

**AMENDMENTS TO THE LAND USE ORDINANCE
RE: CONSERVATION SUBDIVISIONS**

SECTION 120-301: DEFINITIONS

CLUSTER SUBDIVISION ~~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.)

OPEN SPACE

Land set aside for permanent protection from development within a ~~cluster 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.

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**SECTION 120-406E(2) : FARM DISTRICT COUNTRY SUBDIVISION NET
RESIDENTIAL DENSITY**

(2) Net residential density: 60,000 square feet.

(a) Country subdivision: ~~250,000~~ 200,000 square feet.

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SECTION 120-406F(2): FARM DISTRICT CONSERVATION SUBDIVISION

(2) Conservation subdivision. (See Article 9, Subdivision Review.) All submissions for subdivisions on lots greater than 8 acres of gross land area in the Farm District must be designed as a conservation subdivision or a country subdivision.

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**SECTION 120-407E(2): FARM-RESIDENTIAL DISTRICT COUNTRY SUBDIVISION
NET RESIDENTIAL DENSITY**

(2) Net residential density: 40,000 square feet.

(a) Country subdivision: ~~250,000~~ 200,000 square feet.

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**SECTION 120-407F(3): FARM-RESIDENTIAL DISTRICT CONSERVATION
SUBDIVISION**

(3) Conservation subdivision. (See Article 9, Subdivision Review). All submissions for subdivisions on lots greater than 5 acres of gross land area in the Farm-Residential District must be designed as a conservation subdivision or a country subdivision.

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SECTION 120-911K: CONSERVATION SUBDIVISION PERFORMANCE STANDARDS

K. Conservation subdivisions.

(1) Purpose. _____

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- (a) This subsection establishes standards and procedures for developing conservation subdivisions that set aside a significant portion of the site as open space that is permanently protected while allowing the homes to be grouped on smaller lots on the portions of the site that have the least natural, cultural, or historical resource value for conservation purposes. The standards are intended to ensure that those areas of the site that are not developable or that have natural resource value are included in the open space.
- (b) Development under this provision is intended to promote imaginative, well-designed subdivisions which preserve open space, forests and agricultural uses, and an overall rural character. Additionally, conservation subdivisions should provide public access to land for passive and active recreation; protect natural features, environmentally sensitive areas and wildlife cover; respect the physical qualities of the land; and, in some instances, reduce the overall development costs of a subdivision. The standards for conservation subdivisions allow for the creation of lots that are smaller than those that would otherwise be required by the applicable zoning district regulations and in some cases can be combined with density bonuses to allow additional lots, in return for setting aside the balance of the property as permanent open space.
- (c) These provisions are designed to ensure that conservation subdivisions developed in the Town:
 - [1] Preserve those areas of the site that have the highest natural resource value for conservation purposes (refer to the primary and secondary listed below);
 - [2] Preserve rural character and functions in rural portions of Windham;
 - [3] Provide a well-designed approach to the overall roadway and site layout that results in a landscape that provides a sense of a unique and appealing place;
 - [4] Preserve identified historic, archaeological, and cultural features located on the site;
 - [5] Locate the buildings and structures on those portions of the site that are most appropriate for development;
 - [6] Create continuous open spaces, or "greenways," by linking the open spaces in

adjoining subdivisions wherever possible; and

- [7] Minimize the impact of residential development on the Town, neighboring properties, and the natural environment.

- (d) In addition to all applicable standards of this chapter, the Planning Board may approve a ~~single-family~~ conservation subdivision, provided the following conditions are met:

(2) Applicability.

- (a) All submissions for ~~single-family~~ subdivisions in the Farm Zoning District and Farm-Residential Zoning District that meet the space and bulk requirements listed in the appropriate zoning district must be designed as a conservation subdivision or a country subdivision.
- (b) All submissions for subdivisions in all other zoning districts that meet the space and bulk requirements listed in the appropriate zoning district may be designed as a conservation subdivision or a traditional subdivision.
- (c) Property located within more than one residential zoning district. The overall density of the subdivision shall not exceed the combination of the density requirements of the districts in which the subdivision is located, before density bonuses are applied.

(3) Procedure for conservation subdivisions; design process for conservation subdivision open space.

- (a) Delineation of open space. The area to be designated as open space or otherwise preserved as part of the development shall be delineated based upon the primary and secondary conservation areas. The proposed open space in conservation subdivisions shall be identified in accordance with the following:

- [1] The minimum percentage and acreage of required open space shall be calculated by the applicant and submitted in accordance with the provisions of § **120-911K** and of this chapter.
- [2] The proposed open space shall be designated using an existing resources inventory and site analysis sketch plan as a base. This plan shall describe the property proposed to be subdivided and analyze the opportunities and constraints for open space preservation and development. This should be submitted for preapplication review with planning staff prior to submitting a formal application for subdivision approval.
- [3] The primary conservation areas on the site shall be delineated and shall be incorporated into the open space. In delineating primary conservation areas, the applicant shall prioritize natural and cultural resources on the tract in terms of their highest to lowest suitability for inclusion in the proposed open space based upon the priorities set forth in § 120-911K(6)(c). ~~The primary conservation areas shall include floodplains, wetlands, and areas with sustained slopes over 25%.~~

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- [4] The secondary conservation areas on the site shall then be delineated. In delineating secondary conservation areas, the applicant shall prioritize natural and cultural resources on the tract in terms of their highest to lowest suitability for inclusion in the proposed open space based upon the priorities set forth in § 120-911K(6)(c).
- [5] On the basis of those priorities and practical considerations related to the tract's configuration, its context in relation to resource areas on adjoining and neighboring properties, and the applicant's subdivision objectives, sufficient secondary conservation areas shall be identified to be included in the open space to meet at least the minimum area percentage requirement for open space. This delineation shall clearly indicate the boundaries as well as the types of resources included within them.
- [6] ~~The proposed open space shall include all primary conservation areas and the secondary conservation areas with the highest resource significance as identified. For subdivisions that are not conservation subdivisions, the primary and secondary conservation areas shall be identified using the existing resources inventory and site analysis sketch plan as a base. The layout of the subdivision shall consider these resources and shall preserve them to the extent reasonable;~~

Commented [AL1]: This is repetitive of the requirements above.

Commented [AL2]: This section only applies to conservation or country subdivisions. This language should be in another section of the subdivision standards to be applicable.

(b) Open space design.

- [1] All open space areas shall be part of a larger continuous and integrated open space system within the parcel being developed. At least 75% of the open space shall be contiguous to another open space area. For the purposes of this subsection, areas shall be considered contiguous if they are within 100 feet of each other and there are no impediments to access between the areas.
- [2] Open space shall, to the greatest extent possible, protect site features identified in the existing resources inventory and site analysis sketch plan.
- [3] Natural features shall generally be maintained in their natural condition but may be modified to improve their appearance or to restore their overall condition and natural processes.
- [4] No area of open space shall be less than 50 feet in its smallest dimension and less than 10,000 square feet in area. Open space not meeting this standard is allowed as an added project enhancement but shall not be counted toward the required project open space.
- [5] The boundaries of open spaces shall be marked by natural features wherever possible, such as hedgerows, stone walls, edges of woodlands, streams, or individual large trees. Where no such existing demarcations are present, additional plantings, fences, or other landscape features shall be added to enable residents or the public, if applicable, to distinguish where the open space ends and private lot areas begin. Where structural demarcations such as fences are used, they shall be the minimum needed to accomplish this objective.

- [6] Open space shall include lands located along existing public streets in order to preserve existing rural landscape character as seen from these streets and shall, in no case, contain less than the required buffer, setback area, or separation distance.
- (c) Location of building sites. Potential building sites shall be tentatively located taking into consideration the proposed open space and/or the primary and secondary conservation areas identified in § 120-911K(6)(c), as well as other relevant data from the existing resources inventory and site analysis sketch plan, such as topography and soils.
- [1] Building envelopes should generally be located at least ~~100-75~~ feet from primary conservation areas and at least 50 feet from secondary conservation areas, taking into consideration the potential negative impacts of development on such areas as well as the potential positive benefits of such locations to provide attractive views and visual settings for residences and other uses.
- [2] Buildings shall be set back at least 100 feet from existing public and private streets. A buffer yard along the street, adjacent to, and parallel with, the front property line of the conservation subdivision, shall be provided in accordance with the performance standards of § 120-511. The remainder of the 100-foot buffer strip shall be naturally vegetated or landscaped. This buffer may be part of the conservation subdivision open space. When buildings will be visible from the existing streets, the applicant shall minimize the visual impact of new development through larger setbacks or screening with elements such as low walls, split-rail fencing, trees or other plantings.
- [3] Buildings shall be set back at least 50 feet from the external perimeter of the property line of the conservation subdivision, with the exception of property lines along public or private streets. A buffer yard, meeting the Buffer Yard D standards in § 120-511 Table 1, adjacent to the exterior perimeter of the conservation subdivision shall be provided in accordance with performance standards of § 120-511. The remainder of the 50-foot buffer strip shall be naturally vegetated or landscaped. This buffer may ~~only~~ be part of the open space, but shall only count towards the required project open space if the area is a primary or secondary conservation area delineated in accordance with § 120-911K(3)(a), or additional land area is required after to meet the minimum area percentage requirement for open space after primary and secondary conservation areas have been incorporated into the open space.
- (d) Alignment of streets and ways and creation of a trail system. Based upon the designated building sites, a circulation plan shall be designed to provide vehicular and pedestrian access to each site. The street layout shall bear a logical relationship to topographic conditions. Impacts of the street plan on proposed conservation lands shall be minimized, particularly with respect to crossing environmentally sensitive areas such as wetlands and minimizing cut and fill. Street connections shall generally be encouraged to minimize the number of new culs-de-sac and to facilitate access to and from buildings in different parts of the subdivision. A trail system shall be created

Commented [AL3]: Note that the Planning Board has the flexibility to approve alternative buffer plans in accordance with § 120-511C(1)(b) and buffer yards in Section 120-511 are not applicable for agricultural uses.

within the open space to provide access from the subdivision homes to the open space network created by the subdivision.

- (e) Drawing in the lot lines. Upon completion of the preceding steps in § **120-911K(3)(a)** through **(d)**, lot lines shall be drawn as required to delineate the boundaries of individual lots. Lots shall be designed in keeping with the standards for individual lots found in Article **4** and shall be further designed to provide each residence with a clear delineation of its property bounds and with usable yard spaces.
- (4) Basic standards for conservation subdivisions.
- (a) Conservation subdivisions shall meet all applicable requirements of this chapter.
 - (b) The Planning Board shall allow lots within conservation subdivisions to be reduced from standard subdivision standards as specified in the applicable zoning district. In return for the reduction in the requirements for lot area, frontage, and structure setbacks, the applicant shall provide common open space.
 - (c) In order to determine the maximum number of dwelling units permitted on a tract of land, the net residential acreage of the parcel shall be divided by the net residential density standard of the applicable zoning district. Density bonuses are applicable, per the appropriate zoning district standards (see Article **4**).
 - (d) A landowner may choose not to maximize the development potential of a tract of land in the first subdivision application and reserve remaining development rights for a future subdivision application. In this instance, a conceptual master plan showing the location of future lots must be submitted. The conceptual master plan shall include the minimum information required for a sketch plan submission.
 - [1] The subdivider may retain ownership of the remaining land from which the subdivision lots are to be created, provided the portion of the remaining land counted toward the subdivision open space is subject to a permanent conservation or agricultural easement, or the subdivider may transfer ownership of the open space to a third party per § **120-911E(2)**.
 - [2] The land remaining will be a numbered lot within the subdivision.
 - [3] The open space standards in § **120-911K(5)** shall apply.
 - (e) Each building envelope shall be an element of an overall subdivision plan for site development. Only developments having a total site plan for structures will be considered. The application shall illustrate the placement of building envelopes and the treatment of spaces, paths, roads, service and parking and in so doing shall take into consideration all requirements of § **120-911K** and of other relevant sections of these regulations.
 - (f) For conservation subdivisions that are not served by a public water supply, the applicant must demonstrate on the plan that it is possible to locate a subsurface

wastewater disposal field and a well on each lot. When determined that it is necessary for specific lots, by the Planning Board, as a condition of approval, the location of these elements shall be elements of the subdivision plan, and any future changes to the location of these elements will require an amended subdivision plan review.

- (g) Up to 30% of individual lots or dwelling units may have direct vehicular access onto a public street existing at the time of development.

- [1] Driveways may cross the buffer and must run essentially perpendicular to the street.
- [2] Driveways serving individual lots in a conservation subdivision on an existing public street must be separated from new driveways and street intersections by 300 feet.

- (h) Alteration of Natural Resources. The Planning Board may allow the alteration of natural resources identified as primary and secondary areas and their associated buffers and setbacks for the construction of the following improvements:

- [1] Stormwater management facilities.

- [2] Road crossings, bridges, culverts, and the installation of utilities needed to access property on the other side of wetlands and water bodies.

- [3] Docks, boat ramps, and other structures necessary for direct access to water bodies.

The Board must find that:

- [1] The resulting subdivision design best achieves the purposes of a conservation subdivision.

- [2] The design is integrated with the natural topographic conditions and minimizes the need for cuts and fills.

- [3] The impacts on the resource(s) and their respective buffers and setbacks have been minimized; and

- [4] The design and function of the improvements incorporate accepted best management practices. Proposed stream crossings shall utilize Maine Stream Smart principles.

- (5) Arrangement of lots.

- (a) Diversity and originality in lot layout and individual building site design shall be encouraged to achieve the best possible relationship between the proposed development and the land under consideration.
 - (b) Factors considered by the Planning Board when evaluating the proposed arrangement

of lots shall include, but not be limited to:

- [1] Arrangement of roads, stormwater facilities, wastewater and other utilities in conformance with the natural features of the parcel, minimizing changes to the topography.
- [2] Minimization of impervious cover.
- [3] Protection of stream corridors and other important habitat areas.
- [4] Protection of wetlands.
- [5] Feasibility of continued or future agricultural use.
- [6] Feasibility of continued or future forest management.
- [7] Relationship to neighboring property, including conservation easements or natural, cultural, recreational or scenic features.

(6) Open space requirements for conservation subdivisions.

- (a) The open space provided by the conservation subdivision shall be identified on the recorded subdivision plan as "Open Space — Reserved for Recreation, Agricultural and/or Conservation Purposes."
- (b) **Minimum amount required.** The amount of open space provided within the subdivision shall be equal to or greater than the sum of the following:

- [1] ~~Excepting acreage which is used for public or private rights-of-way. All of the~~ areas of the parcel that are deducted from the gross area of the site to determine the net residential area (see § 120-541, Net residential area or acreage); plus
- [2] ~~At least 50%~~ A percentage of the remaining land that is not deducted from the calculated net residential area (see § 120-541, Net residential area or acreage).

[a] In the Farm District: At least 50%.

[b] In the Farm-Residential District: At least 45%.

[c] Other Zoning Districts: At least 40%.

- (c) Priorities for land included in open space. The land set aside in the open space shall be selected based upon the following priorities:

- [1] Primary conservation priorities.
 - [a] Streams, wetlands greater than 4,300 square feet averaging more than 30 feet in width as determined by measuring the width of five evenly spaced section, floodplains, vernal pools, and areas with a slope in excess of 25%. Buffers that

Commented [AL4]: For reference, Previously cluster subdivisions required The total area of reserved open space within the development shall equal or exceed 50% of the gross land area of the property to be subdivided. At least fifty percent (50%) of the land suitable for development (see Section 534 – Net Residential Area or Acreage) shall be included in the common open space.

are required by ordinance along these protected resources shall also be considered primary conservation areas.

- [b] Areas that maintain the rural character of roadsides.
 - [c] Scenic resources, including viewsheds and agricultural fields, along with the forested margin adjacent to these resources.
 - [d] Areas that are adjacent to other protected open space.
- [2] Secondary conservation priorities.
- [a] Areas that provide protection for unique or irreplaceable resources, including the habitat of rare, significant, or endangered species, archaeological or historic sites, landmarks, and cemeteries.
 - [b] Areas that provide for the continuation of resource systems into or through the site such as shorelands, river or stream corridors, wildlife travel corridors, trails, and unfragmented habitat blocks. The width of such corridors shall be as follows:
 - [i] Shorelands, river or stream corridors: 100% of the width of any required vegetative buffer, in addition to the required buffer.
 - [ii] Wildlife travel corridors: 300 feet.
 - [iii] Recreational trail corridors: 25 feet on either side of the trail. Unfragmented habitat blocks shall have a minimum contiguous area of 150 acres.
 - [c] Areas that encompass groups of small wetlands not included in primary conservation areas or wetlands that function primarily as drainage swales in upland areas, as well as streams or ponds in a continuously forested area.
 - [d] Other secondary conservation areas, including fields, aquifer recharge areas, deer yards, and other identified habitat.
- (d) For open space not retained by the subdivider, one principal access point having a minimum width of 20 feet shall be provided from the road network within the conservation subdivision. Additional, secondary points of access having a minimum width of 10 feet may be provided from individual lots when these lots abut or are located within a portion of the open space area.
- [1] The size and location of the principal and secondary access points shall be reviewed and approved by the Planning Board as part of the Board's review of the conservation subdivision.
 - [2] In order to be eligible for any density bonus described in the applicable zoning district standards, the following conditions must be met: the open space must be

open for general public use, not just homeowners within the subdivision or the subdivider; and the open space must either be accessed from an existing public street, or access is from an abutting property that is public, permanent open space or recreation land; or access must be formalized in easement language if access is to be provided over the new subdivision street or streets until such time as the subdivision street or streets are adopted by the Town. Access easements for the open space must be recorded at the registry prior to the issuance of building permits.

- (e) The required open space shall not be used for commercial recreation or for private clubs whose membership is different from the homeowners' association.
 - (f) The proposed location of open space areas should also be considered in relation to other open space areas on abutting properties, and logical connections to and from open space areas on abutting properties should be given consideration by the Planning Board.
- (7) Country subdivisions. As an alternative to conservation subdivision design in the Farm Zoning District and the Farm-Residential Zoning District, an applicant may choose a country subdivision design. This alternative does not include the reservation of open space or the level of site analysis and design required by a conservation subdivision. As a result, large residential lots are required in order to meet Town goals of protecting water quality and wildlife habitats and preserving rural character.
- (a) Layout and design of the development.
 - [1] Minimum property line setbacks. All principal buildings shall be set back a minimum of 75 feet from any property line. Accessory buildings and structures with less than 200 square feet of footprint area shall be set back a minimum of 50 feet from any property line. Any other accessory buildings and structures shall be set back a minimum of 75 feet from any property line.
 - [2] Streetscape buffers. A vegetated buffer strip shall be maintained on any country lot that fronts on or otherwise abuts any existing public and private street to minimize the visual impact of the development on the streetscape. The depth of the buffer strip shall be at least 50 feet. A buffer yard along the street, adjacent to, and parallel with, the front property line of the conservation subdivision, shall be provided in accordance with the performance standards of § 120-511. The buffer strip may be crossed by driveways or access drives that run essentially perpendicular to the street. The remainder of the 50-foot buffer strip shall be naturally vegetated or landscaped in a manner appropriate to the existing site conditions and the secondary conservation value of the strip.
 - [3] Perimeter buffers. A vegetated buffer strip shall be maintained along the external perimeter or property line of the country subdivision, with the exception of property lines along public or private streets, to minimize the impact of the country subdivision on abutting properties. The width of the buffer strip shall be at least 50 feet. A buffer yard, meeting the Buffer Yard D standards in § 120-511 Table 1,

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adjacent to the exterior perimeter of the country subdivision shall be provided in accordance with performance standards of § 120-511. The remainder of The the 50-foot buffer strip shall be naturally vegetated or landscaped.

- (b) Conceptual master plan. A landowner may choose not to maximize the development potential of a tract of land in the first subdivision application and reserve remaining development rights for a future subdivision application. In this instance, a conceptual master plan showing the location of future lots must be submitted. The conceptual master plan shall include the minimum information required for a sketch plan submission.

**AMENDMENTS TO THE LAND USE ORDINANCE
RE: STREET CONNECTION REQUIREMENTS
Subdivision (Section 911M.5.b.7) and Site Plan (Section 120-814B.6)**

[7] Street connection requirements. The following standards determine the number of connections a residential subdivision street must have with an existing public street. The cumulative number of lots or dwelling units created through the addition of lots or dwelling units to an existing subdivision shall be included in the minimum number of required street connections.

Number of Lots or Dwelling Units <u>(in single-family or two-family dwellings)</u>	Minimum Connections
Lots: 30 or fewer	1
Lots: 31 or more	2
Units: 30 or fewer	1
Units: 31 or more	2

[a] Street connection separation requirements. Subdivisions with two or more connections to an existing public street shall be separated according to the standards in Table 2 [see Table 2 in § **120-911M(4)**^[19]].

[19] Editor's Note: See Table 2 in **Appendix B, Street Design and Construction Standards**, **included as an attachment to this chapter.**

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(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:

(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.

(b) Other districts.

[1] Design standards. Access drives shall be designed to conform to the standards for ~~"major private roads"~~ the applicable private road standard in these regulations, including the standards contained in Table 3, Table 4, and the applicable cross sections in **Appendix B** Street Standards.

Access drives constructed to the "minor private road" standard shall also include the Hot Bituminous Pavement required for a "major private road".

[2] Rights-of-way. The minimum right-of-way width for a "major private road" or "minor 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.

(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.

(e) Street connection requirements. The following standards determine the number of connections a multifamily development must have with an existing public street. The cumulative number of lots or dwelling units created through the addition of lots or dwelling units to an existing subdivision shall be included in the minimum number of required street connections.

[1] Single and Two-Family Dwellings. Developments of single-family and two-family dwellings where the number of dwelling units exceeds 30 shall provide two separate access drive connections.

[a] Where there are more than 30 dwelling units on a single access drive and all units are equipped throughout with an approved automatic sprinkler system and the development is served by public

water, access from two directions shall not be required except that an additional connection shall be provided when it is determined by the Fire Chief that access by a single access drive could be impaired by vehicle congestion, condition of terrain, climate conditions, or other factors that could limit access.

[2] Multifamily Dwellings. Developments consisting of multifamily dwellings having more than 100 dwelling units shall provide two separate access drive connections.

[a] Where there are 100 or fewer dwelling units on a single access drive and all units are equipped throughout with an approved automatic sprinkler system and the development is served by public water, access from two directions shall not be required except that an additional connection shall be provided when it is determined by the Fire Chief that access by a single access drive could be impaired by vehicle congestion, condition of terrain, climate conditions, or other factors that could limit access.

[3] Access drive street connections shall be placed a distance apart equal to not less than one half of the length of the maximum overall diagonal dimension of the lot or area to be served, measured in a straight line between accesses.

**AMENDMENTS TO THE LAND USE ORDINANCE
RE: RETIREMENT COMMUNITIES**

**§ 120-420 Retirement Community and Care Facility Overlay District (RCCFO).
[Added 10-23-2012 by Order 12-148]**

- A. Intent. The intent of the Retirement Community and Care Facility Overlay District (RCCFO) is to provide areas in the Town of Windham where housing for older persons can be provided at higher residential densities. The RCCFO includes land adjacent to arterial roadways. The proximity to arterial roads is intended to provide housing for older persons suitable access to commercial establishments and public safety services.
- B. Permitted uses. The following uses, as defined in Article 3, shall be permitted in the RCCFO District as a matter of right. Refer to Article 5, Performance Standards, or Subsection E, District standards, for additional use information.
 - (1) Assisted living facility.
 - (2) Boarding home for sheltered care.
 - (3) Retirement community.
 - (4) Nursing home.
- C. Prohibited uses. Uses that are not expressly enumerated herein, or in the underlying zoning district, as either permitted uses or conditional uses are prohibited.
- D. Dimensional standards. Notwithstanding the dimensional standards set forth in the underlying zoning district, the following dimensional standards shall apply to uses permitted by the RCCFO District:
 - (1) Minimum lot size: 200,000 square feet. **[Amended 11-18-2014 by Order 14-468]**
 - (2) Net residential density:
 - (a) Assisted living facility: none.
 - (b) Nursing home: none.
 - (c) Boarding home for sheltered care: none.
 - (d) Retirement community: 5,000 square feet.
 - (3) Minimum setback requirements:
 - (a) ~~Duplex dwelling; multifamily dwelling. See The requirements of the underlying district are applicable unless otherwise specified in~~ Subsection E, District standards.
- E. District standards.

(1) Standards applicable in the RCCFO District.

- (a) Public water. All nursing home facilities or assisted living facilities shall be served by a utility connection to the Portland Water District system. All retirement community uses shall be connected to a public drinking water supply, as defined by the Maine Department of Health and Human Services. No retirement community dwelling units or facilities utilizing the standards of this overlay district shall be served by a private well. This standard does not apply to retirement community dwelling units or facilities developed in accordance with the standards of the underlying zoning district.
- (b) Public street lot width. Lots that contain uses permitted by the overlay district shall meet the minimum lot width requirement of the underlying zoning district.
- (c) Street connection requirement. Uses permitted by the overlay district shall meet the street connection requirements of § ~~120-911M(5)(b)(7)~~ **120-814B(6)**.
- (d) Parking requirements. All uses in the overlay district shall meet the applicable off-street parking requirement contained in § **120-812C**.
- (e) Site design/building orientation. When the development proposal provides for the construction or expansion of a building within 100 feet of an existing road on the perimeter of the site, the project shall incorporate the following design features:
 - [1] Buildings shall be designed so that they front on the existing road or, as an alternative, do not turn their backs to the road. A site that has frontage on two or more existing streets shall use the street with the greater traffic volume for the purpose of this standard.
 - [2] No service or storage areas shall be located between the building and the road.
 - [3] Vehicular access shall be from internal streets or combined entrances where practical.
 - [4] Parking lots shall not be located, where practical, between the building and the existing road.
 - [5] If a sidewalk or pedestrianway exists along the existing road, provisions shall be made to link it with the planned buildings.
- (f) Buffer requirement. The following site features shall be screened with either solid fencing or vegetation from any existing residential dwelling located on an abutting property:
 - [1] Storage areas.
 - [2] Dumpsters or trash collection areas.
 - [3] Service areas or accessways for emergency vehicles.

[4] Parking lots, and their associated access drives, that contain spaces for five or more vehicles.

(g) Lighting. All exterior lighting shall use a ninety-degree cutoff fixture.

(h) Solid waste collection. Collection of solid waste from exterior dumpsters shall only occur during daytime hours, as defined in Article 3 of this chapter.

(ei) Number of bedrooms. Retirement community dwellings shall be limited to three or fewer bedrooms per dwelling unit.

(2) Standards applicable where the underlying zoning district is the Farm, Farm-Residential, Light-Density Residential, ~~or~~ Medium-Density Residential, or Village Residential District.

(a) ~~Setback-Multifamily dwelling~~ requirements. ~~Setbacks for multifamily facilities or multifamily dwelling units:~~

[1] Setbacks. No building or part of a building shall be located within ~~100~~ 40 feet of the external perimeter of the overall site.

~~[2] The minimum setback from the external perimeter of the overall site shall vary depending on the height of the building as follows:~~

Building Height (feet)	Minimum Setback (feet)
0 to 30	400
31 to 35	150

~~[2] Buffer yards. A buffer, as defined, meeting the Buffer Yard A standard in § 120-511 Table 1 shall be established and maintained adjacent to, and parallel with, the front property line of the lot. A buffer meeting the Buffer Yard E standard in § 120-511 Table 1 shall be established and maintained along all other perimeter property lines.~~

(b) Services and retail sales. Any service and retail sales shall be designed as an integral part of the building. Such facilities shall be designed for use by the residents and not to serve those living outside the facility.

~~(c) Number of bedrooms. Retirement community dwellings shall be limited to three or fewer bedrooms per dwelling unit.~~

(3) Standards applicable where the underlying zoning district is the Commercial I, Commercial I North, Commercial II, ~~or~~ Commercial III, Commercial IV or Windham Center District:

Commented [AL5]: There is no other use that has a variable setback based on height and these setback are also far in excess of the setback for a quarry, arguably a much more impactful neighbor.
- F front setback 40': Buffer along public street varies (A-30 ,B-25,C-20)
- FR front setback 30'; Buffer along public street varies (D-20, E-15, F-10)
- Nonresidential uses in RL, RM, VR buffer yard G (15')

Commented [AL6]: 30' - the widest buffer yard option for buffers along the street in F & FR.

Commented [AL7]: This is the 15' buffer that has been specified in Section 120-511 for residential development (boarding homes, nursing homes, multifamily > 4 units) abutting existing residential uses.

Commented [AL8]: This should be a standard for the entire overlay, not just the rural zones.

April 2024

(a) ~~Setback~~ Multifamily dwelling requirements. ~~Setbacks for multifamily facilities or multifamily dwelling units:~~

[1] Multifamily buildings permitted by the overlay district that are located on a lot that ~~abuts a residential zoning district, or abuts a property occupied by an existing dwelling,~~ shall not be located within ~~400~~ 40 feet of said abutting lot.

[2] Buffer yards. A buffer, as defined, meeting the Buffer Yard G standard in § 120-511 Table 1 shall be established and maintained adjacent to, and parallel with, the front property line of the lot. A buffer meeting the Buffer Yard H standard in § 120-511 Table 1 shall be established and maintained along all other perimeter property lines.

(b) Basement and first-story dwelling units. Dwelling units permitted in the overlay district shall be permitted in the basement or first story of a building in the RCCFO. **[Amended 6-16-2022 by Order No. 22-108]**

Commented [AL9]: For a conversion of an existing non-residential buildings, this would comply as non-residential uses required a 50' district boundary buffer.

Commented [AL10]: This is much more restrictive than the other permitted commercial uses in the district which is also problematic for converting an existing commercial building to multifamily.

- C-3 buffer along street: Buffer Yard G (15')
- C-3 setback 60 ft arterial, 40 ft nonarterial, 10 ft side/rear
- Nonresidential uses in C-3 abutting a Residential District Boundary use Buffer Yard I (50')
- In Residential Districts, Buffer Yard requirement for multifamily over 4 units abutting a residential use: Buffer Yard E (15'). No buffer specified for commercial uses in commercial districts abutting a residential use. The intent was that the setback (10') would be the buffer yard, but doesn't specifically call out Buffer Yard F or H

Commented [AL11]: 35' - the buffer yard along the street currently required in commercial districts in Section 120-511.

Commented [AL12]: 10' required landscaping that would not require increasing the side/rear setback permitted in the underlying district.

**AMENDMENTS TO THE LAND USE ORDINANCE
RE: SITE PLAN REVIEW CLASSIFICATION**

§ 120-805 Classification of projects.

A. The Planner shall classify each project as a major or minor development. "Minor developments" are smaller-scale projects for which a minor review process is adequate to protect the Town's interest. "Major developments" are larger, more complex projects for which a more detailed review process and additional information are necessary. The following thresholds shall be used by the Planner in classifying each project. However, the Planner may, due to the scope or anticipated impacts of a project, classify any project as a major development.

(1) Minor developments shall include those projects involving:

(a) The cumulative construction or addition of fewer than 5,000 square feet of gross nonresidential floor area.

(b) Any individual or cumulative construction or addition of 5,000 square feet of more of gross nonresidential floor area within an approved subdivision.

(c) 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 but less than one acre of land.

(d) The construction of a new mixed-use or multifamily dwelling containing five (5) or fewer dwelling units or the conversion of an existing building to a mixed-use or multifamily dwelling containing five (5) or fewer dwelling units.