

Town of Windham

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MEMO

DATE: May 11, 2018

TO: Windham Town Council

THROUGH: Tony Plante, Town Manager

FROM: Amanda Lessard, Planner *AL*

Cc: Ben Smith, AICP, Community Planner, North Star Planning
Chris Hansen, Director of Code Enforcement
Planning Board

RE: 21st Century Downtown Master Plan – Ordinance Updates

Over a series of five (5) Planning Board meetings since December 11, 2017, the Board has reviewed the two sets of proposed ordinance changes for North Windham. These changes were drafted in support of the 21st Century Downtown Plan. One set of changes is the Character Based Code (CBC) drafted for the Town last year, which places an emphasis on building and site design and a building's relationship to the street. The other is the staff alternative to that code, which takes many of the key elements from the CBC and incorporates them into the existing zoning framework.

At the Council meeting on November 28, 2017, the Council directed the Board to review both versions of the ordinance change and evaluate a system to have them both in place for a period of time. As envisioned at that meeting, the ordinance changes would allow for an applicant in the Commercial 1 or Commercial 2 zoning districts to develop a project using either the more conventional zoning standards detailed in the staff alternative or to use the CBC. Staff and the Planning Board would use this time of parallel development options to train up and work with developers to fine tune the CBC standards for North Windham. After perhaps 12-24 months, the CBC would become the only set of standards for the 21st Century Downtown Plan area.

On February 26, 2018, Bill Walker made the following motion:

To recommend moving forward with the staff alternative ordinance, with changes noted, and for the Planning Board to continue to investigate the CBC for a future recommendation.

Second: Griffin Bourassa

Vote: 3-1 (Nick Kalogerakis opposed).

In the course of the discussion, the vote in opposition to the motion was cast because there was no timeline set for the adoption of a CBC.

The changes noted by the Planning Board have been incorporated into the attached proposed ordinance amendment. They included revising the front setback on Route 302 in the C-1 District, revising the net residential density in the C-1 and C-2 District, and revising the definition of Other. References to the use and implementation of the CBC have been removed.

Summary of Changes in Staff Alternative

Section 300

- Adds definitions for Block and new Street Classifications from the CBC

Section 400 – C-1 and C-2 zoning districts

- Adds Residential Uses to the list of Permitted Uses
- Disallows Warehousing, Public (self-storage units) from the C-1 and Shipping Containers from the C-1 and C-2 districts
- Makes all existing Conditional Uses districts Permitted Uses, and adds an Other category as the only Conditional Use. This would allow Zoning Board or Planning Board review of a proposed use that does not fit into one of the defined Permitted Uses in those districts, rather than disallowing any use that is not specifically Permitted.
- Minimum lot Sizes and New Residential Densities are eliminated, so that state subsurface wastewater rules would control, or to allow more flexibility when connecting to a public system.
- Building setbacks to roads have been reduced
- Parking areas cannot be located between the street and the front of a new building.
- New standards for building orientation, pedestrian access and the creation of blocks and a street grid have been added.
- No new Private Streets in this growth area are allowed

Section 800

- The Site Plan Review threshold is proposed to go from 2,000 square feet of total floor area for all floors within five years to 1,000 square feet of total floor area
- Minimum parking requirements have been eliminated

Appendix B

- New Street Standards for Residential Street, Commercial Street and Curbed Lane have been added.

automobile recycling businesses or Junkyards, as defined according to 30-A M.R.S.A. §3752, of the Maine Revised Statutes, as amended from time to time.

Automobile Gas Station. Any building, land area, or other premises, or portion thereof, used for the retail dispensing or sales of vehicular fuels; and as an accessory use the sale of lubricants, tires, batteries, and similar vehicle accessories. The sale of additional items or services on 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. Establishments primarily engaged in the maintenance and repair of passenger vehicles, pickup trucks, all classes of commercial trucks 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, 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."

Automobile Storage Lot. A parcel of land, building, or facility that is used for the temporary storage of wrecked, towed or impounded motor vehicles usually awaiting insurance adjustments, reclamation by titleholders or their agents, or transport to a repair shop. (*See Sec. 500 Performance Standards*)

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*).

Block. A parcel or parcels of land surrounded by streets.

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.

but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of the zoning ordinance.

Nonconforming Use. A use or activity that was lawful prior to the adoption, revision, or amendment of the zoning ordinance but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of the zoning district.

Nursing Home. An institution or a part of an institution that is licensed or approved to provide health care under medical supervision for 24 or more consecutive hours to two or more patients who are not related to the governing authority or its members by marriage, blood, or adoption.

Official Map. The zoning map adopted by the Town of Windham, Maine on May 25, 1976, as amended from time to time.

Official Shoreland Zoning Map. The most current map delineating the shoreland zones adopted by the Town of Windham, Maine, as amended from time to time, in accordance with the provisions of 38 M.R.S.A. § 435 through § 439

Off-Street Parking Space. A temporary storage area for a motor vehicle that is not located on a dedicated street right-of-way.

Open Space. Land set aside for passive and/or active use, including recreation purposes, preservation of environmentally sensitive areas, common open space in cluster subdivisions, undevelopable land and buffers.

Other. A land use category that includes all uses not specifically defined in this Section and listed as Permitted Uses in a Zoning District.

Outside Sales or Outdoor Sales. See definition of, “Retail Sales, Outdoor.”

Parcel. (1) a piece or area of land formally described and recorded with map, block and lot numbers, by metes and bounds, by ownership, or in such a manner as to specifically identify the dimensions and/or boundaries; (2) informally, as land in general. (*See definition of, “Plot”*)

Park, Public. A tract of land available to the general public for recreational purposes. Public parks do not include recreation facilities that are fully enclosed.

Permitted Use. The use of any building or land in a manner subject to the express conditions and limitations stated in this Ordinance.

Person. Includes an individual, firm, association, organization, partnership, trust, company or corporation.

- More than twelve (12) feet (3658 mm) above the finished ground level at any point.

Story, Mezzanine. An intermediate level or levels between the floor and ceiling of any story with an aggregate floor area of not more than one-third of the area of the room in which the level or levels are located.

Story, Second. The story directly above the first story of a structure.

Street. Public or private roads or ways such as alleys, avenues, boulevards, highways, roads, and other rights-of-way, as well as areas on subdivision plans designated as rights-of-way for vehicular access other than driveways. (*See Sec. 500 Performance Standards*)

Street Classification:

Arterial Street. A major thoroughfare which serves as a major traffic way for travel between and through the Town. For the purpose of this Ordinance, only the following roadways shall be classified as arterial streets: Route 302, Route 202, Route 115, Route 35, River Road, and Falmouth Road.

Collector Street. A street with average daily traffic of between 200 and 3,000 vehicles per day or greater, or streets which serve as feeders to arterial streets, and collectors of traffic from local streets.

Commercial Street. A street that provides frontage in the C-1 and C-2 Zoning Districts, primarily in areas dominated with non-residential uses.

Controlled Access Street. A street which serves primarily as a major traffic way for travel within the Town between two arterial streets. (*See Commercial I and Commercial II District Standards*) (*See "Controlled Access Street" in Sec. 500 Performance Standards*)

Curbed Lane. A street that provides frontage in the C-1 and C-2 Zoning Districts, primarily in mixed use areas or as a secondary road in a more commercial area.

Residential Street. A street that provides frontage in the C-1 and C-2 Zoning Districts, primarily in residential neighborhood settings.

Dead-End Street. A street with a single common ingress and egress.

Industrial or Commercial Street. Streets servicing industrial or commercial uses.

Local Street. A street servicing only residential properties and which has an average daily traffic of less than 200 vehicles per day.

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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 | • Research Laboratory |
| • Assisted Living Facility | • Restaurant |
| • Adult Business Establishment | • Retail Sales |
| • Bank | • Retail Sales, Convenience |
| • Building, Accessory | • Retail Sales, Nursery |
| • Business and Professional Office | • Retail Sales, Outdoor |
| • Child Care, Facility | • Sawmill, Temporary |
| • Child Care, Family Home | • Service Business, Commercial |
| • Club | • Service Business, Landscaping |
| • Construction Services | • Service Business, Personal |
| • Convention Center | • Theater |
| • Dwelling, Existing Single-Family Detached | • Use, Accessory |
| • Dwelling, Existing Two-Family | • Warehousing, Private |
| • Dwelling, Existing Multifamily | • Wireless Telecommunications |
| • Dwelling, Mixed Use | • Tower and Facility |
| • Fitness Center | • <u>Automobile Gas Station</u> |
| • Forestry | • <u>Automobile Repair Services</u> |
| • Funeral Home | • <u>Distribution Center</u> |
| • Home Occupation 1 | • <u>Drive-through Facility</u> |
| • Home Occupation 2 | • <u>Hotel</u> |
| • Hospital | • <u>Industry, Light</u> |
| • Housing for Older Persons | • <u>Industry, Heavy</u> |
| • Medical Marijuana Dispensary | • <u>Motel</u> |
| • Medical Office | • <u>Public Utility Facility</u> |
| • Mineral Extraction | • <u>Recreation Facility, Outdoor</u> |
| • Nursing Home | • <u>Retail Sales, Automobile Sales</u> |
| • Place of Worship | • <u>Retail Sales, Minimart</u> |
| • Public Building | • Shipping Containers |
| • Recreation Facility, Indoor | • <u>Small Engine Repair</u> |
| | • Warehousing, Public |

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~~
- ~~Automobile Gas Station~~
- ~~Automobile Repair Services~~
- ~~Distribution Center~~
- ~~Drive-through Facility~~
- ~~Hotel~~
- ~~Industry, Light~~
- ~~Industry, Heavy~~
- ~~Motel~~
- ~~Public Utility Facility~~
- ~~Recreation Facility, Outdoor~~
- ~~Retail Sales, Automobile Sales~~
- ~~Retail Sales, Minimart~~
- ~~Shipping Containers~~
- ~~Small Engine Repair~~
- ~~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:

- (a) Minimum Lot Size: None
- | | |
|------------------------------------|------------------------|
| (1) Dwelling, Existing | 20,000 s.f. |
| (2) Dwelling, Mixed Use | 15,000 s.f. |
- (b) Net Residential Density: None
- | | |
|---|------------------------|
| (1) Housing for Older Persons: | |
| (i) One (1) Bedroom Unit | 8,000 s.f. |
| (ii) Each Additional Bedroom | 6,000 s.f. |
| (2) Dwelling, Mixed Use | 15,000 s.f. |

(c) Minimum Frontage: 100 ft.

(d) ~~Minimum~~ Front Setback

~~(1) on Route 302: 40-5-15 10-20 ft.~~

~~(2) all other streets 0-20 ft.~~

~~(1) Minimum Landscaped Buffer Strip 20 ft.~~

~~(2) Dwelling, Existing: (All associated structures) 30 ft.~~

~~(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) 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) 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.

(i) 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 use, or undeveloped parcel, located in~~ a residential zoning district shall provide a fifty (50) foot buffer along the zoning district boundary line.
- ~~(fe)~~ Controlled Access Street. For standards pertaining to controlled access streets in the C1 District see Section 300 Definitions and Section 500 Performance Standards.
- ~~(ge)~~ 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) Housing for Older Persons. The following standards shall apply to this use:~~
- ~~(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.~~
- ~~(hg)~~ Industry, Heavy. In the C1 district, this use shall not involve any activity defined in Section 300 as “Manufacturing, Hazardous.” (*See Sec. 300 Definitions*)
- ~~(ih)~~ 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.
- ~~(ji)~~ 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.

(mj) 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.

~~(n) Optional Standards.~~

~~(1) The definitions, building standards, site standards, and neighborhood standards in Section 409, Character Codes, Articles 1-7 shall be an optional set of development standards for all projects within the overlay district.~~

~~a. Projects in the C-1 zoning district may use either the Section 406.E. district standards or the standards in Section 409.~~

~~b. The applicant shall determine which set of standards to utilize for their project.~~

~~(2) Expiration of Optional Standards.~~

~~a. Effective July 1, 2019, the provisions of Section 409, as amended, shall replace the standards in Section 406 for the areas mapped in Section 409, so that the Character Code will apply to all development in the 21st Century Downtown area from that date forward.~~

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 | • Research Laboratory |
| • Adult Business Establishment | • Retail Sales |
| • Bank | • Retail Sales, Convenience |
| • Building, Accessory | • Retail Sales, Nursery |
| • Business and Professional Office | • Retail Sales, Outdoor |
| • Child Care, Facility | • Service Business, Personal |
| • Child Care, Family Home | • Theater |
| • Convention Center | • Use, Accessory |
| • Dwelling, Single-Family Detached | • Wireless Telecommunications Tower and Facility |
| • Dwelling, Two-Family | • <u>Bed and Breakfast Inn</u> |
| • Dwelling, Multifamily | • <u>Club</u> |
| • Dwelling, Mixed Use | • <u>Drive-through Facility</u> |
| • Fitness Center | • <u>Hotel</u> |
| • Forestry | • <u>Motel</u> |
| • Funeral Home | • <u>Public Utility Facility</u> |
| • Home Occupation 1 | • <u>Recreation Facility, Outdoor</u> |
| • Home Occupation 2 | • <u>Restaurant</u> |
| • Housing for Older Persons | • <u>Shipping Container</u> |
| • Medical Office | |
| • Public Building | |
| • Recreation Facility, Indoor | |

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:

- | | |
|----------------|--------------------------------|
| • <u>Other</u> | • <u>Bed and Breakfast Inn</u> |
|----------------|--------------------------------|

- ~~Club~~
- ~~Drive-through Facility~~
- ~~Hotel~~
- ~~Motel~~
- ~~Public Utility Facility~~

- ~~Recreation Facility, Outdoor~~
- ~~Restaurant~~
- ~~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 Commercial District II:

- | | |
|--|-------------------------------------|
| (a) Minimum Lot Size: | None |
| (1) Dwelling, Single-Family; Two-Family; Multifamily | 40,000 s.f. |
| (b) Net Residential Density: | 30,000 <u>5,000</u> s.f. |
| (1) Housing for Older Persons: | |
| (i) One (1) Bedroom Unit | 8,000 s.f. (ii) |
| Each Additional Bedroom | 6,000 s.f. |
| (c) Minimum Frontage: | 150 ft. |
| (d) Minimum Front Setback: | 40 <u>10-20</u> ft. |
| (1) Minimum Landscaped Buffer Strip | 20 ft. |
| (e) Minimum Side Setback: | 10 ft. |
| (f) Minimum Rear Setback: | 10 ft. |
| (g) Maximum Building Height: | None |
| (1) Dwellings (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 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.
- (i) 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.
- (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.
- (eb) Curb Cuts. See "Curb Cuts and Driveway Openings" in Section 500 Performance Standards for standards applicable to the C2 District
- (fe) 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.
- (gd) 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.
- (he) 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*).

~~(1) Optional Standards:~~

~~(2) The definitions, building standards, site standards, and neighborhood standards in Section 409, Character Codes, Articles 1-7 shall be an optional set of development standards for all projects within the overlay district.~~

~~a. Projects in the C-2 zoning district may use either the Section 406.F. district standards or the standards in Section 409.~~

~~b. The applicant shall determine which set of standards to utilize for their project.~~

~~(3) Expiration of Optional Standards:~~

~~a. Effective July 1, 2019, the provisions of Section 409, as amended, shall replace the standards in Section 406 for the areas mapped in Section 409, so that the Character Code will apply to all development in the 21st Century Downtown area from that date forward.~~

~~409 — Character Code Articles~~

~~These Articles constitute optional standards for development in North Windham.~~

~~Effective July 1, 2019, the provisions of Section 409, as amended, shall replace the standards in Section 406 for the areas mapped in Section 409.~~

~~[To be incorporated here — Articles start next page.]~~

Section 400 Amendments

Order 10-153; Date 08-24-2010	Addition of Windham Center Contract Zone
Order 10-162; Date 09-14-2010	Addition of Village Commercial District
Order 10-164; Date 09-14-2010	Change to Outdoor Sales
Order 10-230; Date 12-14-2010	Addition of Restaurants in C1 District.
Order 11-206; Date 12-13-2011	Addition of Medical Marijuana Dispensaries
Order 12-014; Date 03-14-2012	Changes to Backlot Standards
Order 12-042; Date 04-24-2012	Addition of Design Standards
Order 12-148; Date 10-23-2012	Addition of Retirement Community and Care Facility Overlay District
Order 12-149; Date 10-23-2012	Addition of Accessory Apartments
Order 13-071; Date 05-14-2013	Addition of Personal Service Businesses in C3 District
Order 13-072; Date 05-14-2013	Addition of Sidewalk Impact Fee
Order 13-144; Date 09-24-2013	Change to Windham Center Contract Zone
Order 14-164; Date 07-08-2014	Changes to Automobile Repair Services, addition of Automobile Storage Lot
Order 14-387; Date 10-14-2014	Addition of Automobile Auction Facility
Order 14-468; Date 11-18-2014	Change to minimum lot size in RCCF Overlay Zone
Order 14-491; Date 12-16-2014	Change to Cluster Subdivision standards in Farm, Farm-Residential, Light Density Residential, and Medium Residential Districts.
Order 15-100; Date 07-28-2015	Addition of Mallison Falls Contract Zone
Order 16-111; Date 06-28-2016	Change to Warehousing, Private in C1 District
Order 16-148; Date 09-27-2016	Addition of Service Business, Landscaping in C3 Distri

801 Purpose

The site plan review provisions set forth in this Section are intended to protect the public health and safety, promote the general welfare of the community, and conserve the environment by assuring that nonresidential and multifamily construction is designed and developed in a manner which assures that adequate provisions are made for traffic safety and access; emergency access; water supply; sewage disposal; management of stormwater, erosion, and sedimentation; protection of the groundwater; protection of the environment, wildlife habitat, fisheries, and unique natural areas; protection of historic and archaeological resources; minimizing the adverse impacts on adjacent properties; and fitting the project harmoniously into the fabric of the community.

802 Applicability

- A. A person who has right, title, or interest in a parcel of land shall obtain site plan approval prior to commencing any of the following activities on the parcel, obtaining a building or plumbing permit for the activities, or undertaking any alteration or improvement of the site including grubbing or grading:
1. The construction or placement of any new building or structure for a nonresidential use, including accessory buildings and structures, if such buildings or structures have a total area for all floors of all structures of ~~two~~ one thousand (21,000) square feet or more measured cumulatively over a five (5) year period.
 2. The expansion of an existing nonresidential building or structure, including accessory buildings, if the enlargement increases the total area for all floors within a five (5) year period by more than twenty (20) percent of the existing total floor area or ~~two~~ one thousand (21,000) square feet, whichever is greater.
 3. The conversion of an existing building in which ~~two~~ one thousand (21,000) or more square feet of total floor area are converted from residential to nonresidential use.
 4. The establishment of a new nonresidential use even if no buildings or structures are proposed, that involves the Development of more than twenty-five thousand (25,000) square feet of land. This includes uses such as gravel pits, cemeteries, golf courses, and other nonstructural nonresidential uses.
 5. The conversion of an existing nonresidential use, in whole or in part, to another nonresidential use if the new use changes the basic nature of the existing use such that it increases the intensity of on- or off-site impacts of the use subject to the standards and criteria of site plan review described in Section 812 of this Section.

- (g) Digital transfer of any site plan data on the Town's Horizontal Datum: Maine State Plane Coordinate System: Maine West Zone FIPS Zone 1802, North American Datum 1983; Units: US Survey Feet.
 - (1) The preferable vertical datum is North American Vertical Datum 1988 (NAVD88). However, if only National Geodetic Vertical Datum 1929 (NGVD29) is possible, this is permissible. The choice of vertical datum shall be indicated on the digital submission. The Ellipsoid is GRS 80 (Geodetic Reference System 1980).
 - (2) Data shall have survey grade positional accuracy. Data could be developed using either Real Time Kinematic (RTK) GPS, survey-grade Static GPS data collection or traditional methods of occupying known, high-precision surveyed monuments. The datum, survey methods, and type of survey equipment used shall be identified.
- (h) A traffic impact study, prepared by a Maine Licensed Professional Engineer, demonstrating the impact of the proposed project on the capacity, level of service and safety of adjacent streets, if the project or expansion will generate fifty (50) or more trips during the a.m. or p.m. peak hour based upon the latest edition of the trip generation manual of the Institution of Traffic Engineers, or if required by the Planning Board.

812 Performance Standards and Approval Criteria

The following criteria shall be used by the Planning Board or ~~Site Plan Staff~~ Review Committee in reviewing applications for site plan review and shall serve as minimum requirements for approval of the application. The application shall be approved unless the Planning Board or ~~Site Plan Staff~~ Review Committee determines that the applicant has failed to meet one or more of these standards ~~or the standards in the Character Code Articles 1-7, as applicable~~. In all instances, the burden of proof shall be on the applicant who shall produce evidence sufficient to warrant a finding that all applicable criteria have been met.

A. Utilization of the Site

The plan for the development shall reflect the natural capabilities of the site to support development. Buildings, lots, and support facilities shall be clustered in those portions of the site that have the most suitable conditions for development. Environmentally sensitive areas, including but not limited to, wetlands, steep slopes, floodplains, significant wildlife habitats, fisheries, scenic areas, habitat for rare and endangered plants and animals, unique natural communities and natural areas, and sand and gravel aquifers shall be maintained and preserved to the maximum extent. Natural drainage

- (c) Accessways shall be aligned with accessways on the opposite side of a public street to the greatest extent possible.
- 4. Internal Vehicular Circulation. The layout of the site shall provide for the safe movement of passenger, service, and emergency vehicles through the site.
 - (a) Nonresidential projects that will be served by delivery vehicles shall provide a clear route for such vehicles with appropriate geometric design to allow turning and backing for a minimum of SU-30 vehicles.
 - (1) If the project is to be served by “tractor-trailer” delivery vehicles, a clear route for such vehicles with appropriate geometric design shall allow for turning and backing for a minimum of WB-50 vehicles.
 - (b) Clear routes of access shall be provided and maintained for emergency vehicles to and around buildings and shall be posted with appropriate signage (fire lane - no parking).
 - (c) The layout and design of parking areas shall provide for safe and convenient circulation of vehicles throughout the lot.
 - (d) All roadways shall be designed as follows:
 - (1) To harmonize with the topographic and natural features of the site insofar as practical by minimizing filling, grading, excavation, or other similar activities which result in unstable soil conditions and soil erosion,
 - (2) By fitting the development to the natural contour of the land and avoiding substantial areas of excessive grade and tree removal, and by retaining existing vegetation during construction,
 - (3) The road network shall provide for vehicular, pedestrian, and cyclist safety, all season emergency access, snow storage, and delivery and collection services.
 - (e) Nonresidential projects that include drive-through services shall be designed and have sufficient stacking capacity to avoid the queuing of vehicles on any public street.

C. Parking and Loading Requirements

1. Off-street Parking Layout

- (a) Parking areas with more than two (2) parking spaces shall be arranged so that it is not necessary for vehicles to back into the street.

- (b) All parking spaces, access drives, and impervious surfaces shall be located at least five (5) feet from any side or rear lot line, except where a parking lot is shared between two adjoining properties, or where standards for buffer strips require a greater distance. No parking spaces shall be located within five (5) feet of the front property line. Parking lots on adjoining lots may be connected by accessways not exceeding twenty-four (24) feet in width.
- (c) Parking stalls and aisle layout shall conform to the standards in Table 1 of this Subsection.

Table 1 – Parking Stall and Aisle Layout

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

- (d) In parking lots utilizing a parking angle of 90 degrees, thirty-percent (30%) of the spaces shall be created with a stall width of 10'-0" and a stall depth of 20'-0". Remaining spaces shall be created with a stall width of at least 9'-0" and a stall depth of at least 18'-0".
- (e) In lots utilizing diagonal parking, the direction of proper traffic flow shall be indicated by signs, pavement markings or other permanent indications and maintained as necessary.
- (f) Parking areas for nonresidential uses shall be designed to permit each motor vehicle to proceed to and from the parking space provided for it without requiring the moving of any other motor vehicles. Double stack parking may be permitted for resident parking in conjunction with residential uses if both spaces in the stack are assigned to the occupants of the same dwelling unit.
- (g) Provisions shall be made to restrict the "overhang" of parked vehicles when it might restrict traffic flow on adjacent through roads, restrict pedestrian or bicycle movement on adjacent walkways, or damage landscape materials.
- (h) Parallel parking spaces may be used along internal driveways or access ways. Stall width and depth shall be at least 9' x 20'.
- (i) Automobile Storage. The parking space dimension requirements in Subsections 812.C.1.(c) to (g) above, do not apply to vehicles stored for display, sale or repair.

However, the operator of the use shall demonstrate that there is enough land area to accommodate all vehicles within any setbacks or required buffer areas of Subsection 812.C.1.(b) and/or the applicable zoning district. (*See Sec. 400 Zoning Districts*)

2. Minimum Off-Street Parking Space Requirements

- (a) No minimum number of parking spaces are required. The applicant should demonstrate that the number of spaces provided onsite will meet the needs of the anticipated uses on the property. Shared parking arrangements are encouraged.
~~The minimum off-street parking space standards of this section, including the minimum off-street parking space requirements listed in Table 2, below, shall be provided unless a waiver is granted (*See Sec. 808 Waivers*):~~
- (1) ~~Except as provided in Section 812.C.2.(c) below, off-street parking spaces shall be provided on the same lot occupied by the use.~~
- (2) ~~The closest boundary of the parking area shall be within 300 ft. of the principle use for which the spaces are required.~~
- (3) ~~All areas pertinent to the use, except those listed in subsection 812.C.2.(a)(4), shall be included in the calculation of gross floor area. (e.g. enclosed or fenced garden centers or storage areas shall be factored into the gross floor area of a use.)~~
- (4) ~~Floor area of rooms occupied by mechanical, electrical, communications, and security equipment shall be deducted from the floor area for the purpose of calculating parking requirements.~~
- (5) ~~Storage of Automobiles. The minimum off-street parking space requirements of this Subsection 812.C.2. do not apply to the storage of automobiles for repair or sale where the operator of the use has control over the movement of all stored vehicles on the property.~~
- (i) ~~The applicant shall demonstrate that adequate area is provided for the storage of all automobiles on the property within any applicable yard setbacks.~~
- (ii) ~~The aisle width requirements in Subsection 812.C.1.(c) shall apply to the storage of automobiles.~~
- (iii) ~~The applicable parking requirements in Table 2—Minimum Off-Street Parking Space Requirements, below, apply to all other cars on the property (e.g. customers and employees).~~
- (6) ~~Motel/Hotel Requirements. Five percent (5%) of the motel or hotel's off-street parking spaces shall be dedicated to vehicles with trailers or buses. Parking spaces for vehicles with trailers or buses shall have a minimum dimension of ten (10) feet~~

~~wide by forty (40) feet deep. Each parking space dedicated to vehicles with trailers or buses shall account for two (2) of the minimum off-street parking spaces required by this ordinance.~~

Table 2—Minimum Off-Street Parking Space Requirements

Use	Parking Spaces Required
Residential	
Dwelling: Single-Family, Duplex	2 per dwelling unit
Multifamily:	
Studio	1.25 per dwelling unit
One Bedroom	1.5 per dwelling unit
Two or More Bedrooms	2 per dwelling unit
Accessory/In-Law Dwelling Unit	1 per dwelling unit
Hotel/Motel	1.25 per guest room, plus 10 per k.s.f. restaurant/lounge, plus 30 per k.s.f. meeting/banquet room.
Retirement Community	1.5 per 2 bedroom dwelling unit plus 0.5 per each additional bedroom, plus 1 per employee at the largest shift
Assisted Living Facility	0.5 per dwelling unit, plus 1 per employee at the largest shift
Boarding Home for Sheltered Care	0.5 per room, plus 1 per employee at the largest shift
Rooming House:	
Single-Occupancy Unit:	1 per dwelling unit
Double-Occupancy Unit:	2 per dwelling unit
Employees	1 per employee
Visitors	As needed
Child Care, Facility	.35 per person of licensed capacity plus staff
Child Care, Family Home	.35 per person of licensed capacity
Hospital/Medical Center	0.4 per employee, plus 1 per 3 beds, plus 1 per 5 average daily outpatient visits, plus 1 per 4 medical staff, plus 1 per student/faculty/staff
Nursing Home	0.5 per room, plus 1 per employee at the largest shift
Retail/Service	
Retail Sales (not in shopping center)	3.5 per k.s.f. of gross floor area
Supermarket (Freestanding)	3.5 per k.s.f. of GFA
Discount Superstore/Clubs	3.5 per k.s.f. of GFA
Home Improvement Superstore	2.5 per k.s.f. of GFA
Other Heavy/Hard Goods (Furniture, Appliances, Buildings Materials, etc...)	3.0 per k.s.f. of GFA
Shopping Centers	<400,000 s.f. Center: 4.0 per k.s.f. of GFA, or >400,000 s.f. Center: 4.5 per k.s.f. of GFA; Parking demand for restaurants and theaters located within the center will be added to the shopping center minimum parking requirements.

Service Business, Personal	
Beauty Shops/Barber Shops	2 per treatment station, but Not less than 4.3 per k.s.f. of customer service area.
Coin-Operated Laundry/Dry-Cleaning Services	3.5 per k.s.f. of GFA
Other	3.5 per k.s.f. of GFA
Fitness Center/Health Club	1 per 3 persons of permitted capacity
Funeral Home	1 per 3 persons of permitted capacity
Retail/Service (Continued)	
Retail Sales, Automobile Sales	2.7 per k.s.f. of interior sales area GFA, plus 1.5 per k.s.f. of interior area
Automobile Repair Services, Major or Minor	2 per service bay
Food and Beverage	
Restaurant w/ Drive-Through Facility	15.0 per k.s.f. of GFA
Restaurant	16.0 per k.s.f. of GFA
Office and Business Services	
Business and Professional Office	3.35 per k.s.f. of GFA
Service Business, Commercial	4 per k.s.f. of GFA
Medical Arts Building	5.5 per k.s.f. of GFA
Bank	5.5 per k.s.f. of GFA
Industry, Heavy	2 per k.s.f. of GFA
Industry, Light	1.5 per k.s.f.
Warehouse, Private	0.7 per k.s.f. of GFA
Warehouse, Public	0.25 per k.s.f.
Other Retail, Commercial or Business	4 per k.s.f. of GFA
Education	
Elementary and Middle Schools	2 per classroom
High Schools	3 per classroom or administrative room, plus 1 per 4 students
College and University	Per parking study specific to institution
Cultural/Recreational/Entertainment	
Convention Center	0.25 per person of permitted capacity
Library	4.5 per k.s.f. of GFA
Place of Worship	0.6 per seat
Theater	1 for every 4 seats
Recreation Facility, Indoor or Outdoor	1 per 3 persons of permitted capacity

Note: k.s.f. = 1,000 square feet

(b) ~~Shared Parking. Where multiple use occurs on a single site, the required number of off-street parking spaces shall be provided for each use. The Planning Board or Development Review Committee, or Code Enforcement Officer, as applicable, may reduce the required number of parking spaces where the applicant can show,~~

~~through a parking study performed by a Maine Licensed Professional Engineer, that the peak period parking demand of the uses is non-conflicting.~~

(be) Off-Site Parking. Parking spaces may be located off-site if the spaces will adequately serve the principal use for which the spaces are required. In making this determination the Planning Board, ~~Development Staff~~ Review Committee, or Code Enforcement Officer, as applicable, shall consider the following factors:

- (1) Proximity of the off-street parking,
- (2) Ease of pedestrian access to the off-site parking,
- (3) Provision of sidewalks or paths between the off-site parking and the principle use,
- (4) The applicant has sufficient legal interest in the land on which the off-site parking is provided to establish control as long as the use exists.
- (5) Adequate lighting shall be installed to provide for safe pedestrian movement.

~~3. Loading. The minimum off-street loading standards of Table 3 in this subsection shall be met:~~

Table 3 - Loading Bay Requirements for New Structures

Type of Use	Gross Floor Area of Structure (in thousands of s.f.)				
	1-7	8-24	25-100	101-250	Each 250 add.
Retail or Industrial	1	2	3	4	1
Business and Professional Offices, Hotels	1	1	1	3	1

Distribution Facilities, Warehousing 15 bays per 100,000 s.f. of gross floor area

~~(a) Size of Loading Areas. Each loading bay shall be between 12 and 14 feet wide depending on conditions of ingress and egress.~~

~~(1) Access to the bay shall include a minimum maneuvering area of 125 feet in length, or more where required.~~

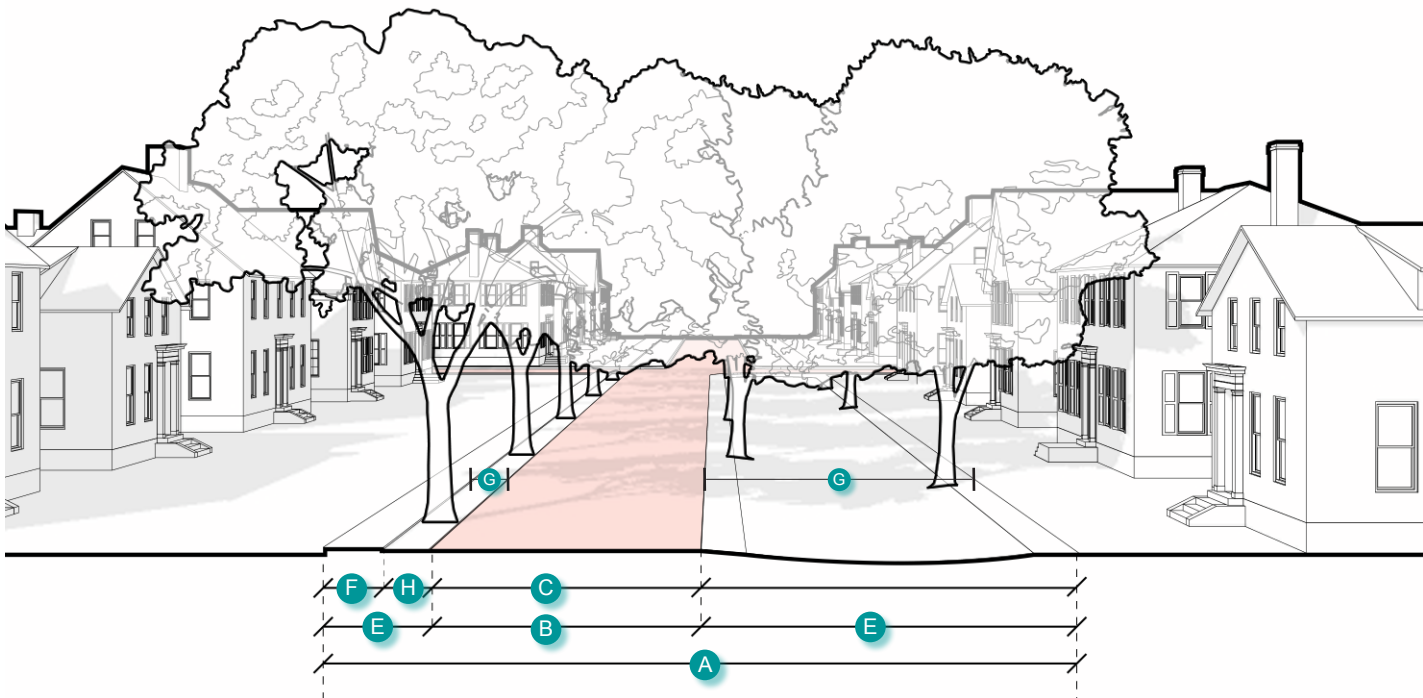
~~(2) The bay area shall be long enough to accommodate standing trucks so as to remove them from the flow of traffic.~~

~~(3) Areas shall be provided for trucks to park when waiting for loading activities.~~

~~(4) All loading bays and waiting areas shall be screened.~~

THOROUGHFARE STANDARDS

1. RESIDENTIAL STREET



a. ROADWAY

Right of Way Width	30 ft min, 50 ft max	A
Pavement Width	18 ft min, 20 ft max	B
Movement	yield	
No. of Traffic Lanes	2-lanes, unmarked	
Traffic Lane Width	18 ft min, 20 ft max	C
Parking Lanes	opportunistic	
Parking Lane Width	unmarked	D

b. CURB & DRAINAGE

Curb Type	Granite or none
Drainage Type	Gutter or Swale
Curb Radius	15 ft max

c. VERGE

Margin Width	3 ft min, 2 sides	E
Walkway Type	none, or Sidewalk on 1 or 2 sides	
Walkway Width	4 ft min	F
Planter Type	none or continuous planter or swale (ii)	
Planter Width	3 ft min (ii)	G
Furnishing Zone	1.5 ft min	H

d. STANDARDS

- Planters are optional on margins less than 9 ft wide, and on Thoroughfares with a total ROW width narrower than 40 feet.

THOROUGHFARE STANDARDS

2. COMMERCIAL STREET



a. ROADWAY

Right of Way Width	50 min, 74 ft max	A
Pavement Width	38 ft max	B
Movement	Two-way	
No. of Traffic Lanes	2 lanes	
Traffic Lane Width	10 ft min, 11 ft max	C
Parking Lanes	2 Sides (i)	
Parking Lane Width	7ft min, 8 ft max	D

b. CURB & DRAINAGE

Curb Type	Granite
Drainage Type	Gutter
Curb Radius	12 ft max

c. VERGE

Margin Width	8 ft min, 2 sides	E
Walkway Type	Sidewalk, 2 sides	
Walkway Width	4 ft min	F
Planter Type	Tree Pits (ii)	
Planter Width	3 ft min (ii)	G
Furnishing Zone	1.5 ft min, 6 ft max	H

d. STANDARDS

- i. Thoroughfare may drop one or both parking lanes for portions of its length as long as the resulting space is given to the adjacent margin assembly .
- ii. Planters are optional on margins less than 9 ft wide, and on Thoroughfares with a total ROW width narrower than 40 feet.

THOROUGHFARE STANDARDS

3. CURBED LANE



a. ROADWAY

Right of Way Width	18 ft min, 24 ft max	A
Pavement Width	24 ft max	B
Movement	Yielding or one-way	
No. of Traffic Lanes	1 lane	
Traffic Lane Width	9 ft min, 18 ft max, unmarked	C
Parking Lanes	1 side or none, unmarked	
Parking Lane Width	7 ft max	D

b. CURB & DRAINAGE

Curb Type	Granite
Drainage Type	Center Drain or Gutter
Curb Radius	4 ft max

c. VERGE

Margin Width	3 ft min on 1 or 2 sides	E
Walkway Type	none, or sidewalk on 1 or 2 sides	
Walkway Width	3 ft min	F
Planter Type	Tree Pits or continuous planter (ii)	
Planter Width	3 ft min (ii)	G
Furnishing Zone	0 ft min, 6 ft max	H

d. STANDARDS

- Thoroughfare may drop one or both parking lanes for portions of its length as long as the resulting space is given to the adjacent margin.
- Planters are optional on margins less than 9 ft wide, and on Thoroughfares with a total ROW width narrower than 40 feet.