

ARTICLE 1

General

§ 120-101. Title.

This chapter shall be known and cited as the "Land Use Ordinance of the Town of Windham, Maine" and will be referred to herein as "this chapter" or "this ordinance."

§ 120-104. Conflict with other provisions. [Amended 4-29-2025 by Order No. 25-043]

A. Whenever a provision of this chapter conflicts with or is inconsistent with another provision of this chapter or of any other Town ordinances, state or federal regulations or statutes, the more restrictive provision shall control.

B. Notwithstanding the foregoing, where state law expressly preempts municipal home rule authority or establishes a maximum limitation or minimum allowance for housing, accessory dwelling units, density, dimensional standards, parking, or review procedures, the requirements of state law control and this chapter shall be administered and interpreted as required by state law.

A.C. Nothing in this chapter shall be interpreted to exempt an affordable housing development, a dwelling unit, a mixed-use development, or an accessory dwelling unit from the provisions of Chapter 185, Shoreland Zoning.

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D. Alteration of nonconforming lots. A nonconforming lot, legally existing as of the effective date of this chapter, may be further divided or have its lot lines altered, provided that such action does not increase or extend the degree of, or create any new, nonconformity with regard to any applicable dimensional standard.

B.E. Notwithstanding any other provision of this chapter to the contrary, an accessory dwelling unit may be constructed on a nonconforming lot that contains an existing residential structure, so long as the accessory dwelling does not increase the nonconformity of the nonconforming lot.

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ARTICLE 3

Definitions

5-27-2025 by Order No. 25-090]

In this chapter, the following terms shall have the following meaning unless a contrary meaning is required by the text or is specifically prescribed. In addition to the following definitions, performance standards regulating specified land uses should be reviewed in the district standards for each zoning district (Article 4) and the performance standards (Article 5) that apply to all zoning districts in the Town.

ACCESSORY APARTMENT-ACCESSORY DWELLING UNIT (ADU) (formerly "Accessory Apartment") — A self-contained dwelling unit located within, attached to, or detached from a single-family dwelling unit or a multi-unit residential structure located on the same parcel of land, that has been added onto, or created within, a single-family detached dwelling or accessory building to a single-family detached dwelling.

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CENTRALLY MANAGED WATER SYSTEM — A water system that provides water for human consumption through pipes or other conveyances to at least fifteen (15) service connections or serves an average of at least twenty-five (25) people for at least sixty (60) days per year, whether publicly or privately owned. A centrally managed water system is a “comparable” system for purposes of calculating minimum density requirements in this chapter.

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COMMERCIAL USE — “Commercial use” means the use of lands, buildings or structures the intent or result of which is the production of income from the buying or selling of goods or services. Commercial use does not include a home-based business, the rental of a single dwelling unit on a single lot or incidental sales of goods or services as may be allowed by permit or standard. For purposes of this rule, this definition does not include areas zoned exclusively for industrial uses.

COMPARABLE SEWER SYSTEM — A subsurface wastewater disposal system that discharges over 2,000 gallons of wastewater a day. A comparable sewer system is a “comparable” system for purposes of calculating minimum density requirements.

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DESIGNATED GROWTH AREA — Those areas designated in the Town’s comprehensive plan as suitable for orderly residential, commercial, or industrial development, or any combination thereof, and into which most development projected over ten (10) years is directed.

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DIMENSIONAL STANDARDS – Standards that govern the size and placement of structures such as building height, lot area, lot area per dwelling unit, lot frontage, lot depth, and setbacks.

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

DWELLING, DUPLEX — A building containing two attached dwelling units. A duplex may, or may not, be attached to a nonresidential use.

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

DWELLING, SINGLE-FAMILY — A structure or portion of a structure containing a single dwelling unit.

DWELLING, QUADPLEX – A building containing four dwelling units.

DWELLING, TRIPLEX – A building containing three dwelling units.

DWELLING UNIT — One or more rooms, designed and equipped exclusively for use as living quarters, occupied, or intended for occupancy as separate living quarters, with cooking, sleeping, and sanitary facilities provided within the dwelling unit for the exclusive use of a single family. Recreational vehicles are not and may not be used (or permitted) as dwelling units.

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MULTIFAMILY DEVELOPMENT — A development that will contain ~~three-five~~ or more dwelling units created in any five-year period on one or more lots. For purposes of this definition, multifamily development is only reviewed on multiple lots if they have been under the same ownership within the last five years prior to the creation of the ~~fifth~~^{third} unit.

MUNICIPAL FIRE OFFICIAL — The Town of Windham Fire Chief, or their designee.

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PARKING AGREEMENT — A legally binding agreement between a property owner and the owner of an off-site parking facility to provide required parking spaces within 0.25 miles of a residential development site, as measured in a straight, direct line from the nearest edge of the parcel containing the residential development to any point on the parcel(s) that make up the parking facility.

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RESIDENTIAL USE — “Residential use” means any use providing human habitation permitted by this chapter. Residential uses may include single-family, duplex, triplex, quadplex, and other multifamily housing; condominiums; time-share units; and apartments. For purposes of this chapter, the following uses are not included under this definition, unless otherwise allowed in local ordinance: (1) Dormitories; (2) Congregate living facilities; (3) Campgrounds, campsites, hotels, motels, beds and breakfasts, or other types of lodging accommodations; and (4) Transient housing or short-term rentals.

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STORY — That portion of a building included between the upper surface of a floor and the upper surface of the floor or roof next above. A story is measured as the vertical distance from top to top of two successive tiers of beams or finished floor surfaces and, for the topmost story, from the top of the floor finish to the top of the ceiling joists or, where there is not a ceiling, to the top of the roof rafters.

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ARTICLE 4

**Zoning
Districts**

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§ 120-406. Farm District (F).

- A. Intent. The Farm District is intended primarily for rural and residential land uses. Development is restricted in order to protect farmlands, woodlands, open space, wildlife habitat and scenic areas.
- B. Permitted uses. The following uses, as they are defined in Article 3, shall be permitted in the Farm District as a matter of right. Refer to Article 5, Performance Standards, or Subsection F, District standards, for additional use information. **[Amended 5-26-2020 by Order 20-048; 10-13-2020 by Order 20-211; 8-15-2023 by Order No. 23-150]**

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Dwelling, duplex
Dwelling, triplex

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- F. District standards. In addition to Article 5, Performance Standards, these standards shall apply to the following uses in the Farm District:

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- (1) Dwelling, duplex, and triplex. ~~This use shall only be allowed for the conversion of an existing dwelling or accessory building that was in existence prior to May 13, 1986.~~

The following standards shall apply: [Amended 11-14-2023 by Order No. 23-213] These may be established by new construction or conversion, subject to all applicable provisions of this chapter.

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- (a) No more than three dwelling units may be constructed, placed, or established on a single lot, subject to all applicable dimensional standards.

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§ 120-407. Farm-Residential District (FR).

- A. Intent. The Town, as a rapidly growing community, recognizes that certain areas of the Town will experience residential growth while the basic rural agricultural orientation remains. It is the intent of this chapter to allow these uses to coexist and develop harmoniously.
- B. Permitted uses. The following uses, as they are defined in Article 3, shall be permitted in the Farm-Residential District as a matter of right. Refer to Article 5, Performance Standards, or Subsection F, District standards, for additional use information. **[Amended 12-14-2010 by Order 10-230; 5-26-2020 by Order 20-048; 10-13-2020 by Order 20-211]**

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- (1) Dwelling, duplex.
- (+)(2) Dwelling, triplex
- (2)(3) Dwelling, single-family detached.
- (3)(4) Farm enterprise.
- (4)(5) Forestry.
- (5)(6) Golf course.
- (6)(7) Home occupation 1.
- (7)(8) Home occupation 2.
- (8)(9) Kennel, minor.
- (9)(10) _____ Medical marijuana registered caregiver.
- (+0)(11) _____ Medical marijuana registered caregiver (home occupation).
- (+1)(12) _____ Mineral extraction.
- (+2)(13) _____ Place of worship.
- (+3)(14) _____ Public building.
- (+4)(15) _____ Sawmill, temporary.
- (+5)(16) _____ Shipping container.
- (+6)(17) _____ Use, accessory.
- (+7)(18) _____ Wireless telecommunications tower and facility.
- (+8)(19) _____ Solar energy system – roof-mounted, small, medium, and large scale.

[Added 8-15-2023 by Order No. 23-150]

~~(19)~~(20) Solar energy system – ground-mounted, small scale. [Added 8-15-2023 by Order No. 23-150]

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F. District standards. In addition to Article 5, Performance Standards, these standards shall apply to the following uses in the Farm-Residential District:

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(5) Dwelling, duplex, and triplex. These may be established by new construction or conversion, subject to all applicable provisions of this chapter.

(a) No more than three dwelling units may be constructed, placed, or established on a single lot, subject to all applicable dimensional standards.

~~(5)~~(6) Medical office. See § 120-538, Medical office, in Article 5, Performance Standards, for size limitations.

~~(6)~~(7) Buffer requirements for specific nonresidential uses. See § 120-511, Buffer yard, in Article 5, Performance Standards, Table 2 for requirements. [Amended 8-15-2023 by Order No. 23-149]

~~(7)~~(8) Buffer along streets. See § 120-511, Buffer yard, in Article 5, Performance Standards, Table 2.

[Added 10-13-2020 by Order 20-210; amended 8-15-2023 by Order No. 23-149]

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§ 120-408. Light-Density Residential District (RL).

A. Intent. It is the intent of this district to ensure the proper development of residential areas by encouraging the formation of community units while developing, protecting, and preserving open spaces.

B. Permitted uses. The following uses, as they are defined in Article 3, shall be permitted in the Light-Density Residential District as a matter of right. Refer to Article 5, Performance Standards, or Subsection F, District standards, for additional use information: [Amended 5-26-2020 by Order 20-048]

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(6) Dwelling, duplex,

~~(6)~~(7) Dwelling, triplex.

~~(7)~~(8) Forestry.

~~(8)~~(9) Home Occupation 1.

~~(9)~~(10) Home Occupation 2.

~~(10)~~(11) Medical marijuana registered caregiver.

~~(11)~~(12) Medical marijuana registered caregiver (home occupation).

~~(12)~~(13) Place of worship.

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- ~~(13)~~(14) Public building.
- ~~(14)~~(15) Sawmill, temporary.
- ~~(15)~~(16) Shipping container.
- ~~(16)~~(17) Use, accessory.
- ~~(17)~~(18) Wireless telecommunications tower and facility.
- ~~(18)~~(19) Solar energy system – roof-mounted, small, medium and large scale. **[Added 8-15-2023 by Order No. 23-150]**
- ~~(19)~~(20) Solar energy system – ground-mounted, small scale. **[Added 8-15-2023 by Order No. 23-150]**
- ~~(20)~~(21) Solar energy system – ground-mounted medium scale. **[Added 8-15-2023 by Order No. 23-150]**

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F. District standards. In addition to Article 5, Performance Standards, these standards shall apply to the following uses in the Light-Density Residential District:

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- ~~(20)~~(21) Dwelling, duplex, and triplex. ~~This use shall only be allowed for the conversion of an existing dwelling or accessory building that was in existence prior to May 13, 1986. The following standards shall apply: **[Amended 11-14-2023 by Order No. 23-213]** These may be established by new construction or conversion, subject to all applicable provisions of this chapter.~~
 - ~~(a) No more than three dwelling units may be constructed, placed, or established on a single lot, subject to all applicable dimensional standards.~~
 - ~~(a) No more than three dwelling units shall be erected per lot.~~
 - ~~(b) All dwelling units shall have a minimum area of 500 square feet.~~

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§ 120-409. Medium-Density Residential District (RM).

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- A. Intent. It is the intent of this chapter to assure the proper development of residential areas by encouraging the formation of community units while developing and preserving open space.
- B. Permitted uses. The following uses, as they are defined in Article 3, shall be permitted in the Medium-Density Residential District as a matter of right. Refer to Article 5, Performance Standards, or Subsection F, District standards, for additional use information. **[Amended 5-26-2020 by Order 20-048]**

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- ~~(6)~~ Dwelling, duplex,
- ~~(7)~~ Dwelling, triplex,
- ~~(6)~~(8) Dwelling, quadplex

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- ~~(7)~~(9) Dwelling, multifamily.
- ~~(8)~~(10) Forestry.
- ~~(9)~~(11) Home occupation 1.
- ~~(10)~~(12) Home occupation 2.
- ~~(11)~~(13) Medical marijuana registered caregiver.
- ~~(12)~~(14) Medical marijuana registered caregiver (home occupation).
- ~~(13)~~(15) Housing for older persons.
- ~~(14)~~(16) Place of worship.
- ~~(15)~~(17) Public building.
- ~~(16)~~(18) Sawmill, temporary.
- ~~(17)~~(19) Shipping container.
- ~~(18)~~(20) Use, accessory.
- ~~(19)~~(21) Solar energy system – roof-mounted, small, medium, and large scale.
[Added 8-15-2023 by Order No. 23-150]
- ~~(20)~~(22) Solar energy system – ground-mounted, small scale. [Added 8-15-2023 by Order No. 23-150]
- ~~(21)~~(23) Solar energy system – ground-mounted, medium scale. [Added 8-15-2023 by Order No. 23-150]

§ 120-410. Commercial District I (C-1). [Amended 9-14-2010 by Order 10-164; 12-14-2010 by Order 10-230; 5-14-2013 by Order 13-072; 6-28-2016 by Order 16-111; 6-12-2018 by Order 18-099; 7-9-2019 by Order 19-121; 5-26-2020 by Order 20-048; 4-12-2022 by Order No. 22-062; 7-12-2022 by Order No. 22-126; 11-10-2022 by Order No. 22-205; 4-25-2023 by Order No. 23-060; 8-15-2023 by Order No. 23-150; 8-15-2023 by Order No. 23-151; 8-15-2023 by Order No. 23-149; 3-12-2024 by Order No. 24-033; 1-14-2025 by Order No. 25-002; 2-25-2025 by Order No. 25-033]

- A. Intent. To provide general retail sales, services and business space within the Town of Windham in locations capable of conveniently servicing community-wide and/or regional trade areas, with safe, well-regulated automobile access and pedestrian access where appropriate, within the Town's designated growth area (DGA) as defined in the Comprehensive Plan adopted on May 10, 2024.
- B. Permitted uses. The following uses, as they are defined in Article 3, shall be permitted in the Commercial District I as a matter of right. Refer to Article 5, Performance Standards, or Subsection F, District standards, for additional use information.

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- ~~Dwelling, two-family duplex~~
- ~~Dwelling, triplex~~
- ~~Dwelling, quadplex~~

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§ 120-410.1. Commercial District I North (C-1N). [Added 7-12-2022 by Order No. 22-126; 4-25-2023 by Order No. 23-067; 4-25-2023 by Order No. 23-060; 8-15-2023 by Order No. 23-150]

- A. Intent. The intent of this district is to provide and enable the continuation of existing general retail sales, services and business space within the Town of Windham in locations capable of conveniently servicing community-wide and/or regional trade areas, with safe, well-regulated automobile access and pedestrian access where appropriate. within the Town's Designated Growth Area as defined of the Comprehensive Plan adopted date May 10, 2024.
- B. Permitted uses. The following uses, as they are defined in Article 3, shall be permitted in the Commercial District I North as a matter of right. Refer to Article 5, Performance Standards, or Subsection F, District standards, for additional use information.

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- Dwelling, ~~two-~~
~~familyduplex~~
Dwelling, triplex
Dwelling, quadplex

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§ 120-411. Commercial District II (C-2). [Amended 9-14-2010 by Order 10-164; 6-12-2018 by Order 18-099; 7-9-2019 by Order 19-121; 5-26-2020 by Order 20-048; 4-25-2023 by Order No. 23-060; 8-15-2023 by Order No. 23-149; 8-15-2023 by Order No. 23-150; 8-15-2023 by Order No. 23-151; 2-25-2025 by Order No. 25-033]

- A. Intent. The intent of this district is to provide for a mixed commercial and residential zone as a buffer zone between the Commercial District I and the abutting residential areas, within the Town's designated growth area (DGA) as defined in the Comprehensive Plan adopted on May 10, 2024.
- B. Permitted uses. The following uses, as they are defined in Article 3, shall be permitted in the Commercial II District as a matter of right. Refer to Article 5, Performance Standards, or Subsection F, District standards, for additional use information.

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- Dwelling, triplex
Dwelling, quadplex

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- E. Dimensional standards. The following dimensional standards shall apply in the Commercial District II:
 - (1) Minimum lot size: none for commercial development.
 - (a) Dwelling, single-family; duplex; triplex on lots located outside Designated Growth Area (DGA) and not served by public water and sewer or comparable systems: 40,000 square feet .
 - (b) Dwelling, single-family; duplex; triplex on lots located in Designated Growth Area (DGA) and served by public water and sewer or comparable systems: 5,000 square feet

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- (c) Dwelling, single-family; duplex; triplex on lots located in Designated Growth Area (DGA) and not served by public water and sewer or comparable systems: 20,000 square feet.
- (2) Net residential density:
 - (a) 5,000 square feet for lots located outside the Designated Growth Area (DGA) and not served by public water and sewer or comparable systems.
 - (b) 1,250 square feet for the first four (4) dwelling units and 5,000 square feet for each additional dwelling unit when in Designated Growth Area (DGA) and served by public water and sewer or comparable systems.
 - (c) 5,000 square feet for first two (2) dwelling units within a single structure for lots outside of the Designated Growth Area (DGA) served by public water and sewer or comparable systems. Accessory Dwelling Units (ADUs) are exempted from density requirements.
- (2)(3) Minimum frontage: 150 feet.
- (3)(4) Front setback:
 - (a) Building, principal: 10 to 20 feet.
 - (b) Building, accessory: principal building setback, plus 20 feet minimum.
- (4)(5) Minimum side setback: 10 feet.
- (5)(6) Minimum rear setback: 10 feet.
- (6)(7) Maximum building height: 45 feet.

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§ 120-411.1. Commercial District IV (C-4). [Added 8-15-2023 by Order No. 23-151]

- A. Intent. The intent of this district is to provide for a mixed commercial and residential zone as a buffer zone between the Commercial District I North and the abutting residential areas, within the Town's designated growth area (DGA) as defined in the Comprehensive Plan adopted on May 10, 2024.
- B. Permitted uses. The following uses, as they are defined in Article 3, shall be permitted in the Commercial IV District as a matter of right. Refer to Article 5, Performance Standards, or Subsection F, District standards, for additional use information.

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Dwelling, duplex

Dwelling, triplex

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- E. Dimensional standards. The following dimensional standards shall apply in the Commercial District IV:

- (1) Minimum lot size: none for commercial developments.
- (2) Minimum lot size for residential developments
 - (a) Dwelling, single-family; duplex; multifamily triplex: 40,000 square feet.
 - (b) Dwelling, single-family; duplex; triplex on lots located outside Designated Growth Area (DGA) and not served by public water and sewer or comparable systems: 40,000

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square feet.

(c) Dwelling, single-family; duplex; triplex on lots located in Designated Growth Area (DGA) and served by public water and sewer or comparable systems: 5,000 square feet.

(d) Dwelling, single-family; duplex; triplex on lots located in Designated Growth Area (DGA) and not served by public water and sewer or comparable systems: 20,000 square feet.

~~(2)~~(3) Net residential density:

(a) 5,000 square feet for lots located outside the Designated Growth Area (DGA) and not served by public water and sewer or comparable systems.

(b) 1,250 square feet for the first four (4) dwelling units and 5,000 square feet for each additional dwelling unit when in Designated Growth Area (DGA) and served by public water and sewer or comparable systems.

(c) 2,500 square feet for first two (2) dwelling units within a single structure for lots outside of the Designated Growth Area (DGA) served by public water and sewer or comparable systems. Accessory Dwelling Units (ADUs) are exempted from density requirements.

~~(3)~~(4) Minimum frontage: 150 feet.

~~(4)~~(5) Minimum front setback: 40 feet

(a) Minimum buffer along streets: See § 120-511, Buffer yard.

~~(5)~~(6) Minimum side setback: 10 feet.

~~(6)~~(7) Minimum rear setback: 10 feet.

~~(7)~~(8) Maximum building height: 45 feet.

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§ 120-412. Commercial District III (C-3). [Amended 9-14-2010 by Order 10-164]

- A. Intent. The intent of the Commercial District III is to provide areas for a mixture of light, low-traffic-generating commercial uses and single-family housing.
- B. Permitted uses. The following uses, as they are defined in Article 3, shall be permitted in the Commercial District III as a matter of right. Refer to Article 5, Performance Standards, or Subsection F, District standards, for additional use information. **[Amended 5-14-2013 by Order 13-071; 9-27-2016 by Order 16-148; 6-11-2019 by Order 19-057; 5-26-2020 by Order 20-048; 8-15-2023 by Order No. 23-150]**

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A. Dimensional standards. The following dimensional standards shall apply in the Commercial District III:

(1) Minimum lot size:

(a) Dwelling, single-family; duplex; triplex: 80,000 square feet.

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Commented [SP2R1]: Yes, that is correct.

- (b) Dwelling, mixed-use: 80,000 square feet.
- (c) Nonresidential: 20,000 square feet.
- (2) Net residential density: 60,000 square feet.
- (3) Minimum frontage:
 - (a) Residential: 200 feet.
 - (b) Nonresidential: 100 feet.

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§ 120-413. Industrial District (I). [Amended 7-8-2014 by Order 14-164; 5-26-2020 by Order 20-048; 8-15-2023 by Order No. 23-150; 8-15-2023 by Order No. 23-149; 11-14-2023 by Order No. 23-214; 3-12-2024 by Order No. 24-033; 2-25-2025 by Order No. 25-033]

- A. Intent. The intent of this district is to provide areas within the Town of Windham for manufacturing, processing, treatment, research, warehousing, storage, distribution, and outdoor recreation uses.
- B. Permitted uses. The following uses, as they are defined in Article 3, shall be permitted in the Industrial District as a matter of right. Refer to Article 5, Performance Standards, or Subsection F, District standards, for additional use information.

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Dwelling, existing triplex

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§ 120-414. Enterprise Development District (ED).

- A. Intent. The intent of this district is to provide a unique area within the Town of Windham to allow manufacturing, processing, treatment, warehousing, storage, research and distribution with safe, well-regulated vehicle access located off a major street which can conform to the performance standards set forth in this section and in all other applicable ordinances of the Town of Windham.
- B. 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; 8-20-2024 by Order No. 24-165]

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Dwelling, mixed-use

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§ 120-415. Village Commercial District (VC). [Added 9-14-2010 by Order 10-162]

- A. Intent. The intent of the Village Commercial District is to serve as a primarily residential area with a mix of stores, services and commercial enterprises. Growth, at a village scale, is to be well planned in this area of Town served by public water and sewer, within the Town's designated growth area (DGA) as defined in the Comprehensive Plan adopted on May 10, 2024.

B. Permitted uses. [Amended 5-26-2020 by Order 20-048; 8-15-2023 by Order No. 23-150]

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- Dwelling, triplex
- Dwelling, quadplex

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- (1) Net residential density.
 - (a) Lots connected to public water and sewer: ~~2,500~~ 1,250 square feet.
 - (b) Lots served by wells or a private sanitary system: 20,000 square feet.

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§ 120-415.1. Windham Center District (WC). [Added 5-23-2023 by Order No. 23-091; 8-15-2023 by Order No. 23-149; 8-15-2023 by Order No. 23-150; 4-9-2024 by Order No. 24-018; 2-25-2025 by Order No. 25-033]

A. Intent.

- (1) The intent of the Windham Center District is to serve as a primarily residential area with a walkable mixture of various uses that will support and promote business and community within the area. Uses are intended to complement one another and allow for different offerings such as art and cultural spaces, public community space, educational/institutional uses, residential, and other small business enterprise uses that meet local neighborhood needs for limited business services, within the Town's designated growth area (DGA) as defined in the Comprehensive Plan adopted on May 10, 2024.

B. Permitted uses.

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- (13) Dwelling, ~~two-family~~ duplex;
- ~~(14)~~ Dwelling, multifamily;
- ~~(15)~~ Dwelling, quadplex;
- ~~(14)~~~~(16)~~ Dwelling, triplex;
- ~~(15)~~~~(17)~~ Fitness center;
- ~~(16)~~~~(18)~~ Forestry;
- ~~(17)~~~~(19)~~ Home occupation 1;
- ~~(18)~~~~(20)~~ Home occupation 2;
- ~~(19)~~~~(21)~~ Housing for older persons;
- ~~(20)~~~~(22)~~ Medical marijuana caregiver;
- ~~(21)~~~~(23)~~ Medical marijuana caregiver (home occupation);
- ~~(22)~~~~(24)~~ Medical office;
- ~~(23)~~~~(25)~~ Park, public;

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- ~~(24)~~(26) Place of worship;
- ~~(25)~~(27) Public building;
- ~~(26)~~(28) Restaurant;
- ~~(27)~~(29) Retail sales;
- ~~(28)~~(30) Retail sales, convenience;
- ~~(29)~~(31) Service business, commercial;
- ~~(30)~~(32) Service business, personal;
- ~~(31)~~(33) Theater;
- ~~(32)~~(34) Use, accessory;
- ~~(33)~~(35) Wireless telecommunications facility.
- ~~(34)~~(36) Solar energy system – roof-mounted, small, medium, and large scale.
- ~~(35)~~(37) Solar energy system – ground-mounted, small scale.
- ~~(36)~~(38) Solar energy system – ground-mounted, medium scale.

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§ 120-415.2. Village Residential District (VR). [Added 5-23-2023 by Order No. 23-091; amended 8-15-2023 by Order No. 23-149; 8-15-2023 by Order No. 23-150; 4-9-2024 by Order No. 24-018; 4-30-2024 by Order No. 24-057; 2-25-2025 by Order No. 25-033]

A. Intent.

- (1) The intent of the Village Residential District is to serve as a residential area with a walkable mixture of limited small business enterprise uses that meet local neighborhood needs for limited business services.

B. Permitted uses.

- Dwelling, single
- Dwelling, duplex
- Dwelling, multifamily
- Dwelling, quadplex
- Dwelling, triplex

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ARTICLE 5

Performance Standards

The following standards are applicable in all zoning districts within this chapter. A performance standard shall not be applicable to uses that lawfully existed prior to enactment of the performance

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standard, except that it may be applied within the context of an application for a building permit or expansion or change of use.

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§ 120-501. ~~Accessory apartment~~ Accessory Dwelling Unit (ADU). [Added 10-23-2012 by Order 12-149; amended 3-28-2017 by Order 17-052]

The following standards shall apply to ~~accessory apartments~~ Accessory Dwelling Unit (ADU)-created after ~~November 23, 2012~~ July 1, 2026:

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A. To allow accessory dwelling units as a permitted residential use consistent with state law and to expand housing options while maintaining neighborhood compatibility.

B. Allowed.

(1) An accessory dwelling unit is permitted on any lot containing a single-family dwelling unit or a multi-unit residential structure.

(2) An accessory dwelling unit may be located:

(a) Within an existing dwelling unit or multi-unit residential structure;

(b) Attached to or sharing a wall with a dwelling unit or multi-unit residential structure;
or

(c) As a new, detached structure on the lot for the primary purpose of creating an accessory dwelling unit.

~~(a)(d)~~ An accessory apartment accessory dwelling unit shall have a maximum cumulative floor area of 800 square feet. [Amended 11-14-2023 by Order No. 23-213]

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C. Owner occupancy shall not be required for either the accessory dwelling unit or the principal dwelling unit(s) on the lot.

D. Dimensional standards.

(a) An accessory dwelling unit must be at least 190 square feet in size, unless the Technical Building Code and Standards Board, pursuant to 10 M.R.S. § 9722, adopts a different minimum standard; if so, that standard applies.

(b) Accessory dwelling units shall be subject to the same dimensional as the principal structure on the lot.

(c) One (1) accessory dwelling unit is exempt from density requirements otherwise applicable to the underlying lot.

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E. No additional off-street parking is required for any accessory dwelling unit above and beyond that required for the principal dwelling unit(s) or principal structure on the lot, per §120-542 and §120-812C. Parking and loading requirements

F. Water and wastewater verification.

(1) Prior to issuance of a certificate of occupancy (or similar final approval), the applicant shall provide written verification that the accessory dwelling unit will be connected to adequate water and wastewater services in accordance with applicable state law and rules.

(2) Where wastewater disposal is by subsurface system, verification shall be by the local

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plumbing inspector under applicable state standards; the Town shall not require additional review or documentation beyond that verification.

G. Review authority.

(1) The Code Enforcement Officer (or designee) shall review ADU permits for compliance with this chapter and applicable building and plumbing codes.

A. The accessory apartment shall be attached to a principal dwelling unit or contained within an accessory building to a single-family detached dwelling.

B. The owner(s) of the principal dwelling must reside in the principal structure or the accessory apartment.

C. The accessory apartment shall have its own entrance.

D. The accessory apartment shall not have more than two bedrooms. [Amended 11-14-2023 by Order No. 23-213]

E. All necessary building or certificates of occupancy shall be obtained from the Code Enforcement Officer. [Amended 6-16-2022 by Order No. 22-108]

(a) Compliance with all building codes applicable to the construction of an accessory apartment is required.¹¹

F. Only one accessory apartment shall be permitted per lot.

G. Accessory apartments shall not count towards the zoning district's maximum residential density standard.

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§ 120-501.1. Affordable housing development. [Added 4-25-2023 by Order No. 23-060]

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(2) The affordable housing development may be developed with an increase of 20% in building height and reduction of 20% in lot size and lot frontage without obtaining a variance from the Board of Appeals.

(3)(2) Notwithstanding any other provision of this chapter to the contrary, the structure height of an affordable housing development may exceed maximum building height otherwise in effect by one (1) story or 14 feet, whichever is greater, subject to building permit review and review by the municipal fire official (or designee) regarding ability to serve the development with fire apparatus, consistent with state law.

(4)(3) In no event shall the parking requirement be greater than two off-street parking spaces for every three dwelling units of an affordable housing development.

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§ 120-511. Buffer yard. [Amended 8-15-2023 by Order No. 23-149]

Table 2 Minimum Buffer Yard Requirements For Abutting Land Uses
Abutting Land Use in F, FR, RL, RM, VR

Commented [BM3]: Would there be a situation (other than an amendment to an approved site plan or subdivision) where Planning Board review and approval would be required?

Commented [SP4R3]: No, the planning board doesn't review ADU applications.

Commented [BM5]: Redundant to G(1) above.

Commented [BM6]: This would be the case anyway.

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| Proposed Land Use in F, FR, RL, RM, VR | Residential | Business professional, retail, service business, industrial, commercial |
|--|--------------|---|
| Residential (single, two-family duplex, triplex, quadplex, multifamily up to 4 dwelling units) | Not required | Not required |
| Other residential (boarding home, nursing home, multifamily over 4 dwelling units) | E | Not required |
| Business professional | F | H |
| Retail, service businesses | B | H |
| Other commercial | H | H |
| Industrial | G | G |

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§ 120-525. Dwelling, mixed-use.

The following standards shall apply to mixed-use dwellings:

- A. ~~These uses~~ Dwelling units are not shall not be permitted in the basement or first story of a building.

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§ 120-542. Parking and loading.

All development shall comply with the parking and loading standards of Article 8, Site Plan Review of this chapter.

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§ 120-545. Restaurants. [Amended 12-14-2010 by Order 10-230; at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

•••

- C. Buffer. A buffer strip, as defined, shall be provided between the restaurant and any abutting dwelling, existing single-family detached; dwelling, existing ~~two-family duplex~~; dwelling, existing ~~multifamily triplex~~; dwelling, existing quadplex; existing housing for older persons; or any residential zoning district.
- D. Noise. The restaurant shall comply with the noise standards contained in § 120-812S of this chapter.
- E. Smoke. Indoor or outdoor cooking that produces smoke from grills, smokers or open fires shall be located at least 100 feet from any abutting dwelling, existing single-family detached; dwelling, existing ~~two-family duplex~~; dwelling, existing ~~multifamily triplex~~; dwelling, existing quadplex; existing housing for older persons; or any residential zoning district.

- F. Outside seating. Outdoor seating located within 100 feet of any dwelling, existing single-family detached; dwelling, existing duplex; dwelling, existing ~~triplex; dwelling, existing quadplex~~; existing housing for older persons; or any residential zoning district shall be limited to the following hours:

•••

§ 120-555. Streets. [Amended 4-27-2010 by Order 10-075; 10-10-2017 by Order 17-161;¹⁹4-20-2018 by Order 18-049]

- (e) Gravel surface limit. Notwithstanding other provisions of this chapter to the contrary, no gravel-surfaced private road shall provide access to or serve in any way to provide compliance with the requirements of this chapter for more than the greater of 10 lots or 10 dwelling units; provided, however, that nothing in this subsection shall serve to limit the use of such private road for occasional use by and for agricultural purposes. Private roads providing access to 11 or more lots shall meet the standards for a major private road contained in Table 3 and Table 4 of Appendix B, Street Design and Construction Standards.²³ When determining the number of dwelling units, the Code Enforcement Officer shall not include permitted ~~accessory apartments~~ **accessory dwelling units**.
- (g) Connection requirements. The following standards determine the number of connections a private road must have with an existing local 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. When determining the number of dwelling units, the Code Enforcement Officer shall not include permitted ~~accessory apartments~~ **accessory apartment**.

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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.

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§ 120-802. Applicability. [Amended 12-14-2010 by Order 10-231; 6-12-2018 by Order 18-099; 10-13-2020 by Order 20-211; 3-28-2023 by Order No. 23-041; 4-29-2025 by Order No. 25-043]

•••

- (1) The construction or placement of any new building or structure for a nonresidential and residential uses, 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

Commented [BM7]: Note that in the MOCA regs, "planning board review" does not mean site plan review. So site plan review can still be required as before. But other types of planning board review can't be required. Given this, would we like to still require site plan review, and if so, would that include triplexes and quadplexes?

measured cumulatively over a five-year period.

•••

- (7) The modification or expansion of an existing residential structure that increases the number of dwelling units in the structure by **five** or more in any five-year period.
- (8) The conversion of an existing nonresidential building or structure, in whole or in part, into **five** or more dwelling units within a five year period.

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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:

•••

A. The placement, alteration, or enlargement of a up to two manufactured housing or mobile home dwelling, including accessory buildings and structures on individually owned lots.

•••

[1] § 120-805. Classification of projects. [Amended 8-26-2014 by Order 14-313; 12-12-2024 by Order Discretionary authority. Notwithstanding compliance with the PBR requirements and standards set forth in this section, the Town may require that an individual stormwater permit be obtained in any case where the Department determines that the activity:

- [a] May violate the standards of the Stormwater Management Law or this chapter;
- [b] Could lead to significant environmental impacts, including cumulative impacts; ~~or~~
- [c] Could have an unreasonable adverse impact on a protected natural resource.

•••

§ 120-812. Performance standards and approval criteria. [Amended 4-27-2010 by Order 10-075; 3-8-2011 by Order 11-03; 8-25-2015 by Order 15-122; 5-22-2018 by Order 18-905; 6-12-2018 by Order 18-099; 3-26-2019 by Order 19-020; 4-9-2019 by Order 19-053; 6-16-2022 by Order No. 22-108; 5-23-2023 by Order No. 23-092; 12-12-2024 by Order No. 24-173; 4-29-2025 by Order No. 25-043]

The following criteria shall be used by the Planning Board or Staff Review Committee in reviewing applications for site plan review and shall serve as minimum requirements for approval of the application. The application shall be approved unless the Planning Board or Staff Review Committee determines that the applicant has failed to meet one or more of these standards. In all instances, the burden of proof shall be on the applicant who shall produce evidence sufficient to warrant a finding that all applicable criteria have been met.

•••

Commented [BM8]: These have been amended to conform to the new standard for subdivision. The question is whether the Town wants site plan review for any multi-unit development that is not a subdivision. You're still permitted to do this.

C. Parking and loading requirements.

(1) Off-street parking layout.

(a) Parking areas with more than two parking spaces shall be arranged so that it is not necessary for vehicles to back into the street.

~~(b)~~ One off-street motor vehicle parking space per dwelling unit for a residential development in Designated Growth Areas.

~~(b)(c)~~ All parking spaces, access drives, and impervious surfaces shall be located at least five feet from any side or rear lot line, except where a parking lot is shared between two adjoining properties, or where standards for buffer strips require a greater distance. No parking spaces shall be located within five feet of the front property line. Parking lots on adjoining lots may be connected by accessways not exceeding 24 feet in width.

~~(e)(d)~~ Parking stalls and aisle layout shall conform to the standards in Table 1 of this subsection.

Table 1, Parking Stall and Aisle Layout

| Parking Angle | Stall Width | Skew Width | Stall Depth | Aisle Width |
|---------------|-------------|------------|-------------|---------------------|
| 90° | 9' 0" | 0' 0" | 18' 0" | 24' 0" two-way |
| 60° | 8' 6" | 10' 6" | 18' 0" | 16' 0" one-way only |
| 45° | 8' 6" | 12' 9" | 17' 6" | 12' 0" one-way only |
| 30° | 8' 6" | 17' 0" | 17' 0" | 12' 0" one-way only |

~~(e)(e)~~ In parking lots utilizing a parking angle of 90°, 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.

~~(e)(f)~~ In lots utilizing diagonal parking, the direction of proper traffic flow shall be indicated by signs, pavement markings or other permanent indications and maintained as necessary.

~~(f)(g)~~ Parking areas for nonresidential uses shall be designed to permit each motor vehicle to proceed to and from the parking space provided for it without requiring the moving of any other motor vehicles. Double-stack parking may be permitted for resident parking in conjunction with residential uses if both spaces in the stack are assigned to the occupants of the same dwelling unit.

~~(e)(h)~~ Provisions shall be made to restrict the overhang of parked vehicles when it might restrict traffic flow on adjacent through roads, restrict pedestrian or bicycle movement on adjacent walkways, or damage landscape materials.

~~(h)(i)~~ Parallel parking spaces may be used along internal driveways or accessways. Stall width and depth shall be at least nine feet by 20 feet.

~~(f)(h)~~ Automobile storage. The parking space dimension requirements in § 120-812C(1)(c) to (g), above, do not apply to vehicles stored for display, sale or repair. However, the operator of the use shall demonstrate that there is enough land area to accommodate all vehicles within any setbacks or required buffer areas of § 120-812C(1)(b) and/or the applicable zoning district. (See Article 4,

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Zoning Districts.)

(2) Minimum off-street parking space requirements.

(a) No minimum number of parking spaces are required, unless otherwise specified under this chapter or Chapter 185. The applicant should demonstrate that the number of spaces provided on-site will meet the needs of the anticipated uses on the property. Shared parking arrangements are encouraged.

- Notwithstanding the foregoing, any principal residential use within a Designated Growth Area may satisfy this requirement by providing one (1) off-street parking space per dwelling unit. In order to satisfy this requirement, the developer or property owner must provide an off-site parking agreement, subject to review and approval by the Planning Director, which indicates that this off-street parking requirement is met by use of a parking facility located no more than 0.25 miles from the subject lot.

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§ 120-814. **Triplex/Quadplex and Multifamily development standards.** [Added 3-28-2023 by Order No. 23-041⁴²]

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Commented [BM9]: Do we want these standards to still apply to 3+ dwelling units?

Commented [SP10R9]: Yes, we do.

ARTICLE 9
Subdivision Review⁴³

§ 120-901. **Purpose.** [Amended 5-23-2023 by Order No. 23-092]

The purpose of these standards shall be to assure the comfort, convenience, safety, health and welfare of the people; to protect the environment and to promote the development of an economically sound and stable community. To this end, in approving subdivisions within the Town of Windham, Maine, the Planning Board shall evaluate the proposed subdivision, using the following criteria. The subdivision provisions set forth in these regulations are intended to protect the public health and safety, promote the general welfare of the community, and conserve the environment by assuring that residential and nonresidential construction is designed and developed in a manner that 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 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.

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§ 120-905. **Classification of subdivision.**

A. Classification. The Planner shall classify each project as a major or minor subdivision.

- (1) Minor subdivisions shall involve: the creation of four or fewer lot, the construction or conversion of a building with 5 dwelling units, or the placement of five dwelling units on a single lot within a 5-year period.
- (2) Major subdivisions shall involve with the creation of five or more lots, the construction or conversion of a building with six or more dwelling units, or the placement of six or more

dwelling units on a single lot within a 5-year period.

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§ 120-1203. Recreation impact fee. [Added 3-11-2014 by Order 14-033]

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- C. Applicability. All new residential development activities commenced on or after April 10, 2014, shall be subject to the recreation impact fee. This includes:

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(2) Dwelling, duplex.

~~(3)~~ Dwelling, triplex.

~~(3)~~~~(4)~~ Dwelling, quadplex.

~~(4)~~~~(5)~~ Accessory apartment.

~~(5)~~~~(6)~~ Manufactured housing.