

# Town of Windham

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## MEMO

DATE: May 23, 2019

TO: Windham Town Council  
THROUGH: Don Gerrish, Interim Town Manager  
FROM: Amanda Lessard, Planning Director *AL*  
Cc: Jenn Curtis, Planner  
Chris Hanson, Code Enforcement Director

RE: Ordinance Amendment – Section 400, Accessory Building Setbacks in the C-1 and C-2 Zoning Districts  
Planning Board Meeting – May 29, 2019

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Please see the attached memo to the Planning Board regarding proposed minor changes to Section 400, District Standards, related to the front setback for accessory buildings in the Commercial 1 and Commercial 1 Zoning Districts.

The purpose of this change is correct an oversight following the June 12, 2018 adoption of amendments to the Land Use Ordinance regulations in North Windham that were intended to encourage development to occur in a way that is closer to the vision established in the 21st Century Downtown Plan for North Windham. One of the significant changes was to reduce the building setback to roads by setting a range for a maximum setback. This proposed change clarifies that accessory buildings do not need to be built to this setback and should continue to be permitted in locations toward the rear of a lot.

After review and recommendation by the Planning Board, these items will appear on a future Town Council agenda for discussion and a public hearing before it is ultimately accepted or rejected.

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## MEMO

DATE: May 23, 2019

TO: Windham Planning Board

FROM: Amanda Lessard, Planning Director *ALZ*

Cc: Jenn Curtis, Planning Director  
Code Enforcement Department

RE: Ordinance Amendment: Section 400 related to Accessory Building front setback in C-1 & C-2 Zoning Districts

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Attached is draft ordinance language that makes changes to Section 400 of the Land Use Ordinance to clarify the required front setback for accessory buildings in the Commercial 1 and Commercial 1 Zoning Districts. The purpose of this change is correct an oversight following the June 12, 2018 adoption of amendments to the Land Use Ordinance regulations in North Windham that were intended to encourage development to occur in a way that is closer to the vision established in the 21st Century Downtown Plan for North Windham. One of the significant changes was to reduce the building setback to roads by setting a range for a maximum setback. This proposed change clarifies that accessory buildings do not need to be built to this setback, and should continue to be permitted in locations toward the rear of a lot.

The attached ordinance language contains underlined text for new wording.

### **Zoning Amendment Process**

The Planning Board must hold a public hearing prior to making a recommendation on this item to the Town Council. The Town Council will need to vote on the proposed changes to the Land Use Ordinance for the changes to be officially approved. A public hearing has been scheduled for the Planning Board meeting on June 10, 2019.

## **E. Commercial District I (C1)**

### **1. Intent**

To provide general retail sales, services and business space within the Town of Windham in locations capable of conveniently servicing community-wide and/or regional trade areas, with safe, well-regulated automobile access and pedestrian access where appropriate.

### **2. Permitted Uses**

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

- Agriculture
- Assisted Living Facility
- Adult Business Establishment
- Automobile Gas Station
- Automobile Repair Services
- Bank
- Building, Accessory
- Business and Professional Office
- Child Care, Facility
- Child Care, Family Home
- Club
- Construction Services
- 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
- Medical Marijuana Dispensary
- 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, Landscaping
- 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)— <del>Building, Principal</del>   |  |
| (i) on Route 302:                     | 10-20 ft.  |
| <del>(2)—(ii) all other streets</del> | 0-20 ft.   |
| (2) <u>Building, Accessory</u>        | <u>Principal Building setback</u><br><u>+ 20 ft. minimum</u> |
| (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:

- (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.
  - (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.

## **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 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:                                   |  |
| (1) <u>Building, Principal</u>                       | 10-20 ft.  |
| (2) <u>Building, Accessory</u>                       | <u>Principal Building setback</u><br><u>+ 20 ft. minimum</u> |
| (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 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.
- (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*).

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

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

**Building, Accessory.** A subordinate building detached from but located on the same lot as the principal building, the use of which is incidental to that of the principal building.

**Building, Principal.** A building in which is conducted the principal use of the lot on which it is located.

**Building Coverage.** The ratio of the horizontal area, measured from the exterior surface of the exterior walls of the ground floor, of all principal and accessory buildings on a lot to the total lot area.

**Building Footprint.** The area encompassed by a building's outer wall at ground level.

**Building Height.** The vertical distance from grade plane to the average height of the highest roof surface.

**Business and Professional Office.** The place of business of lawyers, accountants, financial advisors, architects, surveyors, real estate and insurance businesses, psychiatrists, counselors, and the like, or in which a business conducts its administrative, financial or clerical operations including banks, other financial services and call centers. This also includes the office functions of publishing and media businesses (*See definition of "Manufacturing, Light" for printing operations*).

**Call Center.** A functional area within an organization or an outsourced, separate facility that exists solely to answer inbound or place outbound telephone calls; usually a sophisticated voice operations center that provides a full range of high-volume, inbound or outbound call-handling services, including customer support, operator services, directory assistance, multilingual customer support, credit services, card services, inbound and outbound telemarketing, interactive voice response and web-based services. (*See definition of "Business and Professional Office"*)

**Campground, Commercial.** Any premises providing temporary accommodation to the public for a fee in a recreational vehicle or tent.

**Campground, Personal.** Any premises providing temporary accommodation on three (3) or fewer campsites in a recreational vehicle or tent and used exclusively by the owner of the property and his or her family and friends. The definition of a personal campground does not include the storage of recreational vehicles. (*See Sec. 500 Performance Standards*)