

Town of Windham

Planning Department
8 School Road
Windham, ME 04062

voice 207.894.5960

fax 207.892.1916

MEMO

DATE: June 27, 2014

TO: Windham Town Council
THROUGH: Tony Plante, Town Manager
FROM: Ben Smith, Planning Director *BWS*
Cc: Heather McNally, Director of Code Enforcement
Tom Bartell, Director of Economic Development
Windham Planning Board
Land Use Ordinance Committee

RE: Ordinance Amendments – Standards for Automobile Repair Services

At the Town Council meeting on June 17, 2014, the Town Council requested that the ordinance changes related to Automobile Repair Services and Automobile Storage Lots be separated into individual components, so that the Council could take action on these two related items independently.

The attached ordinance changes include only recommendations from the LUOC related to Automobile Repair Services and Small Engine Repair. An overview of the proposed changes to where uses would be allowed is provided in the table below:

Existing Standards

	F	FR	RL	RM	C1	C2	C3	I	ED	VC
Automobile Repair, Major					C					
Automobile Repair, Minor	C				C		C			C
Small Engine Repair	HO	HO	HO	HO	HO	HO	HO	HO		HO

Proposed Standards

	F	FR	RL	RM	C1	C2	C3	I	ED	VC
Automobile Repair					C		C*	P	P	C
Small Engine Repair	HO	HO	HO	HO	HO, C	HO	HO, C	HO, P	P	HO, P

P = Permitted Use
C = Conditional Use

HO = Permitted Use as Home Occupation
* = limited to vehicles under 26,000 lbs.

A more detailed summary of the changes to Automobile Repair Services follows:

Section 300 - Definitions

- Major and Minor Automobile Repair Services have been combined into a single category.
- Public Warehousing includes wording to allow outside storage for items like automobiles, boats, and trailers.

Section 400 – Zoning Districts

- Automobile Repair Service has been removed as a conditional use in the Farm District
- Automobile Repair Service and Small Engine Repair have been added as Permitted uses in the Industrial and Economic Development Zoning Districts.
- Automobile Repair Service is limited to vehicles under 26,000 pounds in the Commercial 3 Zoning District, which would result in no new “heavy truck” repair in that zone.

Section 500 – Performance Standards

- Automobile Repair Services
 - No more than two (2) repaired vehicles may be kept on the site at any given time, and the time limit is forty-five (45) days for each vehicle.
 - Storage of vehicles beyond two is not allowed as an “accessory use” for new Automobile Repair Services going forward.
- Automobile Repair Services and Public Warehousing
 - The Planning Board recommendation specifying a screening height of six (6) feet has been incorporated into the text below, per the Town Council’s request.

the same site must also be allowed by the applicable zoning district(s). (*See definition of "Retail Store, Minimart"; "Automobile Repair Services, Minor"*)

Automobile Graveyard. An automobile graveyard shall be defined according to 30-A, M.R.S.A. § 3752, of the Maine Revised Statutes, as amended from time to time.

~~Automobile Repair Services, Major. Establishments primarily engaged in furnishing bodywork, welding, large scale automotive diagnostic tune ups, and major painting service. (*See Sec. 500 Performance Standards*)~~

Automobile Repair Services, ~~Minor~~. Establishments primarily engaged in the maintenance and repair of passenger vehicles, pickup trucks, all classes of commercial trucks~~small engine repair~~ and similar vehicles. The type of work typically provided includes, but is not limited to engine tune-ups and overhauls, transmission repairs, glass repair and replacement, oil changes, tire repairs and replacement, ~~and~~ brake and muffler work, bodywork, painting, and diagnostic tune-ups. (*See Sec. 500 Performance Standards*)(*See definition of "Small Engine Repair"*)

Automobile Sales. See "Retail Sales, Automobile Sales."

Bank. A bank or similar financial institution.

Backlot. See definition of, "Lot, Backlot"

Base Flood. The flood having a one-percent (1%) chance of being equaled or exceeded in any given year, commonly called the "one-hundred year flood."

Bed and Breakfast Inn. Overnight accommodations and a morning meal in a dwelling unit provided to transients for compensation. (*See Sec. 500 Performance Standards*).

Boarding Home for Sheltered Care. A group home for the sheltered care of persons with special needs, which, in addition to providing food and shelter, may also provide some combination of personal care, social or counseling services, and transportation. This definition does not include facilities for the treatment of substance abuse. (*See Sec. 500 Performance Standards*)

Buffer Strip. Open spaces, landscaped areas, fences, walls, berms, or any combination thereof used to physically separate or screen one use or property from another so as to visually shield or block noise, lights, or other nuisances.

Buffer Strip, Landscaped. A landscaped area adjacent to and parallel with the front property line of a lot or parcel. (*See Sec. 500 Performance Standards*)

Building. Any structure having a roof supported by columns or wall and intended for the shelter, housing, or enclosure of any individual, animal, process, equipment, goods, or materials of any kind. (*See definition of "Structure"*)

406 Zoning Districts**A. Farm District (F)****1. 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.

2. Permitted Uses

The following uses, as they are defined in Section 300, shall be permitted in the Farm District as a matter of right. Refer to Section 500, Performance Standards or Subsection 6. District Standards for additional use information:

- Agriculture
- Agriculture, Piggery
- Agriculture, Poultry Facility
- Building, Accessory
- Campground, Commercial
- Campground, Personal
- Cemetery
- Child Care, Family Home
- Dwelling, Single-Family Detached
- Dwelling, Two-Family
- Dwelling, Multifamily
- Forestry
- Golf Course
- Home Occupation 1
- Home Occupation 2
- Kennel, Minor
- Mineral Extraction
- Place of Worship
- Public Building
- Research Laboratory
- Retail Sales, Nursery
- Retirement Community
- Riding Stable
- Sawmill, Permanent
- Sawmill, Temporary
- Service Business, Landscaping
- Shipping Container
- Use, Accessory
- Wireless Telecommunications Tower and Facility

3. Conditional Uses

The following uses, as defined in Section 300, shall be allowed as a Conditional Use in accordance with Section 514. Refer to Section 500, Performance Standards or Subsection 6. District Standards for additional use information:

- Assisted Living Facility
- ~~Automobile Repair Services, Minor~~
- Bed and Breakfast Inn
- Boarding Home for Sheltered Care
- Kennel, Major
- Medical Office

- Nursing Home
- Public Utility Facility
- Recreation Facility, Indoor
- Recreation Facility, Outdoor
- Retail Sales, Convenience
- Rooming House

4. Prohibited Uses

Uses that are not expressly enumerated herein as either permitted uses or conditional uses are prohibited.

5. Dimensional Standards

The following dimensional standards shall apply in the Farm District:

- (a) Minimum Lot Size:
 - (1) Standard (Non-Cluster) 80,000 s.f.
 - (2) Cluster Subdivision:
 - (a) All Subdivision lots connected to public water 30,000 s.f.
 - (b) Subdivision served by wells or a private system 40,000 s.f.
 - (3) Rooming House 4 acres
- (b) Maximum Lot Size:
 - (1) Cluster Subdivision 50,000 s.f.
 - (2) Cluster Subdivision: one (1) lot within subdivision 60,000 s.f.
- (c) Net Residential Density: 60,000 s.f.
- (d) Minimum Frontage:
 - (1) Standard (Non cluster) 200 ft.
 - (2) Cluster Subdivision 150 ft.
- (e) Minimum Front Setback:
 - (1) Standard (Non cluster) 40 ft.
 - (i) The minimum front Setback of a lot may be reduced to the average setback distance of the existing buildings located on the lots to either side of said lot.
 - (2) Cluster subdivision 30 ft.
 - (3) Non-Residential Use: Minimum Landscaped Buffer Strip 15 ft.
- (f) Minimum Side Setback:
 - (1) Standard (Non cluster) 10 ft.
 - (2) Cluster Subdivision: 10 ft.
- (g) Minimum Rear Setback:
 - (1) Standard (Non cluster): 10 ft.
 - (2) Cluster Subdivision: 10 ft.

- | | |
|--|----------|
| (h) Maximum Building Height: | 35 ft. |
| (1) Agriculture, Public Buildings, Church Steeples | No Limit |
| (i) Maximum Building Coverage: | 25% |

6. District Standards

In addition to Section 500, Performance Standards, these standards shall apply to the following uses in the Farm District:

- (a) Automobile Repair Services, ~~Minor~~ in existence prior to [Effective Date]
 - (1) All repair operations shall be conducted inside an enclosed building.
 - (2) No more than three vehicles shall be serviced or stored on the property at any one time.
 - (3) Hours of operation shall be Monday through Saturday from 8:00 A.M. to 5:00 P.M.
- (b) Boarding Home for Sheltered Care. Homes shall be limited to a maximum number of 20 patients at any one time.
- (c) Cluster Subdivision. (*See Sec. 900 Subdivision Review*)
 - (1) Cluster subdivisions shall only be permitted on lots with the following minimum gross land area:

(i) Lots completely contained by the Farm District	20 acres
(ii) Lots with area in both the F and FR Districts	20 acres
 - (2) All Sketch Plan applications for single-family subdivisions that are located on a lot with a gross acreage of twenty (20) acres or more shall submit the following:
 - (i) One (1) conventional subdivision plan.
 - (ii) One (1) cluster subdivision plan.
- (d) Curb Cuts. See “Curb Cuts and Driveway Openings” in Section 500 Performance Standards for standards applicable to the Farm District
- (e) Dwelling, Two-Family and Dwelling, Multifamily. These uses 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:
 - (1) No more than three (3) dwelling units may be created per lot.
 - (2) All dwelling units shall have a minimum area of 500 s.f.
- (f) Medical Office. See “Medical Office” in Section 500 Performance Standards for size limitations.

- (g) Research Laboratory. This use in the Farm District must conduct investigative research that is primarily related to the items defined in the definition of, “Agriculture.” Refer to Section 300 Definitions.
- (h) Service Business, Landscaping. This use shall be an accessory use to a Retail Sales, Nursery use under the following conditions:
 - (1) The Service Business, Landscaping use shall not exceed fifty (50) percent of the gross area (both interior and exterior areas) occupied by the principle Retail Sales, Nursery use.
- (i) Buffer Requirements for Specific Non-residential Uses. The following uses shall provide a buffer strip, as defined, from all abutting properties that are solely occupied by a residential dwelling(s):
 - (1) Boarding Home for Sheltered Care
 - (2) Medical Office
 - (3) Nursing Home
 - (4) Retail Sales, Convenience
 - (5) Retail Sales, Nursery
 - (5) Service Business, Landscaping

E. Commercial District I (C1)

1. 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.

2. Permitted Uses

The following uses, as they are defined in Section 300, shall be permitted in the Commercial District I as a matter of right. Refer to Section 500, Performance Standards or Subsection 6. District Standards for additional use information:

- Agriculture
- Assisted Living Facility
- Adult Business Establishment
- Bank
- Building, Accessory
- Business and Professional Office
- Child Care, Facility
- Child Care, Family Home
- Club
- Construction Services
- Convention Center
- Dwelling, Existing Single-Family Detached
- Dwelling, Existing Two-Family
- Dwelling, Existing Multifamily
- Dwelling, Mixed Use
- Fitness Center
- Forestry
- Funeral Home
- Home Occupation 1
- Home Occupation 2
- Hospital
- Medical Marijuana Dispensary
- Medical Office
- Mineral Extraction
- Nursing Home
- Place of Worship
- Public Building
- Recreation Facility, Indoor
- Research Laboratory
- Restaurant
- Retail Sales
- Retail Sales, Convenience
- Retail Sales, Nursery
- Retail Sales, Outdoor
- Retirement Community
- Sawmill, Temporary
- Service Business, Commercial
- Service Business, Landscaping
- Service Business, Personal
- Theater
- Use, Accessory
- Wireless Telecommunications Tower and Facility

3. Conditional Uses

The following uses, as defined in Section 300, shall be allowed as a Conditional Use in accordance with Section 514. Refer to Section 500, Performance Standards or Subsection 6. District Standards for additional use information:

- | | |
|--|---|
| <ul style="list-style-type: none"> • Automobile Gas Station • Automobile Repair Services;
Major • Automobile Repair Services;
Minor • Distribution Center • Drive-through Facility • Hotel • Industry, Light • Industry, Heavy • Motel | <ul style="list-style-type: none"> • Public Utility Facility • Recreation Facility, Outdoor • Retail Sales, Automobile Sales • Retail Sales, Minimart • Shipping Containers • <u>Small Engine Repair</u> • Warehousing, Private • Warehousing, Public |
|--|---|

4. Prohibited Uses

Uses that are not expressly enumerated herein as either permitted uses or conditional uses are prohibited.

5. Dimensional Standards

The following dimensional standards shall apply in the Commercial District I:

- | | |
|--|---|
| <p>(a) Minimum Lot Size:</p> <p>(1) Dwelling, Existing</p> <p>(2) Dwelling, Mixed Use</p> <p>(b) Net Residential Density:</p> <p>(1) Retirement Community:</p> <p style="padding-left: 20px;">(i) One (1) Bedroom Unit</p> <p style="padding-left: 20px;">(ii) Each Additional Bedroom</p> <p>(2) Dwelling, Mixed Use</p> <p>(c) Minimum Frontage:</p> <p>(d) Minimum Front Setback:</p> <p>(1) Minimum Landscaped Buffer Strip</p> <p>(2) Dwelling, Existing: (All associated structures)</p> | <p>None</p> <p>20,000 s.f.</p> <p>15,000 s.f.</p> <p>8,000 s.f.</p> <p>6,000 s.f.</p> <p>15,000 s.f.</p> <p>100 ft.</p> <p>40 ft.</p> <p>20 ft.</p> <p>30 ft.</p> |
|--|---|

- (i) The minimum front Setback of a lot governed by Subsection 406.E.5.(d) may be reduced to the average setback distance of the existing structures located on the lots to either side of said lot.
 - (ii) A landscaped buffer strip is not required for lots with existing dwelling units.
- (e) Minimum Side Setback: 6 ft.
 - (1) Dwelling, Existing (All associated structures) 10 ft.
 - (f) Minimum Rear Setback: 6 ft.
 - (1) Dwelling, Existing (All associated structures) 10 ft.
 - (g) Maximum Building Height: None
 - (1) Dwelling, Existing (All associated structures) 35 ft.

6. District Standards

In addition to Section 500, Performance Standards, these standards shall apply to the following uses in the Commercial District I:

- (a) Aquifer Protection Overlay District. (*See Subsec. 407.A or 407.B*) – Aquifer Protection Overlay District and the Town’s Official Map.
- (b) Buffer Requirement. All properties in the C1 district that abut a residential use, or undeveloped parcel, located in a residential zoning district shall provide a fifty (50) foot buffer along the zoning district boundary line.
- (c) Controlled Access Street. For standards pertaining to controlled access streets in the C1 District see Section 300 Definitions and Section 500 Performance Standards.
- (d) Curb Cuts. See “Curb Cuts and Driveway Openings” in Section 500 Performance Standards for additional standards applicable to the C1 District
 - (1) New, enlarged or rebuilt uses on an arterial road, as defined in Section 300, shall be limited to one (1) curb cut. In addition, the following standards shall apply to these curb cuts:
 - (i) A minimum centerline turning radius of 25’ must be provided.
 - (ii) A larger turning radius shall be provided if the curb cut will be used by vehicles with a wheel base of 35.8 feet or larger. In this case, the latest American Association of State Highway and Transportation Officials (AASHTO) standard shall apply.
 - (iii) Paved deceleration and acceleration lanes must be provided unless an alternative traffic design, prepared by a licensed civil engineer, is approved by the Town. (*See Sec. 500 Performance Standards for additional curb cut criteria*)

-
- (e) Dwelling, Existing Single-Family, Two-Family and Multifamily. For the purposes of Section 406.E – Commercial District I, these uses must have been constructed on, or prior to, July 8, 1976.
- (f) Retirement Community. The following standards shall apply to this use (*also see Section 407 Retirement Community and Care Facility Overlay District*):
- (1) Dwelling units shall not be permitted in the basement or first story of a building, except
- (i) Dwelling units that are classified as “affordable” shall be permitted on all stories of a building. To be classified as “affordable,” the project must be funded via Section 202 of the Federal Housing Act of 1959.
- (g) Industry, Heavy. In the C1 district, this use shall not involve any activity defined in Section 300 as “Manufacturing, Hazardous.” (*See Sec. 300 Definitions*)
- (h) Minimum Lot Size. The State of Maine minimum lot size, and minimum lot size waiver, standards apply in the C1 district when the Town’s minimum lot size requirements are less restrictive than those of the State of Maine.
- (i) Retail Sales, Outdoor. The display or sale of products outside of a building shall meet the standards of Section 500. (*See Sec. 500 Performance Standards*)
- (j) Sidewalks. The following commercial development activities shall pay the North Windham Sidewalk Impact Fee in Section 1201(I) to provide safe pedestrian conditions in the Commercial 1 District:
- The construction or placement of new building(s) with a cumulative area that is greater than, or equal to, five-hundred (500) s.f.
 - The enlargement of existing buildings by more than five-hundred (500) s.f., or
 - As required by the Planning Board as part of a Site Plan approved in accordance with Section 800 of this Ordinance.

G. Commercial District III (C3)

1. 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.

2. Permitted Uses

The following uses, as they are defined in Section 300, shall be permitted in the Commercial District III as a matter of right. Refer to Section 500, Performance Standards or Subsection 6. District Standards for additional use information:

- Agriculture
- Adult Business Establishment
- Building, Accessory
- Business and Professional Office
- Child Care, Facility
- Child Care, Family Home
- Dwelling, Single-Family
- Dwelling, Two-Family
- Dwelling, Multifamily
- Dwelling, Mixed Use
- Forestry
- Home Occupation 1
- Home Occupation 2
- Medical Office
- Place of Worship
- Public Building
- Recreation Facility, Indoor
- Retail Sales
- Retail Sales, Convenience
- Retail Sales, Nursery
- Retail Sales, Outdoor
- Theater
- Use, Accessory
- Warehousing, Private
- Warehousing, Public
- Wireless Telecommunications Tower and Facility

3. Conditional Uses

The following uses, as defined in Section 300, shall be allowed as a Conditional Use in accordance with Section 514. Refer to Section 500, Performance Standards or Subsection 6. District Standards for additional use information:

- Assisted Living Facility
- Automobile Repair Services; ~~Minor~~
- Bed and Breakfast Inn
- Campground, Commercial
- Campground, Personal
- Club
- Hotel
- Industry, Light
- Motel
- Nursing Home
- Public Utility Facility
- Restaurant
- Shipping Container
- Small Engine Repair

4. Prohibited Uses

Uses that are not expressly enumerated herein as either permitted uses or conditional uses are prohibited.

5. Dimensional Standards

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

- | | |
|--|-------------|
| (a) Minimum Lot Size: | |
| (1) Dwelling, Single-Family; Two-Family; Multifamily | 80,000 s.f. |
| (2) Dwelling, Mixed Use | 80,000 s.f. |
| (3) Non-Residential | 20,000 s.f. |
| (b) Net Residential Density: | 60,000 s.f. |
| (c) Minimum Frontage: | |
| (1) Dwelling, Single-Family; Two-Family; Multifamily | 200 ft. |
| (2) Non-Residential | 100 ft. |
| (d) Minimum Front Setback: | |
| (1) Arterial Street | 60 ft. |
| (2) Non-Arterial Street | 40 ft. |
| (3) Minimum Landscaped Buffer Strip | 20 ft. |
| (e) Minimum Side Setback: | 10 ft. |
| (f) Minimum Rear Setback: | 10 ft. |
| (g) Maximum Building Height: | |
| (1) Dwellings (All associated structures) | 35 ft. |
| (2) Non-Residential | None |

6. District Standards

In addition to Section 500, Performance Standards, these standards shall apply to the following uses in the Commercial District III:

- (a) Auto Repair Services. The repair of commercial trucks shall be limited to those vehicles with a Gross Vehicle Weight Rating equal to, or less than, 26,000 lbs.
- (b) Controlled Access Street. For standards pertaining to controlled access streets in the C3 District see Section 500 Performance Standards.

- | (cb) Curb Cuts. See “Curb Cuts and Driveway Openings” in Section 500 Performance Standards for standards applicable to the C3 District.
- | (de) Dwelling, Two-Family and Dwelling, Multifamily. These uses 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:
 - (1) No more than three (3) dwelling units may be created per lot.
- | (ed) Minimum Side Setback Reduction. The required minimum side setback shall be permitted to be reduced to zero (0) where a common wall is proposed between buildings.
- | (fe) Retail Sales, Outdoor. The display or sale of products outside of a building shall meet the standards of Section 500. (*See Sec. 500 Performance Standards*)
- | (gf) Zoning District Boundary Buffer. Lots on which non-residential uses are located shall require a fifty (50) foot buffer from all property lines that abut a residential zoning district. The buffer shall meet the following requirements:
 - (1) No development shall be allowed within the buffer. This includes, but is not limited to, parking lots, signage, and light fixtures.
 - (2) The buffer must provide screening as described in the definition of “Buffer Strip”, in Section 300 Definitions.

H. Industrial District (I)

1. Intent

The intent of this district is to provide districts within the Town of Windham for manufacturing, processing, treatment, research, warehousing, storage and distribution.

2. Permitted Uses

The following uses, as they are defined in Section 300, shall be permitted in the Industrial District as a matter of right. Refer to Section 500, Performance Standards or Subsection 6. District Standards for additional use information:

- Agriculture
- Agriculture, Piggery
- Agriculture, Poultry Facility
- Automobile Repair Services
- Building, Accessory
- Distribution Center
- Dwelling, Existing Single-Family
- Dwelling, Existing Two-Family
- Dwelling, Existing Multifamily
- Home Occupation 1
- Home Occupation 2
- Industry, Heavy
- Industry, Light
- Mineral Extraction
- Research Laboratory
- Retail Sales
- Small Engine Repair
- Truck Terminal
- Use, Accessory
- Warehousing, Private
- Warehousing, Public
- Wireless Telecommunications Tower and Facility

3. Conditional Uses

The following uses, as defined in Section 300, shall be allowed as a Conditional Use in accordance with Section 514. Refer to Section 500, Performance Standards or Subsection 6. District Standards for additional use information:

- Correctional Facility, Public
- Public Building
- Public Utility Facility
- Shipping Container

4. Prohibited Uses

Uses that are not expressly enumerated herein as either permitted uses or conditional uses are prohibited.

5. Dimensional Standards

The following dimensional standards shall apply in the Industrial District:

- | | |
|---|---|
| (a) Minimum Lot Size: | 20,000 s.f. |
| (b) Minimum Frontage: | 100 ft. |
| (c) Minimum Front Setback: | 100 ft. |
| (1) Dwelling, Existing | 40 ft. |
| (d) Minimum Side Setback: | Greater of 25 ft. or 50% of Building Height |
| (1) Dwelling, Existing (All associated structures): | 15 ft. |
| (i) Either side Setback of for an existing dwelling may be reduced one (1) foot for every foot that the lot's other side Setback is increased. However, no side Setback shall be less than ten (10) feet. | |
| (e) Minimum Rear Setback: | Greater of 25 ft. or 50% of Building Height |
| (1) Dwelling, Existing (All associated structures) | 10 ft. |
| (f) Maximum Building Height: | None |
| (1) Dwelling, Existing (All associated structures) | 35 ft. |
| (g) Maximum Building Coverage: | None |
| (1) Non-residential Buildings | See Subsection 406.H.5.(c) below. |

6. District Standards

In addition to Section 500, Performance Standards, these standards shall apply to the following uses in the Industrial District:

- (a) Curb Cuts. See "Curb Cuts and Driveway Openings" in Section 500 Performance Standards for standards applicable to the I District.
- (b) Industry, Heavy. In accordance with the Conditional Use standards in Section 500, the appropriate Review Authority may approve the manufacturing or use of hazardous material, as defined in Section 300. (*See Sec. 300 for definition of "manufacturing, hazardous"*)
- (c) Open Space Requirement. All non-residential uses, except for agriculture, must provide two (2) square feet of open space, as defined, for every one (1) square foot of floor area. (*See Sec. 300 Definitions*)

- (d) Zoning District Boundary Buffer. Lots on which non-residential uses are located shall require a fifty (50) foot buffer from all property lines that abut a residential zoning district. The buffer shall meet the following requirements:
- (1) No development shall be allowed within the buffer. This includes, but is not limited to, parking lots, signage, and light fixtures.
 - (2) The buffer must provide screening as described in the definition of “Buffer Strip”, in Section 300 Definitions.

I. Enterprise Development District (ED)

1. 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.

2. Permitted Uses

The following uses, as they are defined in Section 300, shall be permitted in the Enterprise Development District as a matter of right. Refer to Section 500, Performance Standards or Subsection 6. District Standards for additional use information:

- | | |
|--|--|
| • Auction House | • Mineral Extraction |
| • Automobile Repair Services | • Motel |
| • Building, Accessory | • Public Utility Facility |
| • Business and Professional Office | • Retail Sales, Accessory |
| • Construction Services | • Small Engine Repair |
| • Convention Center | • Use, Accessory |
| • Distribution Facility | • Warehousing, Private |
| • Forestry | • Warehousing, Public |
| • Hotel | • Wireless Telecommunications Tower and Facility |
| • Industry, Heavy | |
| • Industry, Light | |

3. Conditional Uses

The following uses, as defined in Section 300, shall be allowed as a Conditional Use in accordance with Section 514. Refer to Section 500, Performance Standards or Subsection 6. District Standards for additional use information:

- Shipping Container

4. Prohibited Uses

Uses that are not expressly enumerated herein as either permitted uses or conditional uses are prohibited.

5. Dimensional Standards

The following dimensional standards shall apply in the Enterprise Development District:

(a) Minimum Lot Size:	None
(b) Minimum Frontage:	100 ft.
(c) Minimum Front Setback:	40 ft.
(1) Minimum Landscaped Buffer Strip	40 ft.
(d) Minimum Side Setback:	Greater of 30 ft. or 50% of Building Height
(e) Minimum Rear Setback:	Greater of 30 ft. or 50% of Building Height
(f) Maximum Building Height:	40 ft.
(1) Maximum Building Height Exemption	See District Standards
(g) Maximum Building Coverage:	50%
(h) Maximum Impervious Area:	75%

6. District Standards

In addition to Section 500, Performance Standards, these standards shall apply to the following uses in the Enterprise Development District:

(a) Access Management

- (1) Any parcel of land which is divided or developed may be required by the Town to provide one (1) or more sixty (60) foot right-of-ways to abutting land in the Enterprise Development Zone.
- (2) An Enterprise Development District may have one (1) or more dead-end access streets from an existing public right-of-way.
 - (i) If two (2) or more entrances to an Enterprise Development District are proposed, such entrances shall be separated by at least one thousand (1000) linear feet, unless waived by the Planning Board.
- (3) The Town may require that one (1) or more turning lanes be provided on the public right-of-way from which the Enterprise District is accessed. The need for these lanes will be based on proposed traffic volumes and conditions.

- (4) Access to all lots within an Enterprise Development District shall be limited to the District's interior road system.
- (b) **Convention Center.** Convention Centers shall only be permitted as an Accessory Use to a Hotel or Motel.
- (c) **Buffers and Screening**
- (1) **Residential District Boundary Buffer.** Where a lot abuts, or is within one hundred (100) feet of the side or rear boundary line of any residential district (including any residential district in an adjacent municipality), or within one hundred (100) feet of the side or rear boundary line of an existing improved residential lot within an ED District a fifty (50) foot wide buffer strip shall be provided. The following standards shall apply to the required buffer:
- (i) Twenty (20) feet nearest the boundary shall be used and maintained as a landscaped buffer strip, as defined.
- a) Within the landscaped buffer strip, screening of adjoining properties must be achieved as defined for a Buffer in Section 300 Definitions.
- (ii) The remaining thirty (30) feet of the landscaped buffer strip shall also be used and maintained as a suitable planting area for lawns with trees, shrubs or other landscape material. Within this portion of the buffer strip, underground utilities such as septic systems, sewer pipes, storage tanks and wells shall be allowed. Employee picnic tables shall also be permitted in this area.
- (iii) No building, structure, parking area, storage area, or display of equipment or materials shall be constructed, located or otherwise placed within any portion of the buffer strip.
- (2) **Commercial District Boundary Buffer.** In an ED District where a lot abuts or is within one hundred (100) feet of the side or rear boundary line of any commercial zone, there shall be provided on those sides facing the commercial zone a buffer strip fifteen (15) feet wide which shall be used and maintained as a suitable planting area for lawns, trees, shrubs or other landscape materials.
- (i) Within the landscaped buffer strip, screening of the adjoining commercial district properties must be achieved as defined for a Buffer Strip in Section 300 Definitions.
- (3) **Frontage on Existing Public Rights-of-Way Buffer.** A landscaped buffer strip of at least one hundred (100) feet shall be required where the District, or a lot within the District, has frontage on an improved public right-of-way

that was in existence prior to the creation of the Enterprise Development District.

- (i) One (1) sign that identifies the establishments within the Enterprise Development District shall be permitted within the landscaped buffer strip. See Section 700 Signs and Graphic Displays.
 - (ii) No equipment, vehicles, materials, articles for sale or signs in addition to that allowed in Subsection 400(I)(6)(c)(1)(ii) above, shall be placed within any portion of the landscaped buffer strip unless otherwise provided for in this chapter.
- (4) Screening of Outdoor Storage. Outdoor storage shall be completely screened from adjoining properties by means of evergreen trees at least six (6) feet in height at time of planting.
- (5) Screening of Lighting: See Subsection 400(I)(6)(g)(5) below.
- (d) **Industry, Heavy.** In accordance with the Conditional Use standards in Section 514, the appropriate Review Authority may approve the manufacturing or use of hazardous material, as defined in Section 300. (*See Sec. 300 for definition of "manufacturing, hazardous"*)
- (e) **Maximum Building Height Exemption.** Buildings over 40 ft. high shall be allowed if approved by the Zoning Board of Appeals.
- (1) The Zoning Board of Appeals shall use the Conditional Use standards in Section 514 to make its findings on the application.
- (f) **Parking Lot Setback.** Parking lots shall maintain a 30 ft. setback from all property lines.
- (g) **Performance Standards**
- (1) Air Pollution: All uses shall comply with minimum Federal, State and local air pollution requirements.
- (i) Applicants shall submit information demonstrating compliance with any applicable federal, state or local requirements. If the application does not require subdivision or site plan review, the information shall be submitted to the Code Enforcement Officer for approval before a building permit is issued.
 - (ii) The maximum permitted density of smoke, dust and other particulate emissions during normal operations of any activity shall not exceed the maximum allowable under the regulations of the Maine Department of

Environmental Protection. In case of doubt, the Code Enforcement Officer may employ such independent, recognized consultants as necessary, at the expense of the applicant, to assure compliance with performance standards and all other requirements of this chapter related to the public health, safety and welfare and the abatement of nuisances.

- (2) Electromagnetic Interference. No use, activity or process shall be conducted which produces electromagnetic interference in the transmission or reception of electrical impulses beyond any lot lines, including radio and television. In all cases, Federal, State and local requirements shall be met. Violations of this standard shall be considered a public nuisance.
- (3) Fire Protection.
 - (i) All buildings or structures shall be connected to the public water supply and have a sprinkler system or a fire suppression system installed when required by the Town of Windham Building Code.
 - (ii) Storage, utilization, or manufacture of solid materials or products including free burning and intense burning is permitted provided that said materials or products shall be stored, utilized, or manufactured within completely enclosed buildings having incombustible walls and protected throughout by an automatic fire-extinguishing system.
 - (iii) The storage, utilization, or manufacture of flammable liquids, or materials which produce flammable or explosive vapors or gases shall be permitted in accordance with the most current edition of the National Fire Protection Association Standards for Flammable and Combustible Liquids (NFPA 30) or the most current edition of the Building Officials and Code Administrators (BOCA) Fire Prevention Code. The most restrictive standards shall apply.
 - (iv) Any change in use or occupancy shall require a review and approval by the Code Enforcement Officer and the Fire Chief.
 - (v) Tanks or other underground storage facilities abandoned or not in use for a period exceeding one (1) year shall be removed or otherwise assured safe conditions are present. In all cases, applicable Federal, State and local regulations shall prevail.
- (4) Groundwater and Surface Water Protection.
 - (i) Water Pollution. No activity shall locate, store, discharge, or permit the discharge of any treated, untreated or inadequately treated liquid, gaseous, or solid materials of such nature, quantity, obnoxiousness, toxicity or temperature that run off, seep, percolate, or wash into surface

or ground waters so as to contaminate, pollute or harm such waters or cause nuisances, such as objectionable shore deposits, floating or submerged debris, oil or scum, color, odor, taste, or unsightliness or be harmful to human, animal, plant or aquatic life.

- a) All provisions of 38 M.R.S.A. Chapter 3, Protection and Improvements of Waters and such rules and regulations adopted by the Maine Board of Environmental Protection pursuant to the referenced purpose shall apply.
 - b) No development or use shall result in the existing groundwater quality becoming inferior to the physical, biological, chemical and/or radiological levels for raw and untreated drinking water supply sources specified in the Maine State Drinking Water Regulations, pursuant to 22 M.R.S.A., §2601 et seq. If the existing groundwater quality is inferior to the State Drinking Water Regulations, the developer or land owner will not degrade the water quality any further.
 - c) Representatives of the municipality or the Maine Department of Environmental Protection may enter the premises for the purpose of gauging, sampling and testing any waste water systems which may enter into water courses.
 - d) No development or use of land shall lower the groundwater table more than ten (10) feet.
- (ii) Subsurface Wastewater Disposal. The Enterprise Development District has been determined by the Town of Windham to be particularly sensitive to the discharge of pollutants from on-site subsurface sewage disposal systems and is therefore designated as a groundwater sensitive area. when the sewage contains effluent other than usual bathroom and/or on-premises food preparation water, the Town of Windham may require a pretreatment system of the effluent before its entry into any subsurface sewage disposal system
- a) The Town may hire a third party consultant to review any subsurface wastewater disposal applications. The costs for this review shall be the responsibility of the applicant.
 - b) The Town of Windham may require groundwater monitoring of the project at the owner's expense.
- (5) Lighting

- (i) No lights shall be placed in view of any public roadway or street so that its beams or rays are directed at any portion of the roadway when the light is of such brilliance and so positioned as to impair the vision of the driver of any motor vehicle upon said roadway.
 - (ii) Lighting with a lumen output equal to or greater than a two-hundred watt mercury light shall not be directed towards the sky or adjacent residential properties.
 - (iii) No rotating or flashing lights or signals, except safety signaling devices as required by law, are permitted.
 - (iv) Adequate buffers using either the natural landscape or artificial screening are required to prevent unnecessary light from being directed beyond any lot lines onto adjacent residential properties.
- (6) Noise. Noise is required to be muffled so as not to be objectionable due to emission, beat frequency or shrillness. The average dBA count resulting from any activity shall not exceed at any point on or beyond any lot line, sixty (60) dBA during the day and fifty (50) dBA at night. The average dBA count for any activity shall be computed based on samples taken at intervals over a twenty-four hour period.
- (i) During the peak activity of sixty (60) minutes in a twenty-four hour period, a noise may not exceed these average dBA counts by more than ten (10) dBA.
 - (ii) Temporary activities that are unable to meet these requirements shall require a special permit from the Code Enforcement Officer. The noise standards shall not apply to the temporary use of such machinery as chainsaws, lawn mowers and snowmobiles.
- (7) Odors. The emission of odorous or toxic matter in such quantities as to be readily detectable at any point along any lot lines so as to produce a public nuisance or hazard is prohibited.
- (i) Such activities shall comply with applicable minimum Federal, State and local requirements.
 - (ii) Detailed plans shall be submitted to the Code Enforcement Officer for approval before a permit is granted.
 - (iii) Violations of this standard shall be considered a public nuisance.

- (8) Vibrations. No vibration shall be produced which is transmitted through the ground and is discernible without the aid of instruments at or at any point beyond any lot line.

- (h) **Street and Road Design**
 - (1) All streets in the Enterprise Development District shall be designed and constructed to meet the industrial road standards set forth in Section 900 Subdivision Review.

 - (i) **Utilities.** All utilities, including telephone and electrical services, shall be placed underground. If the development is being reviewed by the Planning Board as either a site plan or subdivision, the applicant may request a waiver under the applicable waiver standards of either Section 800 Site Plan or Section 900 Subdivision.

J. Village Commercial District (VC)

1. 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.

2. Permitted Uses

- Agriculture
- Artist Studio
- Assisted Living Facility
- Bank
- Bed & Breakfast Inn
- Boarding Home for Sheltered Care
- Building, Accessory
- Business & Professional Office
- Child Care Facility
- Child Care, Family Home
- Construction Services
- Convention Center
- Dwelling, Mixed Use
- Dwelling, Single-Family Detached
- Dwelling, Two-Family
- Dwelling, Multifamily
- Fitness Center
- Funeral Home
- Home Occupation 1
- Home Occupation 2
- Hotel
- Industry, Light
- Medical Office
- Nursing Home
- Park, Public
- Place of Worship
- Public Building
- Public Utility Facility
- Recreation Facility, Indoor
- Recreation Facility, Outdoor
- Research Laboratory
- Restaurant
- Retail Sales
- Retail Sales, Convenience
- Retail Sales, Nursery
- Retirement Community
- Service Business, Commercial
- Service Business, Personal
- Theater
- Use, Accessory
- Wireless Telecommunications Facility

3. Conditional Uses

- | | |
|---|--|
| <ul style="list-style-type: none"> • Auto Repair Services, Minor • <u>Drive-through Facility</u> | <ul style="list-style-type: none"> • <u>Small Engine Repair</u> |
|---|--|

4. Prohibited Uses

Uses that are not expressly enumerated herein as either permitted uses or conditional uses are prohibited.

5. Dimensional Standards

- (a) Minimum Lot Size:
- (1) Standard
 - (i) Lots connected to public water & sewer 5,000 s.f.
 - (ii) Lots served by wells or a private sanitary system: 20,000 s.f.
- (b) Net Residential Density
- (1) Lots connected to public water & sewer: 2,500 s.f.
 - (2) Lots served by wells or a private sanitary system: 20,000 s.f.
- (c) Minimum Frontage 50 ft.
- (d) Minimum Front Setback No Minimum
- (1) New buildings constructed in the Village Commercial District shall be located in such a manner as to maintain the established relationship of buildings to the street. No building shall be setback further than the average of the existing setbacks in the block in which the building is located or if an existing building is being demolished, than the pre-existing setback, whichever is greater.
- (e) Minimum Side Setback No Minimum
- (1) Structures that share a common wall shall meet the requirements of the building code adopted by the Town of Windham.
- (f) Minimum Rear Setback 20 ft.
- (g) Maximum Building Height 35 ft.
- (1) Public Buildings, Church Steeples No Limit
- (h) Maximum Building Coverage: No Limit

6. District Standards

- (a) Buffer Requirement. New buildings or structures containing, or accessory to, commercial, duplex dwelling or multifamily dwelling uses constructed on properties in the Village Commercial District that abut a residential zoning district shall provide a fifty (50) foot natural buffer from the zoning district boundary line. This buffer requirement shall not apply to property lines that abut the Presumpscot River.
- (b) Design Guidelines: Designs for new and rehabilitated structures and building sites are encouraged to use the objectives and guidelines contained in the Town of Windham's 2005 Design Guidelines.

- (c) Parking:
 - (1) Uses shall meet the parking standards of section 534 Parking and Loading, except for the following:
 - (i) Dwellings: Single Family and Duplex: 1 per dwelling unit
 - (ii) No portion of the lot in front of a commercial use shall be used for off-street parking, service or loading.
- (d) Restaurant:
 - (1) Maximum seating for any bar area shall be 20 seats.
 - (2) Restaurants shall not be permitted to include a drive-through facility.
- (e) Retail Sales: The maximum area of a building dedicated to retail sales shall be 10,000 s.f.

- D. Spreading or Disposal of Manure. All spreading or disposal of manure shall be accomplished in conformance with the, "Manual of Best Management Practices for Maine Agriculture," published by the Maine Department of Agriculture in January, 2007, and as this may be amended or superseded.

505 Adult Business Establishment

- A. Such establishment shall be at least two thousand (2,000) feet from the nearest property line of any school, place of worship, library, playground, child care family home, child care facility or any residential zoning district. Said distance shall be measured in a straight line without regard to intervening structures or objects.
- B. No sexually explicit materials, entertainment, or activity shall be visible from the exterior of the premises.

506 Automobile Repair Services, ~~Major, Minor~~

- A. The following standards shall apply to all Automobile Repair Services:
1. The sale of gasoline or other petroleum products shall not be allowed as an accessory use (*see standards for Automobile Gas Station*).
 2. Upon completion of all repair work, as requested by the customer, no ~~more than two (2) registered vehicles~~ ~~automobiles~~ shall be left on site in excess of ~~forty-five~~ ~~ninety (45/90) cumulative~~ days ~~each in a calendar year~~. (*See definition for "Automobile Graveyard" in Section 300.*) ~~The storage of cars~~ ~~automobiles in excess of this standard shall not be allowed as an accessory use for~~ ~~auto~~ ~~Automobile~~ ~~Repair facilities~~ ~~Services established after [Effective Date]~~ (*see standards for Automobile Storage Lot*).
 3. Automobiles may not be displayed for sale, or sold, on the premises, unless Automobile Sales, Outdoors is a permitted use or a conditional use in the applicable zoning district.

507 Bed and Breakfast Inn

- A. The following standards shall apply to all Bed and Breakfast Inns:
1. A maximum of three (3) guest bedrooms shall be allowed in the inn.
 2. Total sleeping accommodations shall be for eight (8) or fewer guests.
 3. Breakfast shall be the only meal served and shall be limited to overnight guests.
 4. Rental for more than 30 cumulative days in a calendar year to the same guest, or guests, is prohibited.
 5. The Bed and Breakfast Inn must be the primary residence of the property's owner or operator.
 6. A structure shall not be used or occupied as a Bed and Breakfast Inn until:

521 Home Occupation 1

- A. Permit Required. A permit must be obtained from the Department of Code Enforcement prior to the installation of a Home Occupation 1.
1. The granting of a home occupation shall apply to the applicant only while the applicant resides at the property.
- B. Permitted Uses. The following uses, as defined in Section 300, shall be allowed as a Home Occupation 1:
1. Artist Studio
 2. ~~Auto Repair Services, Minor—Limited to “Small Engine Repair,” as defined.~~
 3. Business and Professional Office
 4. Service Business, Personal (*See Subsec. 521.C.1. below*)
- C. Standards. In making its findings, the Department of Code Enforcement shall use the standards for a Home Occupation 2 in Section 522.F. and the following:
1. Service Business Personal. When authorized as a Home Occupation 1, this use shall not include laundry or dry cleaning services. (*Laundry and dry cleaning services may apply under Sec. 522 Home Occupation 2*)
- D. Conditions. The Department of Code Enforcement may place conditions on the home occupation to minimize impacts on area properties. The conditions must be related to the Code Enforcement Officer’s findings on the standards listed in Subsection 522.F.

522 Home Occupation 2

- A. Approval Required. The Board of Appeals must approve all applications for a Home Occupation 2.
1. The granting of a home occupation shall apply to the applicant only while the applicant resides at the property and shall not be transferable to a subsequent resident of the property.
- B. Public Notification. Notice shall be sent to all owners of abutting property at least seven (7) days prior to the Board’s initial consideration of an application.
- C. Public Hearing. The Board of Appeals shall hold a public hearing on any application. Notice of the public hearing shall be:
1. Mailed to the owners of all abutting property at least seven (7) days prior to the hearing,
 2. Advertised in a newspaper of general circulation at least seven (7) days prior to the hearing.
- D. Permitted Uses. Home Occupation 2 uses shall be as follows:
1. Uses that meet the standards of Subsection 522.F,
 2. Uses that are not prohibited by Subsection 522.E.

- E. Prohibited Uses. The following uses are specifically prohibited as a Home Occupation 2:
1. Auto Repair Services, ~~Major~~
 - ~~2. Auto Repair Services, Minor~~
 - ~~2~~3. Welding
 - ~~3~~4. Slaughterhouse
 - ~~4~~5. Smoke House.
- F. Standards
1. The home occupation shall be carried on wholly within the dwelling or accessory structure.
 2. The home occupation shall be carried on primarily by a member or members of the family residing in the dwelling unit.
 - (a) Not more than two (2) persons who are not family members residing in the dwelling unit shall be employed.
 3. There shall be no exterior display, no exterior sign, other than those permitted in Section 705.D Signs, no exterior storage of materials and no other exterior indication of the home occupation or variation from the residential character of the principal building.
 4. Objectionable conditions such as noise, vibration, smoke, dust, electrical disturbance, odors, heat, glare or activity at unreasonable hours, shall not be permitted.
 5. In addition to the off-street parking provided to meet the normal requirements of the dwelling, adequate off-street parking shall be provided for the following:
 - (a) Vehicles of each employee, and
 - (b) Vehicles of the maximum number of users which the home occupation may attract during peak operating hours.
 6. The home occupation shall not utilize more than twenty percent (20%) of the total floor area of the dwelling unit. The basement floor area and accessory structure floor area shall be excluded in the calculation of the twenty percent (20%).
 7. Evidence shall be provided that the property's subsurface disposal system can accommodate the wastewater generated by the home occupation.
 8. The home occupation shall not generate traffic of a substantially greater volume than would normally be expected in the neighborhood.
 9. If renting or leasing, the tenant must demonstrate the property owner's approval.
- G. Conditions. The Board of Appeals may place conditions on the home occupation to minimize impacts on area properties. The conditions must be related to the Board of Appeal's findings on the standards listed in Subsection 522.F.