Table 1.

**DWELLING** — A structure, or portion thereof, that is used exclusively for human habitation.

**DWELLING, MULTIFAMILY** — A building containing three or more dwelling units. A multifamily dwelling may be attached to a nonresidential use.

**DWELLING, TWO-FAMILY** — A building containing two attached dwelling units. A two-family dwelling may or may not be attached to a nonresidential use.

**EASEMENT** — A grant of one or more of the property rights by the property owner to and/or for use by the public, a corporation, or another person or entity.

**EMERGENCY OPERATIONS** — Operations conducted for the public health, safety or general welfare, such as protection of resources from immediate destruction or loss, law enforcement, and operations to rescue human beings, property and livestock from the threat of destruction or injury.

**ENGINEER** — A civil engineer licensed by the State of Maine.

**ESSENTIAL SERVICES** — The construction, alteration or maintenance of gas, electrical or communication facilities; steam, fuel, electric power or water transmissions or distribution lines, towers and related equipment; telephone cables or lines, poles and related equipment; gas, oil, water, slurry or other similar pipelines; municipal sewage lines, collection or supply systems; and associated storage tanks. Such systems may include towers, poles, wires, mains, drains, pipes, conduits, cables, fire alarms and police call boxes, traffic signals, hydrants and similar accessories, but shall not include service drops or buildings which are necessary for the furnishing of such services.

**EXPANSION OF USE** — The addition of one or more months to a use's operating season; or the use of more footprint of a structure or ground area devoted to a particular use.

**EXPANSIONS OF A STRUCTURE** — An increase in the footprint of a structure, including all extensions, such as, but not limited to, attached decks, garages, porches, and greenhouses.

**FAMILY** — One or more persons occupying a premises and living as a single housekeeping unit.

**FISHERIES, SIGNIFICANT** — Areas identified by a government agency such as the Maine Department of Inland Fisheries and Wildlife, Atlantic Salmon Authority, or Maine Department of Marine Resources as having significant values as fisheries or any areas identified in the municipality's Comprehensive Plan.

**FLOOD INSURANCE RATE MAP** — The official map on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the Town of Windham.

**FLOODWAY** — The channel of a river or other watercourse and adjacent land areas that must be reserved in order to discharge the 100-year flood without cumulatively increasing the water surface elevation by more than one foot in height.

**FLOOR AREA** — The sum of all horizontal areas of the floor(s) of a structure enclosed by exterior walls.

**FOOTPRINT** — The entire area of ground covered by the structure(s) on a lot, including but not limited to cantilevered or similar overhanging extensions, as well as unenclosed structures, such as patios and decks.

**FORESTED WETLAND** — A freshwater wetland dominated by woody vegetation that is six meters tall (approximately 20 feet) or taller.

**FOUNDATION** — The supporting substructure of a building or other structure, excluding wooden sills and post supports, but including basements, slabs, frost walls, or other base consisting of concrete, block, brick or similar material.

**FRESHWATER WETLAND** —

- A. Freshwater swamps, marshes, bogs and similar areas which are:
  - (1) Of 10 or more contiguous acres; or of less than 10 contiguous acres and adjacent to a surface water body, excluding any river, stream or brook, such that in a natural state, the combined surface area is in excess of 10 acres; and
  - (2) Inundated or saturated by surface water or groundwater at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils.
- B. Freshwater wetlands may contain small stream channels or inclusions of land that do not conform to the criteria of this definition.

**FRONT SETBACK** — The required distance on a lot between the front lot line and nearest building. For a shore lot, the front setback shall be measured from the shoreline (normal high-water mark) to the nearest building, and shall be a minimum of 100 feet. For other lots, the front setback shall be measured from the road.

**FUNCTIONALLY WATER-DEPENDENT USES** — Those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, inland waters and that cannot be located away from these waters. The uses include, but are not limited to, commercial and recreational fishing and boating facilities, finfish and shellfish processing, fish-related storage and retail and wholesale fish marketing facilities, waterfront dock and port facilities, shipyards and boatbuilding facilities, marinas, navigation aids, basins and channels, shoreline structures necessary for erosion control purposes, industrial uses dependent upon waterborne transportation or requiring large volumes of cooling or processing water that cannot reasonably be located or operated at an inland site, and uses that primarily provide general public access to inland waters. Recreational boat storage buildings are not considered to be a functionally water-dependent use.

**GREAT POND** — Any inland body of water which in a natural state has a surface area in excess of 10 acres, and any inland body of water artificially formed or increased which has a surface

area in excess of 30 acres except for the purposes of this chapter, where the artificially formed or increased inland body of water is completely surrounded by land held by a single owner.

**GREAT POND CLASSIFIED GPA** — Any great pond classified GPA, pursuant to Title 38 M.R.S.A. Article 4-A, § 465-A. This classification includes some but not all impoundments of rivers that are defined as "great ponds."

**GROUND COVER** — Small plants, fallen leaves, needles and twigs, and the partially decayed organic matter of the forest floor.

**HAZARD TREE** — A tree with a structural defect, combination of defects, or disease resulting in a structural defect that under the normal range of environmental conditions at the site exhibits a high probability of failure and loss of a major structural component of the tree in a manner that will strike a target. A normal range of environmental conditions does not include meteorological anomalies, such as, but not limited to, hurricanes, hurricane-force winds, tornados, microbursts, or significant ice-storm events. Hazard trees also include those trees that pose a serious and imminent risk to bank stability. A "target" is the area where personal injury or property damage could occur if the tree or a portion of the tree fails. Targets include roads, driveways, parking areas, structures, campsites, and any other developed area where people frequently gather and linger.

**HAZARDOUS MATERIAL** — Hazardous material includes the following:

- A. Highly combustible or explosive products or materials that are likely to burn with extreme rapidity or that may produce poisonous fumes or explosions.
- B. Highly corrosive, toxic, or noxious alkalis, acids, or other liquids or chemicals producing flame, fume, or poisonous, irritant, or corrosive gases.
- C. Materials producing explosive mixtures of dust or that result in the division of matter into fine particles subject to spontaneous ignition.
- D. Any substance that is a present or potential danger to people or to the natural environment when deposited on land or discharged on or into water or ambient air.

**HEIGHT OF A STRUCTURE** — The vertical distance between the mean original (prior to construction) grade at the downhill side of the structure and the highest point of the structure, excluding chimneys, steeples, antennas, and similar appurtenances that have no floor area.

**HISTORIC OR ARCHAEOLOGICAL RESOURCES** — Areas identified by a government agency such as the Maine Historic Preservation Commission as having significant value as a historic or archaeological resource or any areas identified in the municipality's Comprehensive Plan.

**HOME OCCUPATION** — An occupation or profession which is customarily conducted on or in a residential structure or property and which is clearly incidental to and compatible with the residential use of the property and surrounding residential uses and which employs no more than two persons other than family members residing in the home.

- A. The following are examples of permitted uses under this definition:
  - (1) Office of teacher or musician.
  - (2) Office of real estate broker, salesman, insurance agent.

- (3) Dressmaking.
  - (4) Beauty shop.
  - (5) Day-care home which cares for 12 or fewer children.
  - (6) Woodworking.
  - (7) Arts and crafts studio or shop.
  - (8) Small engine repair, excluding motorized vehicles such as mopeds, motorcycles, ATVs, snowmobiles.
  - (9) Saw sharpening.
  - (10) Medical marijuana register caregiver (home occupation) that complies with the standards in § 120-537 of Chapter 120, Land Use.
- B. The following uses are specifically prohibited as a home occupation:
- (1) Auto body repair.
  - (2) Auto repair.
  - (3) Welding or any other similar activity that is noise-oriented or is objectionable.
  - (4) Slaughterhouse or smokehouse.
- C. The term "commercial structure," as used in this chapter, shall not include a single-family residential dwelling or accessory structure in which a home occupation or enterprise is carried on by a person residing in the dwelling unit, provided that such home occupation or enterprise is incidental and secondary to the use of the dwelling unit for residential purposes; such home occupation conforms to the requirements of § 185-15 of this chapter.

**INCREASE IN NONCONFORMITY OF A STRUCTURE** — Any change in a structure or property which causes further deviation from the dimensional standard(s) creating the nonconformity, such as, but not limited to, reduction in water body, tributary stream or wetland setback distance; increase in lot coverage; or increase in height of a structure. Property changes or structure expansions which either meet the dimensional standard or which cause no further increase in the linear extent of nonconformance of the existing structure shall not be considered to increase nonconformity. For example, there is no increase in nonconformity with the setback requirement for water bodies, wetlands, or tributary streams if the expansion extends no further into the required setback area than does any portion of the existing nonconforming structure. Hence, a structure may be expanded laterally, provided that the expansion extends no closer to the water body, tributary stream, or wetland than the closest portion of the existing structure from that water body, tributary stream, or wetland. Included in this allowance are expansions which infill irregularly shaped structures.

**INDIVIDUAL PRIVATE CAMPSITE** — An area of land which is not associated with a campground, but which is developed for repeated camping by only one group not to exceed 10 individuals and which involves site improvements which may include but not be limited to gravel

pads, parking areas, fireplaces, or tent platforms.

**INDUSTRIAL** — The assembling, fabrication, finishing, manufacturing, packaging or processing of goods, or the extraction of minerals.

**INSTITUTIONAL** — A nonprofit or quasi-public use, or institution such as a church, library, public or private school, hospital, or municipality owned or operated building, structure or land used for public purposes.

**LOT AREA** — The area of land enclosed within the boundary lines of a lot, minus land below the normal high-water line of a water body or upland edge of a wetland and areas beneath roads serving more than two lots.

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

**MARIJUANA BUSINESSES** — Includes adult use marijuana store, marijuana testing facility, marijuana manufacturing facility, medical marijuana registered caregivers, medical marijuana caregiver retail store, and medical marijuana registered caregiver (home occupation).

**MARIJUANA CULTIVATION FACILITY** — A facility used to purchase marijuana plants and seeds from other cultivation facilities; to cultivate, prepare and package adult use marijuana; to cultivate medical marijuana that exceeds 1,000 square feet floor area; to sell marijuana to products manufacturing facilities, stores and to other cultivation facilities; and to sell marijuana plants and seeds to other cultivation facilities and immature marijuana plants and seedlings to marijuana stores. Cultivation facilities may be of the following types:

- A. Tier 1 marijuana cultivation facility. Not more than 500 square feet of plant canopy.
- B. Tier 2 marijuana cultivation facility. Not more than 2,000 square feet of plant canopy.
- C. Tier 3 marijuana cultivation facility. Not more than 7,000 square feet of plant canopy
- D. Tier 4 marijuana cultivation facility. Not more than 20,000 square feet of plant canopy

**MARIJUANA MANUFACTURING FACILITY** —

- A. A registered Tier 1 or Tier 2 manufacturing facility, as designated by state law, or a person authorized to engage in marijuana extraction under 22 M.R.S.A. § 2423-F; or
- B. A facility licensed under 28-B M.R.S.A. 28-B Subchapter 2 to purchase marijuana from a cultivation facility or another products manufacturing facility; to manufacture, label and package marijuana and marijuana products; and to sell marijuana and marijuana products to marijuana stores and to other products manufacturing facilities.

**MARIJUANA TESTING FACILITY** — A public or private laboratory that is authorized and accredited in accordance with state law for the research and analysis of marijuana, marijuana products or other substances for contaminants, safety or potency.

**MARINA** — A business establishment having frontage on navigable water and, as its principal use, providing for hire offshore moorings or docking facilities for watercraft, and which may also provide accessory services such as watercraft and related sales, watercraft repair and construction, indoor and outdoor storage of watercraft and marine equipment, bait and tackle shops and marine

fuel service facilities.

**MARKET VALUE** — The estimated price a property will bring in the open market and under prevailing market conditions in a sale between a willing seller and a willing buyer, both conversant with the property and with prevailing general price levels.

**MEDICAL MARIJUANA CAREGIVER RETAIL STORE** — A store that has attributes generally associated with retail stores, including, but not limited to, a fixed location, a sign, regular business hours, accessibility to the public and sales of goods or services directly to a consumer, and that is used by a registered caregiver to offer marijuana plants or harvested marijuana for sale to qualifying patients.

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

**MEDICAL MARIJUANA REGISTERED CAREGIVER (HOME OCCUPATION)** — A person or an assistant of that person that provides care for a qualifying patient in accordance with state law and licensing and is registered with the state in accordance with state law and in accordance with the home occupation standards of this chapter.

**MINERAL EXPLORATION** — Hand sampling, test boring, or other methods of determining the nature or extent of mineral resources which create minimal disturbance to the land and which include reasonable measures to restore the land to its original condition.

**MINERAL EXTRACTION** — Any operation within any twelve-month period which removes more than 100 cubic yards of soil, topsoil, loam, sand, gravel, clay, rock, peat, or other like material from its natural location and transportation of the product removed, away from the extraction site.

**MINIMUM LOT WIDTH** — The closest distance between the side lot lines of a lot. When only two lot lines extend into the shoreland zone, both lot lines shall be considered to be side lot lines.

~~**MULTIUNIT RESIDENTIAL** — A residential structure containing two or more residential dwelling units.~~

**NATIVE** — Indigenous to the local forests.

**NONCONFORMING CONDITION** — Nonconforming lot, structure or use which is allowed solely because it was in lawful existence at the time this chapter or subsequent amendment took effect.

**NONCONFORMING LOT** — A single lot of record which, at the effective date of adoption or amendment of this chapter, does not meet the area, frontage, or width requirements of the district in which it is located.

**NONCONFORMING STRUCTURE** — A structure which does not meet any one or more of the following dimensional requirements: setback, height, lot coverage or footprint, but which is allowed solely because it was in lawful existence at the time this chapter or subsequent amendments took effect.

**NONCONFORMING USE** — Use of buildings, structures, premises, land or parts thereof which is not permitted in the district in which it is situated, but which is allowed to remain solely because it was in lawful existence at the time this chapter or subsequent amendments took effect.

**Commented [SP2]:** Clean-up change: LUO already defined "Two family" and "Multi-family"



**NONINTENSIVE RECREATIONAL USE** — Recreational use not requiring structures, i.e., hunting, fishing and hiking.

**NONNATIVE INVASIVE SPECIES OF VEGETATION** — Species of vegetation listed by the Maine Department of Agriculture, Conservation and Forestry as being invasive in Maine ecosystems and not native to Maine ecosystems.

**NORMAL HIGH-WATER LINE** — That line which is apparent from visible markings, changes in the character of soils due to prolonged action of the water or changes in vegetation, and which distinguishes between predominantly aquatic and predominantly terrestrial land. Areas contiguous with rivers and great ponds that support nonforested wetland vegetation and hydric soils and that are at the same or lower elevation as the water level of the river or great pond during the period of normal high-water are considered part of the river or great pond.

**OUTLET STREAM** — Any perennial or intermittent stream, as shown on the most recent highest resolution version of the national hydrography dataset available from the United States Geological Survey on the website of the United States Geological Survey or the national map, that flows from a freshwater wetland.

**PERSON** — An individual, corporation, governmental agency, municipality, trust, estate, partnership, association, two or more individuals having a joint or common interest, or other legal entity.

**PIERS, DOCKS, WHARVES, BRIDGES AND OTHER STRUCTURES AND USES EXTENDING OVER OR BEYOND THE NORMAL HIGH-WATER LINE OR WITHIN A WETLAND** — Permanent structures which remain in or over the water for seven months or more in any period of 12 consecutive months.

**PLANNING BOARD** — The Planning Board of the Town of Windham, Maine.

**PRINCIPAL STRUCTURE** — A structure other than one which is used for purposes wholly incidental or accessory to the use of another structure or use on the same lot.

**PRINCIPAL USE** — A use other than one which is wholly incidental or accessory to another use on the same lot.

**PUBLIC FACILITY** — Any facility, including, but not limited to, buildings, property, recreation areas, and roads, which is owned, leased or otherwise operated, or funded by a governmental body or public entity.

**REAR SETBACK** — The required distance on a lot between the rear lot line and the nearest building. For a shore lot, the rear setback shall be measured from the nearest building to the lot line opposite the shore.

**RECENT FLOODPLAIN SOILS** — The following soil series are indigenous to the Town of Windham as described and identified by the National Cooperative Soil Survey:

Alluvial	Hadley	Limerick	Fryeburg
Ondawa	Podunk	Rumney	Lovewell
Saco	Suncook	Medomak	Cornish
Sunday	Charles	Winooski	

**RECREATIONAL FACILITY** — A place designed and equipped for the conduction of sports, leisure-time activities, and other customary and usual recreational activities, excluding boat-launching facilities.

**RECREATIONAL VEHICLE** — A vehicle or an attachment to a vehicle designed to be towed, and designed for temporary sleeping or living quarters for one or more persons, and which may include a pickup camper, travel trailer, tent trailer, camp trailer, and motor home. In order to be considered as a vehicle and not as a structure, the unit must remain with its tires on the ground, and must be registered with the State Bureau of Motor Vehicles.

**REPLACEMENT SYSTEM** — A system intended to replace:

- A. An existing system which is either malfunctioning or being upgraded with no significant change of design flow or use of the structure; or
- B. Any existing overboard wastewater discharge.

**RESIDENTIAL DWELLING UNIT** — A room or group of rooms designed and equipped exclusively for use as permanent, seasonal or temporary living quarters for only one family at a time, and containing cooking, sleeping and toilet facilities. The term shall include mobile homes and rental units that contain cooking, sleeping and toilet facilities regardless of the time period rented. Recreational vehicles are not residential dwelling units.

**RIPRAP** — Rocks, irregularly shaped, and at least six inches in diameter, used for erosion control and soil stabilization, typically used on ground slopes of two units horizontal to one unit vertical or less.

**RIVER** — A free-flowing body of water, including its associated floodplain wetlands from that point at which it provides drainage for a watershed of 25 square miles to its mouth.

**ROAD** — A route or track consisting of a bed of exposed mineral soil, gravel, asphalt, or other surfacing material constructed for or created by the repeated passage of motorized vehicles, excluding a driveway as defined.

**ROAD SETBACK** — The required distance on a lot between a road and the nearest building.

**SAPLING** — A tree species that is less than two inches in diameter at 4 1/2 feet above ground level.

**SEEDLING** — A young tree species that is less than 4 1/2 feet in height above ground level.

**SERVICE DROP** — Any utility-line extension which does not cross or run beneath any portion of a water body, provided that:

- A. In the case of electric service:
  - (1) The placement of wires and/or the installation of utility poles is located entirely upon the premises of the customer requesting service or upon a roadway right-of-way; and
  - (2) The total length of the extension is less than 1,000 feet.
- B. In the case of telephone service:
  - (1) The extension, regardless of length, will be made by the installation of telephone

wires to existing utility poles; or

- (2) The extension requiring the installation of new utility poles or placement underground is less than 1,000 feet in length.

**SETBACK** — The nearest horizontal distance from the normal high-water line of a water body or tributary stream, or upland edge of a wetland, to the nearest part of a structure, road, parking space or other regulated object or area.

**SHORE FRONTAGE** — The length of a lot bordering on a water body or wetland measured in a straight line between the intersections of the lot lines with the shoreline at normal high-water elevation.

**SHORELAND ZONE** — The land area located within 250 feet, horizontal distance, of the normal high-water line of any pond, great pond classified GPA or river, upland edge of a freshwater wetland; or within 100 feet of the normal high-water line of a stream; or within an area as depicted on the Official Town of Windham Land Use District Map as a General Development, Limited Residential, Resource Protection, or Stream Protection District. **[Amended 10-12-2021]**

**SHORELINE** — The normal high-water line or upland edge of a freshwater wetland.

**SIDE YARD** — The distance between a principal or accessory structure and a side lot line.

**SIGN** — A name, identification, description, emblem, trade name, trademark, display or illustration which is affixed to, painted or represented, directly or indirectly, upon a building, structure, parcel or lot and which relates to an object, product, place, activity, person, institution, organization or business located on the premises. See § 185-15I.

**SITE PLAN** — The appropriate application scale drawing which accurately reflects site conditions, and other submissions as required by the site plan submissions, prepared by the applicant or qualified professional.

**STORM-DAMAGED TREE** — A tree that has been uprooted, blown down, is lying on the ground, or that remains standing and is damaged beyond the point of recovery as the result of a storm event.

**STORY** — That portion of a building included between the surface of a floor and upper surface of the floor or roof next above.

**STORY ABOVE GRADE** — Any story having its finished floor surface entirely above grade except that a basement shall be considered as a story above grade when the distance from grade to finished surface of the floor above the basement is more than six feet for more than 50% of the total perimeter or more than 12 feet at any point.

**STREAM** — A free-flowing body of water from the outlet of a great pond or the confluence of two perennial streams as depicted on the most recent, highest resolution version of the national hydrography dataset available from the United States Geological Survey on the website of the United States Geological Survey or the national map to the point where the stream becomes a river or where the stream meets the shoreland zone of another water body or wetland. When a stream meets the shoreland zone of a water body or wetland and a channel forms downstream of the water body or wetland as an outlet, that channel is also a stream..

**STREET** — A way established or maintained under public authority or a fifty-foot-wide private way approved by the Planning Board or a way shown on a plan of a subdivision duly approved by

the Panning Board or a private road in existence prior to the adoption of this chapter.

**STRUCTURE** — Anything temporarily or permanently located, built, constructed or erected for the support, shelter or enclosure of persons, animals, goods or property of any kind, or anything constructed or erected on or in the ground. The term includes structures temporarily or permanently located, such as decks, patios, and satellite dishes. "Structure" does not include fences; poles and wiring and other aerial equipment normally associated with service drops, including guy wires and guy anchors; subsurface wastewater disposal systems as defined in 30-A M.R.S.A. § 4201, Subsection 5; geothermal heat exchange wells as defined in 32 M.R.S.A. § 4700-E, Subsection 3-C; or wells or water wells as defined in 32 M.R.S.A. § 4700-E, Subsection 8.

**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.

**SUBDIVISION, AMENDED** — The division of an existing subdivision or any change of lot size therein or the relocation of any street or lot in a subdivision.

**SUBSTANTIAL START** — Completion of 30% of a permitted structure or use measured as a percentage of estimated total cost.

**SUBSURFACE SEWAGE DISPOSAL SYSTEM** — Any system designed to dispose of waste or wastewater on or beneath the surface of the earth; includes, but is not limited to, septic tanks; disposal fields; grandfathered cesspools; holding tanks; pretreatment filter, piping, or any other fixture, mechanism, or apparatus used for those purposes; does not include any discharge system licensed under 38 M.R.S.A. § 414, any surface wastewater disposal system, or any municipal or quasi-municipal sewer or wastewater treatment system.

**SUSTAINED SLOPE** — A change in elevation where the referenced percent grade is substantially maintained or exceeded throughout the measured area.

**TIMBER HARVESTING** — The cutting and removal of timber for the primary purpose of selling or processing forest products. "Timber harvesting" does not include the cutting or removal of vegetation within the shoreland zone when associated with any other land use activities. The cutting or removal of trees in the shoreland zone on a lot that has less than two acres within the shoreland zone shall not be considered timber harvesting. Such cutting or removal of trees shall be regulated pursuant to § 185-15P, Clearing or removal of vegetation for activities other than timber harvesting.

**TREE** — A woody perennial plant with a well-defined trunk(s) at least two inches in diameter at 4 1/2 feet above the ground, with a more or less definite crown, and reaching a height of at least 10 feet at maturity.

**TRIBUTARY STREAM** —

- A. A channel between defined banks created by the action of surface water which is characterized by the lack of terrestrial vegetation or by the presence of a bed, devoid of topsoil, containing waterborne deposits on exposed soil, parent material or bedrock; and which is connected hydrologically with other water bodies. "Tributary stream" does not include rills or gullies forming because of accelerated erosion in disturbed soils where the natural vegetation cover had been removed by human activity.

- B. This definition does not include the term "stream" as defined elsewhere in this chapter, and only applies to that portion of the tributary stream located within the shoreland zone of the receiving water body or wetland, as depicted on the Official Town of Windham Land Use Map. [**Amended 10-12-2021**]

**UPLAND EDGE OF A WETLAND** — The boundary between upland and wetland. For purposes of a freshwater wetland, the upland edge is formed where the soils are not saturated for a duration sufficient to support wetland vegetation; or where the soils support the growth of wetland vegetation, but such vegetation is dominated by woody stems that are six meters (approximately 20 feet) tall or taller.

**VEGETATED SURFACE** — All surface areas covered by either undisturbed tree growth, shrub growth, natural ground cover or other appropriate erosion and sediment control materials such as bark mulch.

**VEGETATION** — All live trees, shrubs, ground cover, and other plants, including, without limitation, trees both over and under four inches in diameter, measured at 4 1/2 feet above ground level.

**VOLUME OF A STRUCTURE** — The volume of all portions of a structure enclosed by roof and fixed exterior walls as measured from the exterior faces of these walls and roof.

**WATER BODY** — Any pond, great pond classified GPA, river, or stream.

**WATER CROSSING** — Any project extending from one bank to the opposite bank of a river, stream, tributary stream or wetland whether under, through, or over the water or wetland. Such projects include but may not be limited to roads, fords, bridges, culverts, water lines, sewer lines, and cables as well as maintenance work on these crossings. This definition includes crossings for timber harvesting equipment and related activities.

**WETLAND** — A freshwater wetland (see "freshwater wetland").

**WILDLIFE HABITAT; SIGNIFICANT WILDLIFE HABITAT** — Areas identified by a government agency such as the Maine Department of Inland Fisheries and Wildlife as having significant value as habitat for animals or any areas identified in the municipality's Comprehensive Plan.

**WOODY VEGETATION** — Live trees or woody, nonherbaceous shrub.