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**COUNCIL ORDINANCE COMMITTEE AUGUST 1, 2024 MEETING:
AMENDMENTS TO THE LAND USE ORDINANCE §120 LAND USE**

Proposed previous LUO amendments from the April 9, 2024 Meeting:
§ 120-301: DEFINITIONS

CONSERVATION SUBDIVISION

A form of development that permits a reduction in lot area and bulk requirements, and the remaining land area is devoted to open space, active recreation, preservation of environmentally sensitive areas, or agriculture. (See Article 4, Zoning Districts, and Article 9, Subdivision Review.)

Commented [SJP1]: Amendments carried over from the April 9, 2024 meeting.

OPEN SPACE

Land set aside for permanent protection from development within a conservation subdivision. Open space uses may include passive and/or active use, including play fields and playgrounds, for preservation of environmentally sensitive areas, agriculture, forestry, or buffers.

Commented [SJP2]: Amendments carried over from the April 9, 2024 meeting.

Proposed new LUO amendment:

§ 120-414B Enterprise Development (ED) Permitted uses. The following uses, as they are defined in Article 3, shall be permitted in the Enterprise Development District as a matter of right. Refer to Article 5, Performance Standards, or Subsection F, District standards, for additional use information. [Amended 10-14-2014 by Order 14-387; 5-26-2020 by Order 20-048; 8-15-2023 by Order No. 23-150; 3-12-2024 by Order No. 24-033]

Permitted Uses

- Auction house Convention center
- Automobile auction facility Distribution facility
- Automobile repair services Forestry
- Building, accessory Hotel
- Business and professional office Industry, heavy
- Contractor services Industry, light
- Contractor storage yard Marijuana cultivation facility
- Construction services, heavy, major Marijuana manufacturing facility
- Construction services, heavy, minor Marijuana registered dispensary

Marijuana testing facility	Solar energy system – roof-mounted, small, medium, and large scale
Mineral extraction	Solar energy system – ground-mounted, small scale
Motel	Solar energy system – ground-mounted, medium scale
Public utility facility	Solar energy system – ground-mounted, large scale
Retail sales, accessory	Use, accessory
<u>Recreational, indoor</u>	Warehousing, private
<u>Recreational, outdoor</u>	Warehousing, public
<u>Recreational, passive</u>	Wireless telecommunications tower and facility
Small engine repair	

Commented [SJP3]: The town's ED plan envisions it as a well-known recreational destination in Maine. The parcels in the ED district are unique and have the potential to host a variety of recreational activities. The permitted uses should include all three (3) recreational activities to promote recreational development.

§120-812C Parking and loading requirements. [Amended 4-27-2010 by Order 10-075; 3-8-2011 by Order 11-037; 8-25-2015 by Order 15-122; 6-12-2018 by Order 18-099]

- (1) Off-street parking layout
 - d) In parking lots utilizing a parking angle of 90°, ~~30%~~10% of the spaces shall be created with a stall width of 10 feet zero inches and a stall depth of 20 feet zero inches. Remaining spaces shall be created with a stall width of at least nine feet zero inches and a stall depth of at least 18 feet zero inches.

Commented [SP4]: To reduce the total required 90° parking stalls that are 10' x 20' in size from 30% to 10%. This amendment would require developers to provide one space out of 10 to be oversized relative to the typical 9' x 18' stale size.

§120-810H Section 120-810C shall be administered by the Planning Director or other Town employee responsible for administering the ordinance under which review is sought. No building permit, commencement of any construction or site preparation (including but not limited to, land preparation such as clearing, grading, and filling; installation of streets and walkways; excavation for basements, footings, piers, or foundations; erection of temporary forms; and installation of accessory buildings such as garages, or certificate of occupancy may be issued or released until all fees assessed hereunder have been paid in full.

Commented [SJP5]: The site preparation in Site Plan standard is different than the commencement of construction in Subdivision. Allowing tree cutting before final Planning Board approval of the subdivision. Site Plan standard the requirement of all fees assessed be paid before site preparation.

§120-915E. Commencement of site work. Not only is creating a subdivision without Board approval a violation of law, but so also within such a subdivision is grading, including but not limited land preparation such as clearing, grading, and filling; installation of streets and

Commented [SJP6]: Strikeout grading.

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walkways; excavation for basements, footings, piers, or foundations; erection of temporary forms; and installation of accessory buildings such as garages or construction of roads, grading of land or lots, or construction of buildings until such time as a final plan of such subdivision has been duly prepared, submitted, approved and endorsed as provided in these standards, and until the original copy of the final plan so approved and endorsed has been duly recorded in the Cumberland County Registry of Deeds in accordance with [§ 120-912](#).

Commented [SJP7]: Consistent with the commencement of any construction and site preparation with Site Plan.

Chapter 101 Growth Management

[HISTORY: Adopted by the Town Council of the Town of Windham 7-28-2020 (Ch. 116 of the 1991 Code); amended 6-22-2021; 1-11-2022. Subsequent amendments noted where applicable.]

§101-7 Administration.

The Town Manager is proposing changes to the Town Growth Management ordinance in response to concerns raised by several Council members.

Currently, an applicant submits a project that requires multiple growth permits to the Planning Board. After the Planning Board approves the project, it is then submitted to the Council for the issuance of the required growth permits. The issue is that, while the Planning Board can approve the project, it does not influence the Council's decision to grant or deny the growth permits. To ensure that developers have confidence in the Planning Board process, it is necessary to revise the Growth Ordinance. **(Attorney Bower will provide proposed ordinance amendments in the next section)**

Chapter 185 Shoreland Zoning Moratorium extension

The Town Manager is proposing an extension of the moratorium due to the Committee's work, the Planning Board's public process, Council discussion, and a public hearing and vote. The timeline below outlines the required steps to complete the amendment process and explains the reasons for extending the moratorium.

- 3/26/2024 – Discussion CD 24-075 Shoreland Zoning Issues/Moratorium on Non-Residential Development
- 4/9/2024 – Action Item 24-051 Public Hearing and Order establishing moratorium ordinance
- Moratorium language says the applicability date for new development proposals is March 26, 2024. If an emergency enactment (last paragraph), the ordinance shall stand repealed as of the 61st day, unless reenacted by the town. (by May 26, 2024) *It was not enacted by Emergency.

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- It also states that, “it is anticipated that such a study, review, and development of recommended ordinance changes will take at least one hundred and eighty (180) days from the date the Town first considers this moratorium...” [The meeting minutes attest to the desire for 180-day limit by Council.]
- The first consideration...from the March 26, 2024, discussion, and applicability date, brings us to an expiration date of September 22, 2024 (I previously calculated October 5th from the 4/9/2024 Council action date.)
- A vote to extend the moratorium may need to be considered on September 10th.

§185-8 Amendments.

A. Town Council. After review and written recommendation by the Planning Board, this chapter may be amended by the Town Council in accordance with the Town Charter. The Planning Board may hold a public hearing on proposed amendments and shall place a notice of such meeting in a newspaper of general circulation in the Town of Windham at least two times and the first date at least seven days prior to a public hearing to be held.

C. Department of Environmental Protection. The Department of Environmental Protection shall be notified, by certified mail, of all amendments within 45 days of the effective date of such amendments. A file of return receipts from such mailings shall be maintained as a permanent record. Amendments shall not be effective unless approved by the Commissioner of the Department of Environmental Protection. If the Commissioner fails to act on any amendment within 45 days of his/her receipt of the amendment, the amendment is automatically approved. Any application for a permit submitted to the municipality within the forty-five-day period shall be governed by the terms of the amendment, if such amendment is approved by the Commissioner.

CD 23-029 South Windham/Little Fall Master Plan Update.

- The Town Manager has scheduled discussion item with the Town Council on the August 20th meeting agenda I to allow the Director of Planning to provide an update of the implementation process of the Master Plan (see attachment file: 2023-04-24-VILLAGES MASTER PLAN.pdf).
- The purpose of the discussion item is progress update for the Council and authorization to schedule a joint Council Ordinance Committee review meeting to develop consistent zoning between Gorham and Windham (see attachment file: NSP_VillageProgressMemo_May2024.pdf).
- NorthStar Planning has divided the study into three new zoning districts (see attached map file):
 - **Village Core** - to cultivate a dynamic, pedestrian-friendly downtown village characterized by versatile mixed-use development. This district envisions a lively blend of commercial and residential spaces, with ground floors designed for active engagement through inviting storefronts and active public spaces.

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- **Village Core Extension** - to create walkable residential neighborhoods that enhance and sustain the Village Core. This subdistrict prioritizes the creation of sidewalks, trails, and paths for better pedestrian infrastructure to seamlessly integrate residential areas with commercial services, open space, and key village activity centers.
- **Village Supporting Residential** - to preserve existing neighborhood building character, while allowing for additional infill residential development. This subdistrict creates a balanced transition from the more active Village Core and Extension areas to surrounding rural spaces and resources and enhances connectivity and access from the Village to natural landscapes.