

Article 4
Zoning Districts

§ 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]

Auction house

Automobile auction facility

Automobile repair services

Building, accessory

Business and professional office

Contractor services

Contractor storage yard

Construction services, heavy,
major

Construction services, heavy,
minor

Convention center

Distribution facility

Forestry

Hotel

Industry, heavy

Industry, light

2.

- Marijuana cultivation facility
- Marijuana manufacturing facility
- Marijuana registered dispensary
- Marijuana testing facility
- Mineral extraction
- Motel
- Public utility facility
- Retail sales, accessory

Recreational, indoor

Recreational, outdoor

Recreational, passive

- Small engine repair
- Solar energy system – roof-mounted, small, medium, and large scale
- Solar energy system – ground-mounted, small scale
- Solar energy system – ground-mounted, medium scale
- Solar energy system – ground-mounted, large scale
- Use, accessory
- Warehousing, private
- Warehousing, public
- Wireless telecommunications tower and facility

Commented [SJP1]: The Town's ED plan envisions it as a well-known recreational destination in Maine. The parcels in the ED district are unique and have the potential to host a variety of recreational activities. The permitted uses should include all three (3) recreational activities defined in Article 3 as to promote recreational development in that zoning district.

C. Conditional uses. The following uses, as defined in Article 3, shall be allowed as a conditional use in accordance with § 120-516. Refer to Article 5, Performance Standards, or Subsection F, District standards, for additional use information:

- (1) Automobile storage lot. [Added 7-8-2014 by Order 14-164]
 - (2) Shipping container.
- D. Prohibited uses. Uses that are not expressly enumerated herein as either permitted uses or conditional uses are prohibited.
- E. Dimensional standards. The following dimensional standards shall apply in the Enterprise Development District:
- (1) Minimum lot size: none
 - (2) Minimum frontage: 100 feet.
 - (3) Minimum front setback: 40 feet.
 - (a) Minimum buffer along streets: see § 120-511, Buffer yard. [Amended 8-15-2023 by Order No. 23-149]
 - (4) Minimum side setback: greater of 30 feet or 50% of building height.
 - (5) Minimum rear setback: greater of 30 feet or 50% of building height.
 - (6) Maximum building height: 40 feet.
 - (a) Maximum building height exemption: See district standards.
 - (7) Maximum building coverage: 50%.
 - (8) Maximum impervious area: 75%.
- F. District standards. In addition to Article 5, Performance Standards, these standards shall apply to the following uses in the Enterprise Development District:
- (1) Access management.
 - (a) Any parcel of land which is divided or developed may be required by the Town to provide one or more sixty-foot rights-of-way to abutting land in the Enterprise Development Zone.
 - (b) An Enterprise Development District may have one or more dead-end access streets from an existing public right-of-way. If two or more entrances to an Enterprise Development District are proposed, such entrances shall be separated by at least 1,000 linear feet, unless waived by the Planning Board.
 - (c) The Town may require that one 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.
 - (d) Access to all lots within an Enterprise Development District shall be limited to the district's interior road system.
 - (2) Convention center. Convention centers shall only be permitted as an accessory use to a hotel or motel.

4.

- (3) Buffers and screening. [Amended 10-14-2014 by Order 14-387; 8-15-2023 by Order No. 23-149]
- (a) Residential district boundary buffer. See [§ 120-511](#), Buffer yard, in Article 5, Performance Standards, for requirements.
 - (b) Commercial district boundary buffer. See [§ 120-511](#), Buffer yard, in Article 5, Performance Standards, for requirements.
 - (c) Screening of outdoor storage. Outdoor storage shall be completely screened from adjoining properties by means of evergreen trees at least six feet in height at time of planting.
 - [1] Automobile auction facility. Opaque fencing six feet in height shall enclose any outdoor storage area in lieu of evergreen trees.
 - (d) Screening of lighting. See Subsection F(7)(e) below.
- (4) Industry, heavy. In accordance with the conditional use standards in Article 5, the appropriate review authority may approve the manufacturing or use of hazardous material, as defined in Article 3. (See Article 3 for definition of "manufacturing, hazardous.")
- (5) Maximum building height exemption. Buildings over 40 feet high shall be allowed if approved by the Board of Appeals. The Board of Appeals shall use the conditional use standards in § 120-516 to make its findings on the application.
- (6) Parking lot setback. Parking lots shall maintain a thirty-foot setback from all property lines.
- (7) Performance standards.
- (a) Air pollution. All uses shall comply with minimum federal, state and local air pollution requirements.
 - [1] 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.
 - [2] 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.
 - (b) 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.

(c) Fire protection.

- [1] 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.
- [2] 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.
- [3] 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 NFPA 1 Fire Code. The most restrictive standards shall apply. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]
- [4] Any change in use or occupancy shall require a review and approval by the Code Enforcement Officer and the Fire-Rescue Chief.
- [5] Tanks or other underground storage facilities abandoned or not in use for a period exceeding one year shall be removed or otherwise assured safe conditions are present. In all cases, applicable federal, state and local regulations shall prevail.

(d) Groundwater and surface water protection.

- [1] 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 waters or groundwater 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 statute shall apply. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]
 - [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 landowner 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 wastewater systems which may enter into watercourses.

6.

- [d] No development or use of land shall lower the groundwater table more than 10 feet.
- [2] 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 for 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.
- (e) Lighting.
 - [1] No light 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.
 - [2] Lighting with a lumen output equal to or greater than a 200-watt mercury light shall not be directed towards the sky or adjacent residential properties.
 - [3] No rotating or flashing lights or signals, except safety signaling devices as required by law, are permitted.
 - [4] 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.
- (f) 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 60 dBA during the day and 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.
 - [1] During the peak activity of 60 minutes in a twenty-four-hour period, a noise may not exceed these average dBA counts by more than 10 dBA.
 - [2] 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 chain saws, lawn mowers and snowmobiles.
- (g) 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.

7.

- [1] Such activities shall comply with applicable minimum federal, state and local requirements.
- [2] Detailed plans shall be submitted to the Code Enforcement Officer for approval before a permit is granted.
- [3] Violations of this standard shall be considered a public nuisance.
- (h) 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.
- (8) Street and road design. All streets in the Enterprise Development District shall be designed and constructed to meet the industrial road standards set forth in Article 9, Subdivision Review.
- (9) 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 Article 8, Site Plan Review, or Article 9, Subdivision Review.
- (10) Marijuana cultivation facility. Cultivation facilities may be of the following types: Tier 1, Tier 2, Tier 3, and Tier 4. (See Article 3, Definitions.) [Added 5-26-2020 by Order 20-048]
- (11) Marijuana registered dispensary. [Added 3-12-2024 by Order No. 24-033]
 - (a) In the Enterprise Development District, a marijuana registered dispensary engaging in the cultivation of marijuana shall be limited to cultivating not more than 20,000 square feet of plant canopy on site.
 - (b) In the Enterprise Development District, this use shall not involve the sale, transfer, supply or dispensing of marijuana to any qualifying patient or other person on site, notwithstanding the definition of "marijuana registered dispensary" in Article 3. (See Article 3, Definitions.)