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Article 3 Definitions

MULTIFAMILY DEVELOPMENT

A development proposing one or more lots which will individually contain three or more dwelling units.

Article 8 Site Plan Review

§ 120-801 Purpose.

The site plan review provisions set forth in this article are intended to protect the public health and safety, promote the general welfare of the community, and conserve the environment by assuring that nonresidential and multifamily construction is designed and developed in a manner which assures that adequate provisions are made for traffic safety and access; emergency access; water supply; sewage disposal; management of stormwater, erosion, and sedimentation; protection of the groundwater; protection of the environment, wildlife habitat, fisheries, and unique natural areas; protection of historic and archaeological resources; minimizing the adverse impacts on adjacent properties; and fitting the project harmoniously into the fabric of the community.

§ 120-802 Applicability.

[Amended 12-14-2010 by Order 10-231; 6-12-2018 by Order 18-099]

- A. A person who has right, title, or interest in a parcel of land shall obtain site plan approval prior to commencing any of the following activities on the parcel, obtaining a building or plumbing permit for the activities, or undertaking any alteration or improvement of the site, including grubbing or grading:
- (1) The construction or placement of any new building or structure for a nonresidential use, including accessory buildings and structures, if such buildings or structures have a total area for all floors of all structures of 1,000 square feet or more measured cumulatively over a five-year period.
 - (2) The expansion of an existing nonresidential building or structure, including accessory buildings, if the enlargement increases the total area for all floors within a five-year period by more than 20% of the existing total floor area or 1,000 square feet, whichever is greater.
 - (3) The conversion of an existing building in which 1,000 or more square feet of total floor area are converted from residential to nonresidential use.
 - (4) The establishment of a new nonresidential use, even if no buildings or structures are proposed, that involves the development of more than 25,000 square feet of land. This includes uses such as gravel pits, cemeteries, golf courses, and other nonstructural, nonresidential uses.
 - (5) The conversion of an existing nonresidential use, in whole or in part, to another nonresidential use if the new use changes the basic nature of the existing use such that it increases the intensity of on- or off-site impacts of the use subject to the standards and criteria of site plan review described in § 120-812 of this article.
 - (6) ~~The construction of a residential building containing three or more dwelling units~~Multifamily Development.
 - (7) The modification or expansion of an existing residential structure that increases the number of dwelling units in the structure by three or more in any five-year period.

- (8) The conversion of an existing nonresidential building or structure, in whole or in part, into three or more dwelling units within a five year period.
 - (9) The cumulative development of an area equal to, or greater than, one acre within any three-year period. The applicability of this subsection does not include the construction of streets that are reviewed as part of a subdivision application under the standards of Article 9 of this chapter. For developments of less than one acre, the standards of Chapter 201, Stormwater Management, Article I, Surface Water Protection, may apply.
- B. The following activities shall not require site plan approval. Certain of these activities will, however, require the owner to obtain a building permit, plumbing permit or other state or local approvals:
- (1) The construction, alteration, or enlargement of a single-family or two-family dwelling, including accessory buildings and structures.
 - (2) The placement, alteration, or enlargement of a single manufactured housing or mobile home dwelling, including accessory buildings and structures on individually owned lots.
 - (3) Agricultural activities, including agricultural buildings and structures, and farm enterprise.
[Amended 10-13-2020 by Order 20-211]
 - (4) Timber harvesting and forest management activities.
 - (5) The establishment and modification of home occupations.
 - (6) Activities involving nonresidential buildings or activities that are specifically excluded from review by the provisions of this article.

§ 120-814 Multifamily development standards.

The purpose of this section is to establish design standards and guidelines that will apply to multifamily development.

A. Building Architecture

1. Architectural Variety

- a. Buildings shall employ more than a single color application.
- b. Buildings shall employ more than a single material application.
- c. At least two different building designs shall be included in developments with multiple buildings. Building designs shall be differentiated through variations to building materials, color, rooflines, and the use of architectural features such as awnings, light fixtures and single-story eave details.

2. Façade

- a. Buildings with more than two (2) dwelling units and greater than thirty-five (35) feet in length shall provide variation in roof and façade character through changes in facade setback, roof configuration, and/or projecting or recessed building elements.
- b. When buildings are three or more stories in height, variations in massing and setbacks shall be provided on the top floor to differentiate the top floor from lower floors.

3. Orientation

- a. When buildings are adjacent to an existing street, building entrances shall be oriented to face the street.
- b. Buildings may be oriented to open space areas, provided that street frontages are developed consistent with above.

B. Site Design

1. Parking

- a. On-site parking may include new internal streets or access drives with parallel or angled on-street parking. Wherever possible, parking lots shall be located to the rear or sides of multifamily buildings.

b. Provisions shall be made for snow storage in the design of all parking areas. The areas used for snow shall not conflict with proposed landscaping. The areas shall be sited to avoid problems with visibility, traffic circulation, drainage, or icing during winter months.

2. Screening

a. Utilities. Service areas, loading docks, delivery areas, trash receptacles, and mechanical equipment shall be screened to minimize visibility from sensitive viewpoints such as public and private roadways, main entrances, residences outside the development, public open spaces, and pathways. Service areas shall be screened with architectural elements such as walls or fences. Screening may be further enhanced with evergreen trees, shrubs, and earth berms. Gates on utility enclosures shall be designed to prevent sagging.

b. Existing Residential Abutters. When new residential development is adjacent to an existing residential use, landscaping, including large evergreen trees, and/or garden features (e.g., trellis or supplementary fencing), shall provide a buffer or screening between properties and obscure direct sight-lines into private yard areas or windows on adjacent properties.

3. Bicycle/Pedestrian

a. Internal Traffic Flow Internal Walkways.

1. Continuous internal walkways shall be provided from the public sidewalk to the principal entrance of all principal buildings on the site. Walkways shall also connect other buildings on multi-building developments, transit stops, and other focal points of pedestrian activity.

b. Links to Community.

1. Site plans shall preserve or create linkages with surrounding buildings, neighborhoods, and other parts of the community. The design of these links shall consider views, noise, traffic, security, lighting, the privacy of abutting commercial or residential neighbors, and other factors relating to the safety and welfare of the user.

2. Internal pedestrian connections between abutting properties shall be provided to encourage walking and discourage additional auto trips onto major roadways. Connections shall avoid crossing parking lots, major interior roadways, service areas, drive-throughs, and other potential points of conflicts. Where such crossings are unavoidable, they shall be well-marked and as direct as possible.

c. Bicycle Parking/Racks

1. Development with multifamily dwellings shall provide facilities for the parking of bicycles at a ratio of 0.5 bicycle parking space per dwelling unit in the multifamily dwelling.

4. Recreation and Open Space

a. The Planning Board shall require the reservation of land for parks, playgrounds, or open space areas to benefit the residents of the proposed development. The reserved land must be of suitable dimension, topography, and general character for the proposed recreational use and must be reasonably accessible to residents of the development. It must be designated on the plan as "Reserved for Conservation or Recreation Purposes".

b. A minimum area of fifteen (15) percent of the total lot area (inclusive of required setback areas) shall be designated, and permanently reserved, as usable common open space. The area may include the required setback areas. Stormwater infrastructure shall not count towards the minimum area, except for low-impact development (LID) systems as identified in the September 21, 2007, report, "LID Guidance Manual for Maine Communities," as amended.

Commented [ALL1]: This is a requirement in addition to a project paying open space and recreation impact fees – if on site open space or recreation amenities are provided the applicant could request the Council waive those fees in accordance with Section 1200

c. In all developments with more than 10 units, excepting developments within 500 feet of a public park or playground that is directly accessible, the site plan shall designate, within the common open space, a minimum of 250 square feet/each of the first 10 units, plus 50 square feet/unit above 10 units, of contiguous area with constructed amenities for passive use (e.g. outdoor courtyards, seating areas, or family picnic area with amenities such as landscaping, lighting, weather protection and other features that encourage use year-round) or active areas (e.g., children's play areas, play fields, and community gardens).

5. Landscape/Lighting

a. Landscaping

1. The use of a variety of plant materials that exhibit seasonal color and interesting texture is encouraged to create a distinctive, yet low maintenance environment. Plantings plans should strike a balance between monoculture (the use of a single species) and too much variety, and not include species on the list of Invasive Plants published by the Maine Department of Agriculture, Conservation and Forestry.
2. The use of plant materials and landscape elements that require a low degree of maintenance is strongly encouraged. All plantings shall be resistant to insect infestation, drought, disease, roadside salt, and auto emissions, and hardy to Maine winters.
3. Shrubs and perennials should generally be planted in large masses or drifts, rather than as individual specimens, to provide a pleasing effect for both motorists and pedestrians.
4. To maintain the character of the landscape, existing healthy trees and shrubs shall be preserved or be transplanted to another area of the site wherever practical. Where it is not possible to maintain existing trees, the reason for removal shall be given in writing.

b. Parking Lot Landscaping

1. Parking areas with 40 or fewer parking stalls shall landscape a minimum of 10% of the total area. Parking areas with greater than 40 parking stalls shall landscape a minimum of 15% of the total area. Planting islands shall be a minimum of 9' in width. All parking lot landscaping shall be able to tolerate parking lot growing conditions.
2. Trees in parking lots may be planted in informal groups, straight rows, or irregular groupings as space permits, or they may be concentrated in certain areas. Trees should be planted a minimum of five feet from the end of parking lot islands.
3. Where trees abut pedestrian walkways or places where people will be walking in parking lots, their lower branches shall be pruned to at least eight feet above the paved surface to avoid becoming an obstacle. Shrubs used in parking lot islands shall not exceed three feet in height to avoid blocking visibility.
4. Landscaped areas used for separation between banks of parking stalls shall contain 50% vegetative cover.
5. Landscaping materials surrounding parking lots and in islands shall be able to tolerate large quantities of snow stored during winter months. Delicate plant material shall not be used in areas where they are likely to be buried under snow.

c. Lighting

1. Light fixtures used in driveways and parking lots shall be in scale with buildings on site. Maximum pole height along driveways shall not exceed 25 feet.

2. Pedestrian-scaled lighting, less than 16 feet in height, shall be used to illuminate areas used for pedestrian circulation.
3. All illumination shall be controlled with cutoffs that primarily direct light downward.

6. Access Drive Standards. Multifamily Developments in which the property will be held in common ownership shall be served by an access drive. Access drives shall remain private and shall not be maintained or repaired by the Town. Access drives shall meet the following standards:

Commented [ALL2]: Moved from Section 911.M.5.a.6

a. C1 and C2 Districts

1. Design Standards. Access drives shall be designed to conform to the standards for Commercial Street, Curbed Lane or Residential Street standards.
2. Rights-of-Way. The minimum right-of-way width for a Commercial Street, Curbed Lane or Residential Street in Appendix B is not applicable to an access drive. When the Planning Board determines that a right-of-way is required to connect to a surrounding street, an existing right-of-way on an abutting property, or to provide continuation of the road to allow for connectivity with expected future development, a public access easement across the access drive shall be offered to the Town in order to comply with the Article 4 Block Standards.
3. Setbacks. There shall be no required setback between an access drive and a structure.

Commented [KMC3]: This seems problematic where the access drive might become used as a proper street someday, thus creating a nonconformity.

b. Other Districts.

1. Design Standards. Access drives shall be designed to conform to the standards for "Major Private Roads" in these regulations, including the standards contained in Table 3, Table 4, and the applicable cross sections in Appendix B Street Standards.
2. Rights-of-Way. The minimum right-of-way width for a "Major Private Road" in Table 3 of Appendix B is not applicable to an access drive.
3. Setbacks. There shall be no minimum setback required between an access drive and a structure.

c. Curb cuts on the access drive must be separated by a minimum of 75 feet where possible and aligned with curb cuts on the opposite side of the access drive to the greatest extent possible.

Commented [ALL4]: From Draft CBC

d. Access drives shall remain private and shall not be maintained or repaired by the Town. A note shall appear on the site plan: All internal access roads and driveways shall remain private and shall be maintained by the developer, lot owners, homeowners/condominium association, or road association and shall not be offered for acceptance, or maintained, by the Town of Windham unless they meet all municipal street design and construction standards at the time of offering.:-'

§ 120-~~813-814~~ **Commercial district design standards.**
[Added 4-24-2012 by Order 12-052]

The following design standards are hereby established for nonresidential development within Windham's Commercial 1, Commercial 2, Commercial 3, and Village Commercial Districts. Where there is a conflict between a provision of the design standards and any other provision of this chapter, the more restrictive provision shall apply. In addition to meeting all design standards required in the applicable zoning district, development must comply with a minimum of eight other design standards. For purposes of this section, "development" shall mean that portion of the project that is subject to site plan review under Article 8 or will renovate 20% or more of the entire wall area of a structure on the site. For this type of renovation, the renovation will be subject to the required design standards in Section A below, but will

not be subject to other required design standards.

Design Standards Framework					
		C-1	C-2	C-3	VC
A.	Architecture/Building				
1	Building style	R ¹	R	R	R
2	Materials	R	R	R	R
3	Color	R	R	R	R
4	Roofline	R	R	R	R
5	Facade	R	R	R	R
6	Building style coordination (multibuilding)	R	R	R	R
7	Entrance	R	R	R	R
8	Architectural details	R	R	R	R
9	LEED certification				
B.	Site/Parking				
1	Parking location				
2	Internal traffic flow				
3	Interconnected parking lots				
4	Orientation of building				
5	Screening, parking		R		
6	Screening, utilities and service areas/structures	R	R		R
7	Parking lot landscaping				
8	Low-impact design stormwater				
9	Shared stormwater treatment				
C.	Landscaping/Lighting				
1	Lighting/photometric plan	R			R
2	Lighting coordinated with architecture	R			R
3	Lighting coordinated with landscaping	R			R

Design Standards Framework

		C-1	C-2	C-3	VC
4	Existing trees preserved			R	
5	Snow storage areas designated	R	R	R	R
6	Planting variety				
7	Planting suitability				
8	Mass plantings				
9	Illumination levels				
D.	Bicycle/Pedestrian				
1	Internal walkways	R			
2	Links to community	R	R		R
3	Outdoor activity area				
4	Sidewalks	R			
5	Crosswalks	R			
6	Bike parking/racks	R	R		R

- Any item listed with an R in the table is a required design standard in that zoning district.

The following standards are taken from the booklet Town of Windham Design Guidelines, adopted by the Town Council on July 26, 2005, a copy of which is on file in the Windham planning office.

A. Architecture/building.

- Building style. Required in C-1, C-2, C-3, and VC Zoning Districts. National franchise prototypes are permitted, provided they meet the design standards for architectural principles, scale, color, rooflines, and materials. Buildings that are stylized to the point where the structure is a form of advertising are not acceptable.
- Materials. Required in C-1, C-2, C-3, and VC Zoning Districts.
 - Traditional, high-quality building materials common to northern New England (e.g., brick, clapboard, shingles or other similar products) shall be used as the primary siding material. Contemporary materials that have the same visual characteristics as traditional materials (e.g., cement plank clapboards or vinyl siding) are acceptable if attention is paid to detailing (e.g., corners, trim at openings, changes in material). Painted MDO plywood is acceptable when used in combination with traditional materials.
 - Awnings and canopies shall be made of canvas or similar material.
 - Color. Required in C-1, C-2, C-3, and VC Zoning Districts. Facade colors shall be low-reflectance. The use of high-intensity, high-reflectance, chrome, metallic, or fluorescent colors is prohibited on the primary building face.

- (4) Roofline. Required in C-1, C-2, C-3, and VC Zoning Districts.
- (a) Where pitched roofs are used, the minimal pitch shall be at least 5/12. Buildings with projecting rooflines shall be designed to create strong patterns of shade and shadow.
 - (b) Nontraditional roof forms shall not be used as the primary roofline. Examples of nontraditional roof forms include, but are not limited to, false mansard, A-frames, and others.
 - (c) Flat roofs are allowed, provided that the design creates no horizontal line greater than 50 feet.
 - (d) Where parapets are used to break up a flat roofline, the height of the parapet shall be at least 5% of the total length of the wall.
 - (e) Composite asphalt shingles and standing-seam, nonglare metal are acceptable for visible roofing. High-gloss roofing materials shall not be used.
 - (f) Mechanical and other equipment mounted on rooftops must be screened from public view or grouped at the rear of the structure where visibility is limited. Rooftop screening shall be designed as an integral part of the architecture to complement the building's mass and appearance.
- (5) Facade. Required in C-1, C-2, C-3, and VC Zoning Districts.
- (a) Facades that face public streets shall have transparent openings, such as display windows or entry areas, a minimum of 40% of the horizontal length on the ground floor in total. Uses not subject to this standard are:
 - [1] Agriculture.
 - [2] Convention center.
 - [3] Industry, light.
 - [4] Industry, heavy.
 - [5] Warehousing, private.
 - [6] Warehousing, public.
 - (b) Retail and food service facades that are visible or potentially visible from adjacent properties shall be designed to match or complement the architectural treatment of the front facade. Blank or unadorned walls facing public roads or abutting properties are prohibited except when such wall faces a service area.
 - (c) The site plan and architectural elevations shall show the locations reserved for vending machines. Machines will be located within the footprint of the primary structure of the site. (Drive-up ATMs are not considered vending machines.)
 - (d) When in public view, windows, doors, ventilation fixtures, and other openings in frame construction shall be trimmed to create a frame around the opening. Materials used for trim shall match those used on the facade of the building.
 - (e) Horizontal facades greater than 50 feet in length shall incorporate wall plane projections or recesses having a depth of at least 3% of the length of the facade and extending at least 20% of the length of the facade. No uninterrupted facade shall exceed 50 horizontal feet.
- (6) Building style coordination (multibuilding developments). Required in C-1, C-2, C-3, and VC Zoning Districts.
- (a) As part of the site plan application, the applicant shall provide a phasing plan that will illustrate the

sequence that development will occur, and what steps will be taken to ensure compatibility between current and future activities.

- (b) Nonhabitable freestanding structures, such as freestanding ATMs, garages, storage units, recycling sheds, cart corrals, and utility buildings, shall be treated as architectural elements and meet the same design guidelines as larger buildings.
- (7) Entrance. Required in C-1, C-2, C-3, and VC Zoning Districts.
 - (a) New or renovated buildings over 20,000 square feet shall have clearly defined and highly visible customer entrances, incorporating at least three of the following elements:
 - [1] Significant variations in rooflines.
 - [2] Distinctive lighting and landscaping.
 - [3] Canopies or porticos.
 - [4] Overhangs, recesses, or projections.
 - [5] Pedestrian arcades.
 - [6] Raised corniced parapets over the door.
 - [7] Peaked roof forms in scale with building.
 - [8] Outdoor patios.
 - [9] Display windows.
 - [10] Architectural details such as tile work and moldings which are integrated into the building structure and design.
- (b) Linear commercial buildings shall have clearly defined and highly visible customer entrances that are designed as integral architectural elements.
- (8) Architectural details. Required in C-1, C-2, C-3, and VC Zoning Districts. Architectural detailing and trim shall be proportional to the scale and design of the entire building.
- (9) LEED certification. Optional in C-1, C-2, C-3, and VC Zoning Districts. The project shall obtain any level of leadership in energy and environmental design (LEED) certification from the United States Green Building Council (USGBC), for any of the USGBC rating systems.
- B. Site/parking.
 - (1) Parking location. Optional in C-1, C-2, C-3, and VC Zoning Districts. Wherever possible, parking lots shall be located at the rear or sides of commercial buildings. Where land use conflicts occur (e.g., unavoidable siting of a parking lot next to a home), the lot shall be screened with evergreen trees, earth berms, solid walls, or shrubs.
 - (2) Internal traffic flow. Optional in C-1, C-2, C-3, and VC Zoning Districts.
 - (a) To ensure the safety of motorists, delivery trucks, and pedestrians, the site plan shall clearly delineate internal traffic patterns. Parking space, directional arrows, crosswalks, and other markings on the ground shall be delineated with pavement paint or other suitable material to ensure safe circulation.
 - (b) Circulation patterns for parking lots with more than 40 spaces shall be designed by a traffic engineer to meet the Land Use Ordinance. The Planning Board may require a traffic engineer for smaller lots

where there are particular public safety issues. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

- (3) Interconnected parking lots. Optional in C-1, C-2, C-3, and VC Zoning Districts. If feasible, connections between abutting properties shall be provided to facilitate deliveries and minimize turning movements onto the highway. As required by the Planning Board during site plan review, internal connections shall be designed by a traffic engineer to provide safe, direct access between adjacent lots. Cross easements shall be provided as required. Traffic-calming measures, such as speed tables, well-marked crosswalks, raised crosswalks, vertical curbing, curvilinear road alignment, neckdowns, curbed islands, and signage, are encouraged to reduce speeding on internal vehicular connections.
- (4) Orientation of building. Optional in C-1, C-2, C-3, and VC Zoning Districts.
 - (a) Buildings along the roadways shall be located as close to the front property lines as established under the Land Use Ordinance to establish a visual edge to the street and give scale and interest to the pedestrian environment. In cases where new structures are being proposed, parking shall be located at the rear or side of the building.
 - (b) Service stations, convenience stores, and similar uses shall be sited to face the street. On corner lots, said uses may face both streets.
- (5) Screening, parking. Required in C-2; optional in C-1, C-3, and VC Zoning Districts. Plant materials and other landscape elements shall be used to create suitable buffers between residential and commercial properties. The design of buffers shall consider the appearance from both commercial and residential viewpoints. Evergreen plantings are particularly effective for year-round buffering.
- (6) Screening, utilities and service areas/structures. Required in C-1, C-2, and VC Zoning Districts; optional in C-3. Service areas, loading docks, delivery areas, trash receptacles, and mechanical equipment shall be screened to minimize visibility from sensitive viewpoints such as public and private roadways, main entrances, abutting neighborhoods, public open spaces, and pathways. Service areas shall be screened with architectural elements such as walls or fences. Screening may be further enhanced with evergreen trees, shrubs, and earth berms. Gates on utility enclosures shall be designed to prevent sagging.
- (7) Parking lot landscaping. Optional in C-1, C-2, C-3, and VC Zoning Districts.
 - (a) A minimum of 10% of the parking lot shall be landscaped for sites with 40 parking stalls or fewer. Parking areas with greater than 40 parking stalls shall landscape a minimum of 15% of the total area. Planting islands shall be a minimum of nine feet in width. All parking lot landscaping shall be able to tolerate parking lot growing conditions.
 - (b) Trees in parking lots may be planted in informal groups, straight rows, or irregular groupings as space permits, or they may be concentrated in certain areas. Trees should be planted a minimum of five feet from the end of parking lot islands.
 - (c) Where trees abut pedestrian walkways or places where people will be walking in parking lots, their lower branches shall be pruned to at least eight feet above the paved surface to avoid becoming an obstacle. Shrubs used in parking lot islands shall not exceed three feet in height to avoid blocking visibility.
 - (d) Landscaped areas used for separation between banks of parking stalls shall contain 50% vegetative cover.
 - (e) Landscape materials surrounding parking lots and in islands shall be able to tolerate large quantities of snow stored during winter months. Delicate plant materials shall not be used in areas where they are likely to be buried under snow.

- (8) Low-impact design stormwater. Optional in C-1, C-2, C-3, and VC Zoning Districts. The project shall incorporate low-impact development (LID) systems as identified in the September 21, 2007, report, "LID Guidance Manual for Maine Communities," as amended.
 - (9) Shared stormwater treatment. Optional in C-1, C-2, C-3, and VC Zoning Districts. Wherever appropriate, treatment basins shall be designed to be shared by abutting properties to minimize the amount of land area dedicated to stormwater management.
- C. Landscaping/lighting.
- (1) Lighting/photometric plan. Required in C-1 and VC Zoning Districts; optional in C-2 and C-3 Zoning Districts.
 - (a) A lighting plan shall be presented to the Planning Board during site plan review or the Code Enforcement Officer during the building permitting process. It shall contain:
 - [1] The lighting fixtures proposed to illuminate all buildings, roadways, service areas, landscaping, parking areas, and pedestrian areas.
 - [2] Specifications and illustrations of all proposed lighting fixtures, including pole heights, height of luminaire, photometric data, Color Rendering Index (CRI) of all lamps (bulbs), and other descriptive information.
 - (b) For site plans with greater than 20 parking spaces or high traffic volumes, the Town may require additional information, including:
 - [1] A narrative that describes the site lighting, how lighting will be used to provide safety and security, and aesthetic effects.
 - [2] A photometric diagram that shows illumination levels from all externally and internally visible lighting sources, including existing sources, to show how the minimum amount of illumination will be provided and the maximum amounts will not be exceeded.
 - (2) Lighting coordinated with architecture. Required in C-1 and VC Zoning Districts; optional in C-2 and C-3 Zoning Districts. If done properly, unique building or landscape features may be highlighted, if the lighting does not create glare or distraction. Neon bulbs used as lighting features are not allowed on the exterior of buildings.
 - (3) Lighting coordinated with landscaping. Required in C-1 and VC Zoning Districts; optional in C-2 and C-3 Zoning Districts. The lighting plan shall consider the ultimate size of trees that could eventually obscure the lighting or create dark spots in parking lots.
 - (4) Existing trees preserved. Required in C-3 Zoning District; optional in C-1, C-2, and VC Zoning Districts. To maintain the character of the landscape, existing healthy trees and shrubs shall be preserved or be transplanted to another area of the site wherever practical. Where it is not possible to maintain existing trees, the reason for removal shall be given in writing.
 - (5) Snow storage areas designated. Required in C-1, C-2, C-3, and VC Zoning Districts. Provisions shall be made for snow storage in the design of all parking areas. The areas used for snow shall not conflict with proposed landscaping. The areas shall be sited to avoid problems with visibility, drainage, or icing during winter months.
 - (6) Planting variety. Optional in C-1, C-2, C-3, and VC Zoning Districts. The use of a variety of plant materials that exhibit seasonal color and interesting texture is encouraged to create a distinctive yet low-maintenance environment. Plantings plans should strike a balance between monoculture (the use of a single species) and too much variety.
 - (7) Planting suitability. Optional in C-1, C-2, C-3, and VC Zoning Districts. The use of plant materials

and landscape elements that require a low degree of maintenance is strongly encouraged. All plantings shall be resistant to insect infestation, drought, disease, roadside salt, and auto emissions, and hardy to Maine winters.

- (8) Mass plantings. Optional in C-1, C-2, C-3, and VC Zoning Districts. Shrubs and perennials should generally be planted in large masses or drifts, rather than as individual specimens, to provide a pleasing effect for both motorists and pedestrians.
- (9) Illumination levels. Optional in C-1, C-2, C-3, and VC Zoning Districts.
 - (a) Light fixtures used in driveways and parking lots shall be in scale with buildings on site. Maximum pole height along driveways shall not exceed 25 feet.
 - (b) Fixture heights shall vary with the size and position of the lot. Small parking areas (fewer than 150 cars) shall have a maximum pole height of 20 feet. In large parking areas (greater than 150 cars) thirty-foot poles may be allowable to reduce the number of poles. Poles within 200 feet of residential property lines shall not exceed 20 feet in height.
 - (c) Pole heights for pedestrian lighting shall be appropriate for the project and the setting. Bollard fixtures, three feet to four feet in height, and ornamental fixtures, up to 12 feet in height, are encouraged as pedestrian-area lighting. When decorative or special lighting is used, pole height shall be a maximum of 16 feet above the ground.
- D. Bicycle/pedestrian.
 - (1) Internal walkways. Required in C-1, optional in C-2, C-3, and VC Zoning Districts. Continuous internal walkways shall be provided from the public sidewalk to the principal customer entrance of all principal buildings on the site. Walkways shall also connect other buildings on multibuilding developments, transit stops, and other focal points of pedestrian activity.
 - (2) Links to community. Required in C-1, C-2, and VC Zoning Districts, optional in C-3.
 - (a) Site plans shall preserve or create linkages with surrounding buildings, neighborhoods, and other parts of the community. The design of these links shall consider views, noise, traffic, security, lighting, the privacy of abutting commercial or residential neighbors, and other factors relating to the safety and welfare of the user.
 - (b) Internal pedestrian connections between abutting properties shall be provided to encourage walking and discourage additional auto trips onto major roadways. Connections shall avoid crossing parking lots, major interior roadways, service areas, drive-throughs, and other potential points of conflict. Where such crossings are unavoidable, they shall be well-marked and as direct as possible.
 - (3) Outdoor activity area. Optional in C-1, C-2, C-3, and VC Zoning Districts. Commercial buildings with footprints in excess of 15,000 square feet shall provide inviting open spaces where people can sit, relax, and socialize. Open spaces shall be designed as outdoor rooms, with consideration to ground surfaces, landscaping, lighting, site furnishings, and other physical elements. The outdoor activity area(s) shall cumulatively total 10% of the building size, but will not be required to exceed 1,000 square feet.
 - (4) Sidewalks. Required in C-1; optional in C-2, C-3, and VC Zoning Districts. Sidewalks and planted esplanades shall be provided by the developer within or near the right-of-way, or the North Windham sidewalk impact fee paid in accordance with Article 12 of this chapter. In cases where new development calls for the construction of a new street, both sides of the street shall be developed where practical to encourage safe pedestrian and bicycle movement. Facilities shall be coordinated with abutting land uses to create interconnections throughout the commercial district and linkages to surrounding residential neighborhoods where appropriate. **[Amended 5-14-2013 by Order 13-072]**
 - (5) Crosswalks. Required in C-1; optional in C-2, C-3, and VC Zoning Districts. Where sidewalks

intersect with commercial driveways or roads, crosswalks shall be installed to emphasize the conflict point and improve its visibility. Materials for crosswalks shall be highly durable and slip-resistant. Raised crosswalks may be used as a traffic-calming device to make crosswalks more visible. They shall be designed by a traffic engineer as part of the site circulation plan. Signs may be warranted at the discretion of the Town in certain situations as recommended by the Institute for Traffic Engineers (ITE). Materials selected for crosswalks shall allow safe bicycle movement across the surface.

- (6) Bicycle parking/racks. The applicant shall provide facilities for the parking of two bicycles, or one space per 10,000 square feet of building area, whichever is greater.

§ 120-~~814~~ 815 **Post-approval activities.**

[Amended 1-22-2013 by Order 13-009; 1-22-2013 by Order 13-010; 2-28-2017 by Order 17-038]

- A. Limitation of approval. Construction of the improvements covered by any site plan approval shall commence within two years of the date upon which the approval was granted. If construction has not commenced, as determined by the Code Enforcement Officer, within the specified period, the approval shall be null and void. The time period does not run during any appeal of the project approval.
 - (1) The applicant may request an extension of the approval deadline prior to the expiration of the period. Such request shall be in writing and shall be made to the Planning Board or Staff Review Committee.
 - (2) The Planning Board or Staff Review Committee may grant up to two one-year extensions to the periods if the approved plan conforms to the ordinances in effect at the time the extension is granted and any and all federal and state approvals and permits are current.
- B. Incorporation of approved plan. One copy of the approved and signed site plan shall be included with the application for the building permit for the project, and all construction activities shall conform to the approved plan, including any conditions of approval and minor changes approved by the Planner, Code Enforcement Officer or Town Engineer to address field conditions.
- C. Improvement guarantees.
 - (1) Application.
 - (a) Improvement guarantee. The Town shall require the posting of an improvement guarantee for an amount adequate to cover 110% of the total construction costs of all required off-site improvements and the following on-site improvements. The amount will be based upon a schedule of values maintained by the Town and based on construction costs of similar projects.
 - [1] Site preparation, including but not limited to clearing, grading, excavation, blasting, and parking area gravel material.
 - [2] All stormwater management infrastructure and erosion control and drainage improvements.
 - [3] Any public or private streets and associated sidewalks and any sidewalks providing access to the site from public or private streets.
 - [4] Site lighting, landscaping, public amenities, and utilities.

[5] Recreation and Open Space elements required as part of the approved site plan.

- (b) Construction of improvements covered by any site plan approval shall be completed within two years of the date upon which the performance guarantee is accepted by the Town Manager. If construction has not been completed within the specified period, the Town shall, at the Town Manager's discretion, use the performance guarantee to either reclaim and stabilize the site or to

complete the improvements as shown on the approved plan.

- (c) Upon substantial completion of all required improvements, the developer shall notify the Town Manager, Public Works Department, Code Enforcement Department and Planning Department of the completion or substantial completion of improvements and shall send a copy of such notice to the appropriate municipal officials. The respective municipal officials shall cause an inspection of all improvements and shall file a report indicating either approval, partial approval, or rejection of such improvements with a statement of reasons for any rejection.
- [1] If the improvements are approved, the guarantee shall be released by the Town Manager. Where partial approval is granted, the developer shall be released from liability only for that portion of the improvements approved.
- [2] Performance guarantees may be reduced periodically, but in no event more than one time per month. In no case shall the performance guarantee be reduced by less than \$10,000 at one time or in any line item where improvements remain to be completed. No performance guarantee shall be reduced to less than 10% of the performance guarantee. The remainder of the guarantee will be released upon completion of the improvements.
- (2) Form of guarantee. Performance guarantees may be provided by a variety of means, including, but not limited to, the following, which shall be approved as to form and enforceability by the Town Manager. A performance guarantee shall not expire between October 31 and April 15 of the following year.
- (a) Security bond. The applicant may obtain a security bond from a surety bonding company authorized to do business in the state.
- (b) Letter of credit. The applicant may provide an irrevocable letter of credit from a bank or other reputable lending institution. The letter of credit shall be provided in accordance with the Town of Windham's most current template.
- (c) Escrow account. The applicant may deposit cash or other instruments readily convertible into cash at face value, either with the municipality or in escrow with a bank. Any such account shall require Town approval for withdrawal and shall stipulate that the Town can withdraw the money upon 48 hours' advance notice to the applicant to complete the guaranteed improvements.
- D. Post-approval construction observations (see § 120-810, Fees).
- (1) At least 15 days prior to commencing construction of required improvements, the developer shall notify the Planner, in writing, of commencement of construction so that the planner can cause observations to be made to ensure that all specifications and requirements of the approved plans shall be met. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**
- (2) At least five days prior to commencing construction of required improvements, the developer shall pay the construction observation fees as required in § 120-810G. No building permits shall be issued on the project and no work, including site preparation, shall commence until the fee has been paid. A preconstruction meeting shall be held with Town staff prior to commencing construction.
- (3) If the observer finds that any of the required improvements have not been constructed in conformance with the plans and specifications approved by the Planning Board or Staff Review Committee, he shall so report to the Town Manager, Public Works Director, Code Enforcement Officer and Planner. The Planner shall notify the developer of the reviewer's findings and seek confirmation of the developer's intent and time line to remediate the deficiencies.
- (a) If the developer is not capable, or refuses, to correct the identified deficiencies, the Town Planner or Town Manager shall notify the bonding company or bank and take all necessary steps to preserve the municipality's rights under the bond, letter of credit or escrow account.

- (b) No site plan amendments or new site plans submitted by said developer shall be approved by the Planning Board or Staff Review Committee as long as the developer is in default on a previously approved plan.
- (4) Prior to the Town issuing any certificates of occupancy, the observer shall find that all required boundary markers have been installed by a Maine licensed professional land surveyor according to the plans approved by the Planning Board or Staff Review Committee.
- E. Submission of as-built plans. Any project involving the construction of more than 20,000 square feet of gross floor area or 50,000 square feet of impervious surface shall provide the Planning Department with a set of construction plans showing the building(s) and site improvements as actually constructed on the site. These "as-built" plans shall be submitted in both paper and electronic copies (including any revisions to the GIS information required in § 120-811, Submission requirements) prior to the issuance of a certificate of occupancy for the project or occupancy of the building.
- F. Minor changes to approved plans. Minor changes in approved plans necessary to address field conditions may be approved by the Planner, provided that any such change does not affect compliance with the standards or alter the essential nature of the proposal. Any such change shall be approved, in writing, by the Planner. Copies of the approval letter shall be placed in the project file.
- G. Amendments to approved plans. Approvals of site plans are dependent upon and limited to the proposals and plans contained in the application and supporting documents submitted and affirmed to by the applicant and conditions, if any, imposed by the Planning Board or Staff Review Committee. Any variation from the plans, proposals, supporting documents, and representations, except minor changes that do not affect approval standards, is subject to review and approval by the Planning Board or Staff Review Committee, as appropriate.
- H. Change in ownership. Where there is a change in ownership of a project after approval has been granted, but prior to the release of the performance guarantee, the Town Manager may request new financial capability information, as well as other factors that the Town Manager deems necessary because of changing conditions.

§ 120-~~815-816~~ **Appeals.**

- A. Appeals of Staff Review Committee actions. Appeal of any actions taken by the Staff Review Committee with respect to this Article 8, Site Plan Review, shall be to the Planning Board in accordance with § 120-806E, Appeal to the Planning Board.
- B. Appeal of Planning Board actions. Appeal of any actions taken by the Planning Board with respect to this article shall be to the Superior Court in accordance with the Maine Rules of Civil Procedure, Rule 80B.

Article 9 Subdivision Review

§ 120-911 **Performance and design standards.**

M. Traffic conditions and streets.

(5) Specific street design and construction standards

(a) General requirements

~~[6] Access drive standards for condominium and multifamily subdivisions. Subdivisions in which the property will be held in common ownership shall be served by an access drive. Access drives shall remain private and shall not be maintained or repaired by the Town. Access drives shall meet the following standards:~~

~~{a} Design standards. Access drives shall be designed to conform to the standards for major private roads in these regulations, including the standards contained in Table 3, Table 4, and the applicable cross sections in Appendix B, Street Design and Construction Standards.[15]~~

~~{b} Rights-of-way. The minimum right-of-way width for a major private road in Table 3 of Appendix B is not applicable to an access drive.~~

~~{c} Setbacks. The setback requirements of the applicable zoning district shall be applied to the parcel as a whole and shall be measured from the property boundaries to the closest improvement subject to setback requirements. There shall be no minimum setback required between an access drive and a structure.~~