

Section 300 Definitions

Affordable Housing. Decent, safe and sanitary dwelling units that can be afforded by households with annual incomes no greater than 120% of the most recently published Median Family Income for the Portland, Maine Metropolitan Statistical Area, adjusted for family size, as determined by the U.S. Department of Housing and Urban Development (the “MFI Standard”). A renter-occupied unit is affordable to such households if the unit's monthly housing costs, including rent and basic utility costs (the costs of heating and of supplying electricity to the unit plus the cost, if any, of supplying public water and public wastewater disposal service to the unit), do not exceed 30% of gross monthly income. An owner-occupied unit is affordable to such households if its price results in monthly housing costs that do not exceed 28% of gross monthly income for principal, interest, insurance, and real estate taxes. Estimates of mortgage payments are to be based on down payments and rates of interest generally available in the area to low and moderate income households.

502 Affordable Housing

A. To increase the availability of Affordable Housing (as defined in Section 300) to low- and moderate-income families in designated growth areas the following increases in residential density and building height and reductions in setbacks, lot size and frontage within a subdivision connected to a public drinking water supply, as defined by the Maine Department of Health and Human Services, containing only affordable housing shall be permitted within the Commercial 1 (C-1), Commercial 2 (C-2), Medium Residential (RM), Village Commercial (VC) and Windham Center (WC) Districts:

1. If the dwelling units are not connected to the public sewer, the housing may be developed at a density of one dwelling unit for each 5,000 square feet of net area with a corresponding increase of 20% in building height and reduction of 20% in setbacks, lot size and lot frontage without obtaining a variance from the Zoning Board of Appeals.
2. If the dwelling units are connected to the public sewer, a developer may develop the subdivision at a density of one dwelling unit for each 2,000 square feet of net area with a corresponding increase of 33 1/3% in building height and reduction of 33 1/3% in setbacks, lot size and lot frontage without obtaining a variance from the Zoning Board of Appeals.

Commented [ALL1]: RCCFO net density for retirement community is 5,000 sq ft

B. Maintaining Affordability of Units. The affordability for all units receiving benefits from the Town under Subsection A above shall be guaranteed in accordance with the following requirements:

1. The period of affordability shall be individually determined by the Town based upon the amount of subsidy or density bonus but shall be at least ten (10) years for ownership units and 30 years for rental units.

Commented [ALL2]: Sewer is currently only available in VC. VC net density for lots connected to public water & sewer is 2,500 s.f.
1,500 sf = 29 units/acre
2,000 sf = 21 units/acre
2,500 sf = 17 units/acre
5,000 sf = 8 units/acre

- 2. An application for a subdivision or other residential development that includes a request for a density bonus under this Section shall include a written statement on the subdivision plan or other filing plat indicating the dwelling units are earmarked as affordable. Such plat must be approved and signed by the Planning Board and then filed at the Cumberland County Registry of Deeds prior to receiving any building permits.
- 3. The method of guaranteeing affordability is determined on a case by case basis by the Town, provided that it demonstrates to the satisfaction of the Planning Board that, by means of deed restrictions, financial agreements, or other appropriate legal and binding instruments, the dwelling units will remain affordable for the required period of time.
- 4. An application for a subdivision or other residential development comprised of rental units that includes a request for a density bonus under this Section shall include a written description of the mechanism by which the subdivider and their successors shall document annually to the Planning Board that the units to be rented have remained priced and, if occupied, actually rented at affordable levels and have been rented to households within the guidelines of affordability, as defined by this Ordinance. Failure to make such annual documentation shall constitute a violation of the subdivision or other residential development plan approval.
- 5. Any dwelling unit that is earmarked for affordability and is to be sold shall include a restriction in its deed that requires:
 - (a) any buyer within a 10-year period from the date of first occupancy to be within the guideline of affordability, as defined by this ordinance; and
 - (b) the price of the dwelling unit not to be increased by a percentage greater than the percentage increase in the median household income in the Portland, Maine Metropolitan Statistical Area, adjusted for family size, as reported by the U.S. Department of Housing and Urban Development, between the date of purchase of the dwelling and the date of sale of the dwelling.

A copy of the deed restriction shall be included as part of the subdivision or other residential development application and the deed restriction shall reference the book and page number at which the subdivision/residential development plan is recorded in the Cumberland County Registry of Deeds.

- 6. The period of enforceability shall be guaranteed by the developer in a document recorded at the Cumberland County Registry of Deeds and satisfactory to the Town. The document shall include, but not be limited to, authorization for the Town to seek the penalties outlined in the document and to seek injunctive relief, including attorney's fees and costs, or both.

D. Medium-Density Residential District (RM)

1. Intent

It is the intent of this ordinance to assure the proper development of residential areas by encouraging the formation of community units while developing and preserving open space.

2. Permitted Uses

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

- Agriculture
- Building, Accessory
- Cemetery
- Child Care, Family Home
- Dwelling, Single-Family Detached
- Dwelling, Two-Family
- Dwelling, Multifamily
- Forestry
- Home Occupation 1
- Home Occupation 2
- Medical Marijuana Caregiver
- Medical Marijuana Caregiver (Home Occupation)
- Housing for Older Persons
- Place of Worship
- Public Building
- Sawmill, Temporary
- Shipping Container
- Use, Accessory

3. Conditional Uses

The following uses, as defined in Section 300, shall be allowed as a Conditional Use in accordance with Section 516. Refer to Section 500, Performance Standards or Subsection 6. District Standards for additional use information:

- Assisted Living Facility
- Bed and Breakfast Inn
- Boarding Home for Sheltered Care
- Medical Office
- Mineral Extraction
- Nursing Home
- Recreation Facility, Indoor
- Recreation Facility, Outdoor
- Retail Sales, Convenience
- Public Utility Facility

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 Medium-Density Residential District:

| Type | Public Water | Well |
|---|--------------|-------------|
| (a) Minimum Lot Size: | | |
| (1) Standard: | 20,000 s.f. | 30,000 s.f. |
| (2) Housing for Older Persons | None | n/a |
| (3) Conservation Subdivision | 20,000 s.f. | 20,000 s.f. |
| (b) Net Residential Density: | | |
| (1) Standard: | 15,000 s.f. | 15,000 s.f. |
| (2) Housing for Older Persons: | | |
| (a) One (1) Bedroom Unit: | 8,000 s.f. | n/a |
| (b) Each Additional Bedroom: | 6,000 s.f. | n/a |
| (c) Minimum Frontage: | 100 ft. | 100 ft. |
| (1) Conservation Subdivision: | 50 s.f. | 50 s.f. |
| (d) Minimum Front Setback: | 30 ft. | 30 ft. |
| (1) 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) Non-Residential Use: | | |
| Minimum Landscaped Buffer Strip | 15 ft. | 15 ft. |
| (e) Minimum Side Setback: | 10 ft. | 10 ft. |
| (f) Minimum Rear Setback: | 10 ft. | 10 ft. |
| (g) Maximum Building Height: | 35 ft. | 35 ft. |
| (h) Maximum Building Coverage: | 20% | 20% |

6. District Standards

In addition to Section 500, Performance Standards, these standards shall apply to the following uses in the Medium-Density Residential District:

- (a) Curb Cuts. See “Curb Cuts and Driveway Openings” in Section 500 Performance Standards for standards applicable to the Medium-Density Residential District
- (b) Conservation Subdivision (*See Sec. 900 Subdivision Review*)
 - (1) Conservation subdivisions shall only be permitted on lots with a minimum of 5 acres of gross land area.
 - (2) Conservation subdivisions are eligible for a density bonus of 20% to be applied after the Net Residential Density calculation, if the subdivision open space meets the criteria in Section 911.K.4.e.2.
- (c) Housing for Older Persons. The State of Maine Minimum Lot Size Law of 12 M.R.S.A. §4807 to §4807-G shall apply to the Housing for Older Persons use.
- (d) Medical Office. See “Medical Office” in Section 500 Performance Standards for size limitations.
- (e) 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
- (f) Affordable Housing. Affordable Housing developments are eligible for increases in residential density and building height and reductions in setbacks and frontage identified in Section 500 Performance Standards if the development meets the applicable criteria in Section 500.

E. Commercial District I (C1)

- Agriculture
- Assisted Living Facility
- Adult Business Establishment
- Adult Use Marijuana Store
- Automobile Gas Station
- Automobile Repair Services
- Bank
- Building, Accessory
- Business and Professional Office
- Child Care, Facility
- Child Care, Family Home
- Club
- Contractor Services
- Contractor Services, Landscaping
- Contractor Storage Yard
- Construction Services, Heavy, Major
- Construction Services, Heavy, Minor
- Convention Center
- Distribution Center
- Drive-through Facility
- Dwelling, Two-Family
- Dwelling, Multifamily
- Dwelling, Mixed Use
- Fitness Center
- Forestry
- Funeral Home
- Home Occupation 1
- Home Occupation 2
- Hospital
- Hotel
- Housing for Older Persons
- Industry, Light
- Industry, Heavy
- Marijuana Manufacturing Facility
- Marijuana Testing Facility
- Medical Marijuana Caregiver
- Medical Marijuana Caregiver (Home Occupation)
- Medical Marijuana Caregiver Retail Store
- Medical Office
- Mineral Extraction
- Motel
- Nursing Home
- Place of Worship
- Public Building
- Public Utility Facility
- Recreation Facility, Outdoor
- Recreation Facility, Indoor
- Research Laboratory
- Restaurant
- Retail Sales
- Retail Sales, Automobile Sales
- Retail Sales, Convenience
- Retail Sales, Minimart
- Retail Sales, Nursery
- Retail Sales, Outdoor
- Sawmill, Temporary
- Service Business, Commercial
- Service Business, Personal
- Small Engine Repair
- Theater
- Use, Accessory
- Warehousing, Private
- 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 516. Refer to Section 500, Performance Standards or Subsection 6. District Standards for additional use information:

- Other

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:

| | |
|------------------------------|--|
| (a) Minimum Lot Size: | None |
| (b) Net Residential Density: | None |
| (c) Minimum Frontage: | 100 ft. |
| (d) Front Setback: | |
| (1) Building, Principal | |
| (i) on Route 302: | 10-20 ft. |
| (ii) all other streets | 0-20 ft. |
| (2) Building, Accessory | Principal Building setback + 20 ft. minimum |
| (e) Minimum Side Setback: | 6 ft. |
| (f) Minimum Rear Setback: | 6 ft. |
| (g) Maximum Building Height | None |

6. District Standards

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

- Parking. No parking shall be located within a structure's front setback area. When parking is located at the side of a building, the parking area shall not extend closer to the street than the front façade of the building. The space between the parking lot and the street shall be landscaped according to an overall plan for the property.
- Aquifer Protection Overlay District. (*See Subsec. 407.A or 407.B*) – Aquifer Protection Overlay District and the Town's Official Map.

- (c) Building Orientation. The façade of all buildings must be oriented parallel to a front lot line.
 - (1) In cases where a property has more than one front lot line is, a single building development will orient to the front lot line on the street with the higher traffic volume. Multi-building development may orient individual buildings to different front lot lines.
- (d) Pedestrian Access. At least one primary entrance must be located on the building's front façade. Primary entrances must provide ingress and egress and be operable at all times the building is occupied.
- (e) Buffer Requirement. All properties in the C1 district that abut a residential zoning district shall provide a fifty (50) foot buffer along the zoning district boundary line
- (f) Controlled Access Street. For standards pertaining to controlled access streets in the C1 District see Section 300 Definitions and Section 500 Performance Standards.
- (g) 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.
- (h) Industry, Heavy. In the C1 district, this use shall not involve any activity defined in Section 300 as "Manufacturing, Hazardous." *(See Sec. 300 Definitions)*
- (i) 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.
- (j) 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)*
- (k) All new and reconstructed Streets must be built to Public Street, Commercial Street, Curbed Lane or Residential Street standards. No new Private Streets are allowed.
- (l) Block Standards.
 - (1) Land must be divided with Streets to create Blocks conforming with Block perimeter, below.

- (2) Blocks should be generally rectangular in shape, but are expected to respond to natural features and the block pattern of the surrounding street network.
- (3) Blocks should be a minimum width so as to provide two rows of developable lots.
- (4) Portions of development sites abutting areas of undeveloped land, areas unsuitable for development, or pre-existing incomplete blocks may be granted a waiver from the block size requirements in accordance with the provisions of Section 800 if part of a site plan or Section 900 if part of a subdivision plan.
- (5) Block perimeter. No block shall have a perimeter of more than 1,600 feet.

(m) 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) Affordable Housing. Affordable Housing developments are eligible for increases in residential density and building height and reductions in setbacks and frontage identified in Section 500 Performance Standards if the development meets the applicable criteria in Section 500.

F. Commercial District II (C2)

1. 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.

2. Permitted Uses

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

- Agriculture
- Adult Business Establishment
- Bank
- Bed and Breakfast Inn
- Building, Accessory
- Business and Professional Office
- Child Care, Facility
- Child Care, Family Home
- Club
- Convention Center
- Drive-through Facility
- Dwelling, Single-Family Detached
- Dwelling, Two-Family
- Dwelling, Multifamily
- Dwelling, Mixed Use
- Fitness Center
- Forestry
- Funeral Home
- Home Occupation 1
- Home Occupation 2
- Hotel
- Housing for Older Persons
- Medical Marijuana Caregiver
- Medical Marijuana Caregiver (Home Occupation)
- Medical Office
- Motel
- Public Building
- Public Utility Facility
- Recreation Facility, Indoor
- Recreation Facility, Outdoor
- Research Laboratory
- Restaurant
- Retail Sales
- Retail Sales, Convenience
- Retail Sales, Nursery
- Retail Sales, Outdoor
- 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 516. Refer to Section 500, Performance Standards or Subsection 6. District Standards for additional use information:

- Other

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 II:

| | |
|--|----------------------------|
| (a) Minimum Lot Size: | None |
| (1) Dwelling, Single-Family; Two-Family; Multifamily | 40,000 s.f. |
| (b) Net Residential Density: | 5,000 s.f. |
| (c) Minimum Frontage: | 150 ft. |
| (d) Front Setback: | 10-20 ft. |
| (1) Building, Principal | Principal Building setback |
| (2) Building, Accessory | + 20 ft. minimum |
| (e) Minimum Side Setback: | 10 ft. |
| (f) Minimum Rear Setback: | 10 ft. |
| (g) Maximum Building Height: | None |

6. District Standards

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

- (a) Parking. No parking shall be located within a structure's front setback area. When parking is located at the side of a building, the parking area shall not extend closer to the street than the front façade of the building. The space between the parking lot and the street shall be landscaped according to an overall plan for the property.
- (b) Building Orientation. The façade of all buildings must be oriented parallel to a front lot line.
 - (1) In cases where a property has more than one front lot line, a single building development will orient to the front lot line on the street with the higher traffic volume. Multi-building development may orient individual buildings to different front lot lines.

- (c) Pedestrian Access. At least one primary entrance must be located on the building's front façade. Primary entrances must provide ingress and egress and be operable at all times the building is occupied.
- (d) Controlled Access Street. For standards pertaining to controlled access streets in the C2 District see Section 300 Definitions and Section 500 Performance Standards.
- (e) Curb Cuts. See "Curb Cuts and Driveway Openings" in Section 500 Performance Standards for standards applicable to the C2 District
- (f) Minimum Lot Size. The State of Maine minimum lot size, and minimum lot size waiver, standards apply in the C2 district when the Town's minimum lot size requirements are less restrictive than those of the State of Maine.
- (g) 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.
- (h) 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*)
 - (i) All new and reconstructed Streets must be built to Public Street, Commercial Street, Curbed Lane or Residential Street standards. No new Private Streets are allowed.
 - (j) Block Standards. This section applies to development sites that create new or reconfigured blocks or that create any new Public Streets.
 - (1) Land must be divided with Streets to create Blocks conforming with Block perimeter, below.
 - (2) Blocks should be generally rectangular in shape, but are expected to respond to natural features and the block pattern of the surrounding street network.
 - (3) Blocks should be a minimum width so as to provide two rows of developable lots.
 - (4) Portions of development sites abutting areas of undeveloped land, areas unsuitable for development, or pre-existing incomplete blocks may be granted a waiver from the block size requirements in accordance with the provisions of Section 800 if part of a site plan or Section 900 if part of a subdivision plan.
 - (5) Block perimeter. No block shall have a perimeter of more than 1,600 feet.
- (k) 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, (*see Sec. 300 Definitions*).

(I) Affordable Housing. Affordable Housing developments are eligible for increases in residential density and building height and reductions in setbacks and frontage identified in Section 500 Performance Standards if the development meets the applicable criteria in Section 500.

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
- Contractor Services
- Contractor Storage Yard
- Construction Services, Heavy, Major
- Construction Services, Heavy, Minor
- 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
- Housing for Older Persons
- Industry, Light
- Medical Marijuana Caregiver
- Medical Marijuana Caregiver (Home Occupation)
- 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
- Senior Citizen Housing
- Service Business, Commercial
- Service Business, Personal
- Theater
- Use, Accessory
- Wireless Telecommunications Facility

3. Conditional Uses

- Auto Repair Services
- Drive-through Facility
- 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

| | |
|--|-------------|
| (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 537 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.
- (f) Affordable Housing. Affordable Housing developments are eligible for increases in residential density and building height and reductions in setbacks and frontage identified in Section 500 Performance Standards if the development meets the applicable criteria in Section 500.