

Town of Windham

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MEMO

DATE: October 17, 2019

TO: Windham Town Council
THROUGH: Donald Gerrish, Interim Town Manager
FROM: Amanda Lessard, Director of Planning *AL*
Cc: Retail Adult-Use and Medical Marijuana Establishments Task Force
Chris Hanson, Director of Code Enforcement
Linda Morrell, Town Clerk
Kevin Schofield, Police Chief
Kristin Collins, Preti Flaherty

RE: Draft Marijuana Ordinances

The Town Council held a workshop on June 25, 2019, to discuss options for regulating medical and adult use marijuana in Windham. The discussion with the town attorney resulted in a consensus from the Council to direct staff to prepare draft ordinances for the various marijuana options.

At meetings on September 9, 2019 and October 7, 2019 the Retail Adult-Use and Medical Marijuana Establishments Task Force reviewed draft ordinance language that creates a licensing process for all marijuana business, establishes performance standards for marijuana businesses, and permits certain marijuana businesses in appropriate locations in Windham. The Task Force had several comments and questions related to the draft and recommended the following additional changes:

- In Licensing Ordinance Section I.3 the Medical Marijuana Registered Caregiver (home occupation) shall not be required to have an alarm system.
- Revise the licensing fee schedule
- Add “in the State of Maine” to Licensing Ordinance at the end of sentence of Section H.7 so that it reads: Has been convicted of a criminal violation arising out of operation of a Marijuana Business in the State of Maine.
- Add Marijuana Cultivation Facility (Tiers 1, 2, 3 and nursery) as a permitted use & add a licensing fee. Recommend Nursery (cultivation <1,000 sf), Tier 1 (cultivation <500 sf), and Tier 2 (cultivation <2,000 sf) permitted in same districts that allow caregiver cultivation, and Tier 3 permitted in ED, I, C1, and Farm zones. Do not recommend opting-in to Tier 4 facilities (cultivation 7,000-20,000 sf).
- Delete Section 535.E.1 to eliminate delivery only operation for Caregiver Home Occupations. The LUO currently already has a performance standard for Home

Occupations in Section 527.F.8 that states that “the home occupation shall not generate traffic of a substantially greater volume than would normally be expected in the neighborhood.”

The commercial cultivation of adult use marijuana was not included in the summary of the June 25th Council consensus on marijuana options, so the attached draft ordinances have been revised to opt-in to Marijuana Cultivation Facilities and to incorporate the Task Force’s recommended changes to the licensing fee schedule.

Summary of Attached Proposed Ordinance Amendments:

Chapter 160 – Marijuana Licensing Ordinance

- All Marijuana Businesses require an annual license to operate.
- Establishes an application and review process.
 - The Town Clerk is the licensing authority for new and renewal Caregiver applications. Town Council is the licensing authority for other new applications, and the Town Clerk for renewals.
- Limits Caregiver Retail Store licenses to nine (9).
- Establishes operation requirements related to security and ventilation.
- Establishes license fees.

Chapter 140 – Land Use Ordinance

- Section 300 – Definitions
 - New definitions: Adult use marijuana store, Marijuana, Marijuana Businesses, Marijuana Cultivation Facility, Marijuana Manufacturing Facility, Marijuana Testing Facility, Medical Marijuana Caregiver Retail Store, Medical Marijuana Registered Caregiver, Medical Marijuana Registered Caregiver (Home Occupation).
 - Revised or deleted existing Retail Marijuana definitions. Adult use marijuana store remains defined but not permitted in any zoning district.
- Section 400 – Zoning Districts
 - Summary of permitted uses:

	F	FR	RL	RM	C-1	C-2	C-3	I	ED	VC
Marijuana Cultivation Facility					P			P	P	
Marijuana Manufacturing Facility					P			P	P	
Marijuana Testing Facility								P	P	
Medical Marijuana Caregiver Retail Store					P					
Medical Marijuana Registered Caregiver	P	P	P	P	P	P	P	P		P
Medical Marijuana Registered Caregiver (Home Occupation)	P	P	P	P	P	P	P	P		P

- Medical Marijuana Dispensary no longer permitted in C1
- Section 500 – Performance Standards
 - Section 526 – Home Occupation 1
 - Added Medical Marijuana Registered Caregiver (Home Occupation)
 - Section 534 – Marijuana for Personal Use
 - Grown indoors only on a property with an occupied dwelling

- Section 535 – Marijuana Businesses
 - Replaces existing Section 534 Medical Marijuana, standards for medical marijuana dispensaries
 - 500 foot setback from marijuana business building from public or private school, daycare, or correctional facility
 - No detectable odor beyond the area controlled by the business
 - Marijuana must be grown indoors only
 - Caregiver cultivation is limited to 1,000 sq ft. No sales on premises unless also permitted as Medical Marijuana Caregiver Retail Store
 - Adult use cultivation is limited to 7,000 sq ft
 - Caregiver Home Occupation shall be delivery only. Medical marijuana grown in basements and accessory structures limited to 1,000 sq ft

Chapter 199 – Shoreland Zoning

- Section 199-14. Table 1. Land Uses in the Shoreland Zone
 - Medical Marijuana Registered Caregiver permitted in GD
 - Other marijuana businesses prohibited
- Section 199-14. Definitions
 - New definitions: Adult use marijuana store, Marijuana, Marijuana Businesses, Marijuana Cultivation Facility, Marijuana Manufacturing Facility, Marijuana Testing Facility, Medical Marijuana Caregiver Retail Store, Medical Marijuana Registered Caregiver, Medical Marijuana Registered Caregiver (Home Occupation)
 - Revised Home Occupation definition to list Medical Marijuana Registered Caregiver (Home Occupation) and reference the standards in Section 535 of the Land Use Ordinance

7/8/19

Town Council Consensus to Town Attorney and Staff to prepare Draft Ordinances for the following Marijuana Options in Windham:

1) Caregivers

Licensing and allowed as home occupations. Concerns are odor, private roads, outside growing.

2) Caregivers Retail Stores

Maximum Allowed 9, Licensing, restricted to certain zones

3) Dispensaries

Prohibited

4) Testing Facilities

Allow in appropriate zone

5) Manufacturing Facilities

Allow appropriate zone

6) Retail Stores

Prohibited

7) Medical Marijuana Cultivation(businesses)

Indoor Grow Only

8) Adult Use Marijuana Cultivation (personal use)

Indoor grow if possible

9) Hemp Cultivation

Look into regulations

TOWN OF WINDHAM MARIJUANA
BUSINESS LICENSING ORDINANCE

Adopted **DATE**

Chapter 160 of the Code of the Town of Windham, known as the Marijuana Licensing Ordinance, is hereby enacted.

Marijuana Businesses

A. Purpose and Authority

This Ordinance is enacted pursuant to authority granted under 30-A M.R.S. § 3001, 22 M.R.S. § 2423-A(14) and 28-B M.R.S. § 402. The purpose of this Ordinance is to set forth procedures and standards for the issuance of local licenses for Marijuana Businesses in order to protect public health, safety and welfare.

B. Definitions

As used in this Ordinance, the terms below shall be defined as indicated. All other terms used in this Ordinance, if not defined below, shall have the same definition as set forth in Section 300 of the Town of Windham Land Use Ordinance.

Applicant shall mean a person who has submitted an application for licensure as a Marijuana Business pursuant to this Article.

Licensed Premises shall mean the premises specified in an application for a license pursuant to this Ordinance or within a license issued pursuant to this Ordinance.

Licensee shall mean a person licensed pursuant to this Article.

Local Licensing Authority shall mean the Town Clerk or, if referral to the Town Council is required pursuant to this Ordinance, the Town Council.

Marijuana Businesses shall mean a Medical Marijuana Caregiver Retail Store, Medical Marijuana Caregiver, Medical Marijuana Caregiver (home occupation), Marijuana Cultivation Facility, Marijuana Manufacturing Facility or Marijuana Testing Facility, all as defined in the Town of Windham Land Use Ordinance.

Owner shall mean a person whose beneficial interest in a Marijuana Business is such that the person bears risk of loss other than as an insurer, has an opportunity to gain profit from the operation or sale of a Marijuana Business and/or has a controlling interest in a Marijuana Establishment.

Person shall mean a natural person, partnership, association, company, corporation, limited liability company or organization, or a manager, agent, owner, director, servant, officer or employee thereof. "Person" does not include any governmental organization.

Premises shall mean the physical location at which a Marijuana Establishment is to conduct its business.

State License shall mean any license issued by the State Licensing Authority.

State Licensing Authority shall mean the authority created or designated by the State for the purpose of regulating and controlling licensing for Marijuana Establishments.

C. License Requirement

Effective **XXX**, a Marijuana Business shall not begin or continue operations unless it has received and is in possession of a license issued pursuant to this Ordinance.

D. Licensing Authority

All Medical Marijuana Caregiver and Medical Marijuana Caregiver (home occupation) license applications, whether new or renewal, shall be reviewed and may be approved by the Town Clerk. All other new license applications shall be reviewed and may be approved by the Town Council. Application shall be made in writing using a form prepared by the Town for the purpose and must include all information required by this Ordinance and by the form. Prior to action on a license application, the Clerk shall give public notice of the application by publication in a newspaper of general circulation in the town of Windham at least seven (7) days prior to action.

E. Review Procedures

The review procedures described below shall be the same for initial license applications as well as renewals. In reviewing license applications, the Licensing Authority and any consulting Town officials may consider the approval standards under this Ordinance as well as other applicable local, state or federal laws and, for license renewals, the Licensee's record of compliance with the same.

1. The Town Clerk shall be responsible for the initial investigation of the application to ensure compliance with the requirements of this Article and to obtain recommendations from other Town officials as required.
2. The Licensing Authority shall have the authority to impose any conditions on a license that may be reasonably necessary to ensure compliance with the requirements of this Ordinance or to address concerns about operations. Failure of any Licensee to comply with such conditions shall be considered a violation of the license and of this Ordinance.
3. No license shall be granted by the Town Council until the Police Chief, Fire Chief, Health Officer and Code Enforcement Officer have all made positive recommendations regarding the Applicant's ability to comply with this Ordinance or any other applicable Town ordinance or state or federal law enforced by such officials. The Town Clerk shall provide a copy of the license application to each official along with a form upon which the official shall note his or her findings and conclusions, as well as any recommended conditions of approval. The Town Clerk shall

automatically include any conditions of approval recommended by the officials on the issued license.

4. For renewal licenses, the application and review process shall be the same as for initial licenses, except that the Town Clerk shall serve as the licensing authority for all Marijuana Businesses. If any official consulted by the Town Clerk finds that a license application should not be approved, the application shall be forwarded to the Town Council for further review. The Town Council shall, upon review of all staff recommendations and applicable laws, make the final determination as to whether the license should be issued and/or any conditions to be attached.

5. Licenses shall be approved only for the type(s) of Marijuana Business(es) identified in the application. A Licensee who intends to expand or convert the licensed Premises to a type of Marijuana Business that is not specifically approved in a license must obtain a new license for that use.

6. Any municipal official with authority to make recommendations, grant licenses or enforce this or other municipal ordinances regarding Marijuana Businesses shall have authority to enter the premises of an Applicant or Licensee without notice to make any inspection reasonably necessary to ensure compliance.

F. Application Submission Requirements

Each applicant for a Marijuana Business license shall complete and file an application on the form provided by the Town Clerk, together with the applicable license fee. If multiple types of Marijuana Businesses are to be conducted on a single Premises, the applicant shall pay the application fee for each type of business. The following supporting materials shall also be provided with the application:

1. A copy of the Applicant's State License application and supporting documentation, as submitted to the State Licensing Authority, if a State License is required.
2. Evidence of all State approvals or conditional approvals required to operate the Marijuana Business, including, but not limited to, a State License as defined by this Ordinance, caregiver registration, a State retail certificate, or a State health license.
3. If not included in the Applicant's State License application, attested copies of any articles of incorporation, bylaws, operating agreement, partnership agreement or articles of association that govern the entity that will own and/or operate the Marijuana Business.
4. If not included in the Applicant's State License application, an affidavit that identifies all owners, officers, members, managers or partners of the Applicant, their ownership interests, and their places of residence at the time of the application and for the immediately preceding three (3) years. Supporting documents, including but not limited to motor vehicle operator's license, motor vehicle registration, voter registration or utility bills shall be provided.

5. A release for each Applicant and for each officer, owner, member, manager or partner of the Applicant seeking a license allowing the Town of Windham or its officials to obtain criminal records and other background information related to the individual.
6. Evidence of all land use approvals or conditional land use approvals required to operate the Marijuana Business, including, but not limited to building permit, conditional use approval, site plan review approval, and/or a change of use permit. For Caregiver Retail Stores, evidence of submission of a site plan review application is sufficient, but any license issued shall be conditioned upon site plan approval.
7. Evidence of all other local approvals or conditional approvals required to operate the Marijuana Business, including any applicable food or victualer's license.
8. A description of the premises for which the license is sought, including a plan of the premises.

If the Town Clerk determines that a submitted application is not complete, he or she shall notify the applicant within ten (10) business days of the additional information required to process the application. If such additional information is not submitted within thirty (30) days of the Clerk's request, the application may be denied.

G. License Term and Renewal; Limit on Medical Marijuana Retail Stores

1. Each license issued under this Ordinance shall be valid for the term of license granted by the State License Authority ("the license year"), or otherwise for one (1) year from the date of issuance. Applications for renewal licenses shall be submitted at least 90 days prior to expiration of the existing term. Any Licensee who fails to submit a renewal application by the applicable deadline shall not have authority to operate until a license is granted. A \$100 per day penalty will be applied for operating without a valid, current license. A late fee shall also apply as set forth in Appendix A Schedule of, Fees
2. There shall be no more than nine (9) active licenses for Caregiver Retail Stores.
 - a. Applications shall be assigned priority according to the date and time an application meeting the submission requirements of this Ordinance was received by the Town Clerk. Once the numerical limit of licenses for Caregiver Retail Stores has been reached, additional applications will be held on a waiting list and processed according to their respective priority as licenses become available. If a Licensee fails to timely submit a renewal license application by the deadline set forth in subsection (1), the prior license shall become available to those on the waiting list upon its expiration date. If a license becomes available, the Town Clerk shall notify the first applicant on the waiting list and that applicant shall have ten (10) business days to provide the applicable application fee and any updated information to the Town Clerk. If the application fee and/or any requested information is not timely provided, the Town Clerk shall process the next application on the list.

- b. In the event of the proposed sale of a Medical Marijuana Caregiver Retail Store, the tentative purchaser shall be given preference to apply for a new license to replace the seller's license within thirty (30) days following the date of the sale, but shall not operate the store until a license is obtained.

H. Denial, Suspension or Revocation of a License

A license application for a Marijuana Business shall be denied by the Licensing Authority, and an existing license may be suspended or revoked by the Town Council after notice and hearing, if the applicant, or any Owner if the applicant or Licensee:

1. Fails to meet the requirements of this Ordinance.
2. Is not at least twenty-one years of age.
3. Is not a resident of the State of Maine.
4. Has had a license for a Marijuana Business revoked by the Town or by the State.
5. Has not acquired all necessary state and local approvals prior to issuance of the license.
6. Fails to meet zoning or other requirements of the Land Use Ordinance or Shoreland Zoning Ordinance.
7. Has been convicted of a criminal violation arising out of operation of a Marijuana Business.
8. Has provided false or misleading information in connection with the license application.

I. Approval and Operating Requirements

In order to obtain a license pursuant to this Ordinance, the Licensee shall demonstrate to the Town Clerk and all reviewing officials that the following requirements will be met. The Licensee shall comply with all of these requirements during the term of the license:

1. Display of License. The current License shall be displayed at all times in a conspicuous location within the Premises.
2. All licensed Premises shall be fixed, permanent locations. Licensees shall not be permitted to operate Marijuana Establishments in other than the licensed Premises, such as at farmer's markets, farm stands or kiosks.
3. Security.
 - a. The licensed Premises shall have lockable doors and windows and shall be served by an alarm system which includes automatic notification to the Windham Police Department.

- b. The licensed Premises shall have video surveillance capable of covering the exterior and interior of the facility. The video surveillance system shall be operated with continuous recording twenty-four hours per day, seven days per week and video shall be retained for a minimum duration of thirty (30) days. Such records shall be made available to law enforcement agencies when investigating a criminal complaint.
- c. The licensed Premises shall have exterior spot lights with motion sensors covering the full perimeter of the building(s).
- d. Medical Marijuana Registered Caregiver (home occupation) uses shall not be required to meet paragraphs (b) and (c).

4. Ventilation

- a. The licensed Premises shall comply with all odor and air pollution standards established by ordinance.
- b. All Marijuana Businesses, other than Medical Marijuana Registered Caregiver (home occupation), shall have an odor mitigation system installed that will provide odor control sufficient to ensure that no odors are perceptible off the Premises.

5. Loitering

The facility owner/operator shall make adequate provisions to prevent patrons or other persons from loitering on the Premises. It shall be the Licensee's obligation to ensure that anyone found to be loitering or using marijuana or marijuana products in the parking lot or other outdoor areas of a licensed Premises is ordered to leave.

- 6. A Marijuana Business shall meet all operating and other requirements of state and local law. To the extent the State of Maine has adopted or adopts in the future any law or regulation governing Marijuana Businesses that conflicts in any way with the provisions of this Ordinance, the more restrictive shall control.

J. Transfer of Ownership or Change of Location

Licensees issued under this Ordinance are not transferable to a new owner. Any change in ownership shall require a new license. Licenses are limited to the location for which they are issued and shall not be transferable to a different location. A Licensee who seeks to operate in a new location shall acquire a new license for that location.

K. Appeals

- 1. The following appeals may be decided by the Town Council upon a *de novo* hearing in which it will hear evidence on the application and make its own findings of fact and conclusions of law:
 - a. Appeal of the Town Clerk's denial of an application for lack of completeness.

- b. Appeal by any aggrieved party having legal standing of any decision by the Town Clerk to grant a license under this Ordinance.
 - c. Appeal by the applicant of any permit granted by the Town Clerk with conditions to which the applicant/Licensee objects.
2. Appeals must be filed with the Town Clerk within thirty (30) days of the date of the decision subject to appeal. The Town Council shall hold the hearing on the appeal and render a decision within thirty (30) days of the date of the appeal, unless all parties consent to a delay.
 3. Appeals of final determinations issued by the Town Council pursuant to this Ordinance shall be made to the Cumberland County Superior Court within thirty (30) days of the date of the decision being appealed.

L. Enforcement and Penalties

The operation of any Marijuana Business without the required license or in violation of the requirements of this Ordinance shall be a violation of this Ordinance. The Windham Town Council or its designee shall enforce the provisions of this subsection. A violation of any provision of this subsection shall be a civil violation, and a civil penalty in accordance with 30-A M.R.S. § 4452 shall apply. Current penalties include fines of not less than \$100.00 nor more than \$2,500.00 per violation for each day that the violation continues.

The Windham Town Council may also revoke or suspend the license after notice and hearing.

M. Severability

The provisions of this Ordinance are severable, and if any provision shall be declared to be invalid or void, the remaining provisions shall not be affected and shall remain in full force and effect.

N. Other Laws

Except as otherwise specifically provided herein, this Ordinance incorporates the requirements and procedures set forth in the Maine Marijuana Legalization Act, 28-B M.R.S. Chapter 1, as may be amended and the Maine Medical Use of Marijuana Act, 22 M.R.S. Chapter 558-C, as may be amended. In the event of a conflict between the provisions of this Ordinance and the provisions of said Acts or any other applicable state or local law or regulation, the more restrictive provision shall control.

APPENDIX A
MARIJUANA BUSINESS LICENSING ORDINANCE SCHEDULE OF FEES

	Marijuana Cultivation Facility	\$1,000.00
	Marijuana Manufacturing Facility	\$1,000.00
	Medical Marijuana Caregiver,– cultivation conducted on site	\$300.00
	Medical Marijuana Caregiver– cultivation not conducted on	\$150.00
	Medical Marijuana Caregiver Retail Store	\$2,500.00
	Marijuana Testing Facility	\$1,000.00
	Late fee will be an additional 10% of the total license fee for 1 to 30 days past the due date, and an additional 10% for every 30 days thereafter the license remains late	

Adult use marijuana store. A facility licensed under 28-B MRS Chapter 1 to purchase adult use marijuana, immature marijuana plants and seedlings from a cultivation facility, to purchase adult use marijuana and adult use marijuana products from a manufacturing facility and to sell adult use marijuana, adult use marijuana products, immature marijuana plants and seedlings to consumers.

Agriculture. The production, storage, keeping, harvesting, grading, packaging, processing, boarding, or maintenance, for sale, lease, or personal use, of plants and animals useful to humans, including but not limited to: forages and sod crops, grains and seed crops; dairy animals and dairy products; poultry and poultry products; livestock, including beef cattle, sheep, swine, horse, ponies, mules, or goats or any mutations or hybrids thereof, including the breeding and grazing of any or all of such animals; bees and apiary products; fur animals; trees, and forest berries; vegetables; nursery, floral, ornamental, and greenhouse products. Agriculture does not include forestry or sawmills, as defined in this Ordinance. (*See Sec. 500 Performance Standards*)

Agriculture, Piggery. A premises, area, fenced enclosure, building or structure, or portion thereof, used or designed for the keeping of pigs. (*See Sec. 500 Performance Standards*)

Agriculture, Poultry Facility. A premises, area, fenced enclosure, building or structure, or portion thereof, used or designed for the keeping of poultry or fowl. (*See Sec. 500 Performance Standards*)

Antenna. Any structure or device used for the purpose of wireless transmitting or receiving electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunication signals, including but not limited to directional antennas, such as panels, microwave dishes, and satellite dishes, and omni-directional antennas, such as whip antennas.

Area of Special Flood Hazard. The land in the flood plain having a one per cent (1%) or greater chance of flooding in any given year, as specifically identified by the Federal Emergency Management Agency in a report entitled “Flood Insurance Study - Town of Windham, Maine, Cumberland County.”

Arterial Street. See definition of, “Street Classification: Arterial Street”

Artist Studio. A place of work for an artist, artisan, or craftsperson, including persons engaged in the application, teaching, or performance of fine arts such as, but not limited to, drawing, vocal or instrumental music, painting, sculpture, writing, woodworking, sewing, and saw sharpening.

Assisted Living Facility. Residences for the frail elderly that provide rooms, meals, personal care, and supervision of self-administered medication. They may provide other services, such as recreational activities, financial services, and transportation.

Lot Line, Rear. The lot line opposite and most distant from the front lot line. In the case of triangular or otherwise irregularly shaped lots, a line 10 feet in length entirely within the lot, parallel to and at a maximum distance from the front lot line.

Lot Line, Side. Any lot line other than a front or rear lot line.

Lumber Yard. An area and structures used for the storage, distribution, and sale of finished or rough-cut lumber and lumber products. Lumber yards shall be classified as “Retail Sales.” (*See definition of “Retail Sales”*)

Manufactured Housing. Manufactured housing shall be defined according to 30-A, M.R.S.A. § 4358, as amended from time to time. (*See Sec. 500 Performance Standards*)

Manufacturing. Establishments engaged in the mechanical or chemical transformation of materials or substances into new products, including the assembling of component parts, the creation of products, and the blending of materials, such as oils, plastics, resins, or liquors.

Manufacturing, Hazardous. A building or structure or any portion thereof that is used for the storage, manufacture, or processing of the following:

- Highly combustible or explosive products or materials that are likely to burn with extreme rapidity or that may produce poisonous fumes or explosions;
- Highly corrosive, toxic, or noxious alkalis, acids, or other liquids or chemicals producing flame, fume, or poisonous, irritant, or corrosive gases;
- Materials producing explosive mixtures of dust or that result in the division of matter into fine particles subject to spontaneous ignition.

Major Subdivision. Any subdivision containing five (5) or more lots or dwelling units.

Marijuana. The leaves, stems, flowers and seeds of a marijuana plant, whether growing or not. "Marijuana" includes marijuana concentrate but does not include industrial hemp as defined in 7 M.R.S. § 2231, subsection 1 or a marijuana product. ~~"Marijuana" means cannabis.~~

Marijuana Businesses. Includes Adult Use Marijuana Store, Marijuana Testing Facility, Marijuana Manufacturing Facility, Medical Marijuana Registered Caregivers, Medical Marijuana Caregiver Retail Store, and Medical Marijuana Registered Caregiver (Home Occupation).

Marijuana Cultivation Facility. A facility used to purchase marijuana plants and seeds from other cultivation facilities; to cultivate, prepare and package adult use marijuana; to sell marijuana to products manufacturing facilities, stores and to other cultivation facilities; and to sell marijuana plants and seeds to other cultivation facilities and immature marijuana plants and seedlings to marijuana stores

Marijuana Manufacturing Facility. (1) a registered tier 1 or tier 2 manufacturing facility, as designated by state law, or a person authorized to engage in marijuana extraction under 22 MRS §2423- F; or (2) a facility licensed under M.R.S. 28-B, Subchapter 2 to purchase marijuana from a cultivation facility or another products manufacturing facility; to manufacture, label and package marijuana and marijuana products; and to sell marijuana and marijuana products to marijuana stores and to other products manufacturing facilities.

Marijuana Testing Facility. A public or private laboratory that is authorized and accredited in accordance with state law for the research and analysis of marijuana, marijuana products or other substances for contaminants, safety or potency.

Medical Marijuana Caregiver Retail Store. A store that has attributes generally associated with retail stores, including, but not limited to, a fixed location, a sign, regular business hours, accessibility to the public and sales of goods or services directly to a consumer, and that is used by a registered caregiver to offer marijuana plants or harvested marijuana for sale to qualifying patients.

Medical Marijuana Registered Caregiver. A person or an assistant of that person that provides care for a qualifying patient in accordance with state law and licensing and is registered with the state in accordance with state law.

Medical Marijuana Registered Caregiver (Home Occupation). A person or an assistant of that person that provides care for a qualifying patient in accordance with state law and licensing and is registered with the state in accordance with state law and in accordance with the Home Occupation standards of this ordinance. This use shall be delivery-only, with no visits to the Caregiver's home by patients.

Medical Office. A building housing one (1) or more offices of doctors, such as doctors of medicine, dentistry, or non-boarding veterinary clinics.

Mineral Extraction. The removal, processing and storage of topsoil, loam, rock, sand, gravel, stone, and other earth materials. (*See Sec. 600 Mineral Extraction*)

Minor Subdivision. Any subdivision containing not more than four (4) lots or dwelling units.

Mobile Home Park. Manufactured housing shall be defined according to 30-A, M.R.S.A. § 4358, as amended from time to time. (*See "Mobile Home Park Overlay District" in Sec. 400 Zoning Districts*)

Motel. A building or group of attached or detached buildings containing guest rooms or dwelling units most of which have separate outside entrances and parking spaces nearby intended to be used by automobile transients for compensation. (*See Sec. 500 Performance Standards*)

public. This definition shall not include the following buildings, structures or facilities (*See Sec. 500 Performance Standards*):

- Wireless Telecommunications Tower and Facility (*See definition*),
- Pump Station (*See definition of "Pump Station"; See "Pump Station" in Sec. 500 Performance Standards*)

Pump Station. A building or structure containing the necessary equipment to pump sanitary sewerage or public water to a higher elevation.

Recreation, Passive. Activities that involve relatively inactive or less energetic activities, such as walking, sitting, picnicking, board and table games.

Recreation Facility, Indoor. The use of a building for play, sports, games, and other similar diversions. (*See definition of "Fitness Center"*)

Recreation Facility, Outdoor. The use of a land outside of a fully enclosed building, as defined, for play, sports, games, and other similar diversions.

Research Laboratory. A facility for investigation into the natural , physical or social sciences, which may include engineering and/or product development.

Restaurant. An establishment where food and drink are prepared, served and consumed. A restaurant may serve food to be taken from the premises for consumption.

~~Retail Marijuana. "Retail marijuana" means cannabis that is cultivated, manufactured, distributed or sold by a licensed retail marijuana establishment or retail marijuana social club.~~

~~"Retail marijuana cultivation facility" means an entity licensed to cultivate, prepare and package retail marijuana and sell retail marijuana to retail marijuana establishments and retail marijuana social clubs.~~

~~Retail marijuana establishment. "Retail marijuana establishment" means a retail marijuana store, a retail marijuana cultivation facility, a retail marijuana products manufacturing facility or a retail marijuana testing facility.~~

~~Retail marijuana product. "Retail marijuana product" means concentrated retail marijuana and retail marijuana products that are composed of retail marijuana and other ingredients and are intended for use or consumption, including, but not limited to, edible products, ointments and tinctures.~~

~~Retail marijuana products manufacturing facility. "Retail marijuana products manufacturing facility" means an entity licensed to purchase retail marijuana; manufacture, prepare and package retail marijuana products; and sell retail marijuana~~

~~and retail marijuana products only to other retail marijuana products manufacturing facilities, retail marijuana stores and retail marijuana social clubs.~~

~~Retail marijuana social club. "Retail marijuana social club" means an entity licensed to sell retail marijuana and retail marijuana products to consumers for consumption on the licensed premises.~~

~~Retail marijuana store. "Retail marijuana store" means an entity licensed to purchase retail marijuana from a retail marijuana cultivation facility and to purchase retail marijuana products from a retail marijuana products manufacturing facility to sell retail marijuana and retail marijuana products to consumers.~~

~~Retail marijuana testing facility. "Retail marijuana testing facility" means an entity licensed and certified to analyze and certify the safety and potency of retail marijuana and retail marijuana products.~~

Retail Sales. Establishments engaged in the selling or rental of goods or merchandise and in rendering services incidental to the sale of such goods.

Retail Sales, Accessory. The sale of goods or merchandise that are directly related to, or are the product of, the primary use located on the property.

Retail Sales, Automobile Sales. The use of any building, land area, or other premise principally for the display, sale, rental, or lease of new or used automobiles, light trucks, vans, trailers or recreation vehicles. This use includes any vehicle preparation, warranty, or repair work conducted as an accessory use. (*See Sec. 500 Performance Standards*)

Retail Sales, Convenience. A retail establishment of up to one-thousand five-hundred (1,500) square feet selling primarily food products, household items, newspapers and magazines, candy, and beverages, and a limited amount of freshly prepared foods such as sandwiches, pizzas, and salads. (*See Sec. 500 Performance Standards*)

Retail Sales, Minimart. A convenience store that is located on the same lot and is accessory to an automobile gas station. (*See definition of "Retail Store, Convenience"*)

Retail Sales, Nursery. The growing, cultivation, storage, and sale of garden plants, flowers, trees, shrubs, and fertilizers, as well as the sale of garden tools and similar accessory and ancillary products, to the general public. A nursery may also include a greenhouse structure in which plants, vegetables, and flowers are grown for sale.

Retail Sales, Outdoor. The display or sale of products and services outside of a building. This includes, but is not limited to, vehicles; garden supplies, flowers, shrubs, and other plant

523 Developable Land

- A. Land proposed for development shall meet the following standards:
1. A parcel of land that meets the standards of the zoning district in which it is located, or
 2. If located in an approved subdivision, a parcel of land that meets the standards for “Net Residential Area or Acreage” in section 500 Performance Standards.

524 Drive-through Facility

- A. A drive-through facility shall only be allowed as part of a principle use that is allowed as either a permitted use or conditional use in the applicable zoning district. (*See Sec. 400 Zoning Districts*)

525 Dwelling, Mixed Use

- A. The following standards shall apply to mixed use dwellings:
1. These uses shall not be permitted in the basement or first story of a building.
 2. The entire building in which the uses are located shall be equipped with a sprinkler system approved by the Windham Fire Department or State Fire Marshall’s Office.

526 Home Occupation 1

- A. Permit Required. A permit must be obtained from the Department of Code Enforcement prior to the installation of a Home Occupation 1.
1. The granting of a home occupation shall apply to the applicant only while the applicant resides at the property.
- B. Permitted Uses. The following uses, as defined in Section 300, shall be allowed as a Home Occupation 1:
1. Artist Studio
 2. Small Engine Repair
 3. Business and Professional Office
 4. Service Business, Personal (*See Subsec. 526.C.I. below*)
 5. Medical Marijuana Registered Caregiver (Home Occupation) (*See Sec. 535 Marijuana Businesses*)
- C. Standards. In making its findings, the Department of Code Enforcement shall use the standards for a Home Occupation 2 in Section 527.F. and the following:
1. Service Business Personal. When authorized as a Home Occupation 1, this use shall not include laundry or dry cleaning services. (*Laundry and dry cleaning services may apply under Sec. 527 Home Occupation 2*)

- D. Conditions. The Department of Code Enforcement may place conditions on the home occupation to minimize impacts on area properties. The conditions must be related to the Code Enforcement Officer's findings on the standards listed in Subsection 527.F.

527 Home Occupation 2

- A. Approval Required. The Board of Appeals must approve all applications for a Home Occupation 2.
1. The granting of a home occupation shall apply to the applicant only while the applicant resides at the property and shall not be transferable to a subsequent resident of the property.
- B. Public Notification. Notice shall be sent to all owners of abutting property at least seven (7) days prior to the Board's initial consideration of an application.
- C. Public Hearing. The Board of Appeals shall hold a public hearing on any application. Notice of the public hearing shall be:
1. Mailed to the owners of all abutting property at least seven (7) days prior to the hearing,
 2. Advertised in a newspaper of general circulation at least seven (7) days prior to the hearing.
- D. Permitted Uses. Home Occupation 2 uses shall be as follows:
1. Uses that meet the standards of Subsection 527.F,
 2. Uses that are not prohibited by Subsection 527.E.
- E. Prohibited Uses. The following uses are specifically prohibited as a Home Occupation 2:
1. Auto Repair Services
 2. Welding
 3. Slaughterhouse
 4. Smoke House.
- F. Standards
1. The home occupation shall be carried on wholly within the dwelling or accessory structure.
 2. The home occupation shall be carried on primarily by a member or members of the family residing in the dwelling unit.
 - (a) Not more than two (2) persons who are not family members residing in the dwelling unit shall be employed.
 3. There shall be no exterior display, no exterior sign, other than those permitted in Section 705.D Signs, no exterior storage of materials and no other exterior indication of the home occupation or variation from the residential character of the principal building.

4. Objectionable conditions such as noise, vibration, smoke, dust, electrical disturbance, odors, heat, glare or activity at unreasonable hours, shall not be permitted.
5. In addition to the off-street parking provided to meet the normal requirements of the dwelling, adequate off-street parking shall be provided for the following:
 - (a) Vehicles of each employee, and
 - (b) Vehicles of the maximum number of users which the home occupation may attract during peak operating hours.
6. The home occupation shall not utilize more than twenty percent (20%) of the total floor area of the dwelling unit. The basement floor area and accessory structure floor area shall be excluded in the calculation of the twenty percent (20%).
7. Evidence shall be provided that the property's subsurface disposal system can accommodate the wastewater generated by the home occupation.
8. The home occupation shall not generate traffic of a substantially greater volume than would normally be expected in the neighborhood.
9. If renting or leasing, the tenant must demonstrate the property owner's approval.
- G. Conditions. The Board of Appeals may place conditions on the home occupation to minimize impacts on area properties. The conditions must be related to the Board of Appeal's findings on the standards listed in Subsection 527.F.

528 Hotel

- A. Rental for more than 30 cumulative days in a calendar year to the same guest, or guests, is prohibited.

529 Industry, Light

- A. All manufacturing processes must be wholly contained within a building,
- B. The manufacturing, stockpiling or distribution of hazardous materials shall not be permitted; however
 1. The storage and use of hazardous materials as part of a production process shall be permitted.

530 Kennel, Major

- A. The kennel, including all uses accessory to the kennel, must be set back a minimum of two hundred (200) feet from an abutting residential structure, or

- B. A minimum of one hundred (100) feet from the lot line where there is no abutting residential structure.

531 Kennel, Minor

- A. The kennel, including all uses accessory to the kennel, must be set back a minimum of two hundred (200) feet from an abutting residential structure, or
- B. A minimum of one hundred (100) feet from the lot line where there is no abutting residential structure.

532 Lot, Corner

- A. Front Setbacks. The required front setback shall be required on both sides of the lot that front on a public or private right-of-way.
- B. The remaining two sides of the lot shall meet the side yard requirements of the applicable zoning district.
- C. Rear Setbacks. A rear setback is not required for corner lots.

533 Manufactured Housing

- A. Manufactured housing, as defined, shall be allowed in any district in which single-family detached dwellings are permitted.
- B. Manufactured housing shall meet all applicable standards of 30-A, M.R.S.A. § 4358.

534 Marijuana for Personal Use

- A. All marijuana cultivated for personal use under Title 28-B of the Maine Revised Statutes shall be grown indoors only on a property with an occupied Dwelling.

535 ~~Medical~~ Marijuana Businesses

This section regulates Marijuana Businesses, as defined, uses within the Town of Windham. The permitting standards outlined here shall be adhered to for all Marijuana Businesses, in addition to other applicable standards in this and other ordinances or state law.
~~Notwithstanding the provisions of 1 M.R.S.A. § 302 or any other law to the contrary, these performance standards, when enacted, shall govern any proposed medical marijuana dispensary for which an application has not been submitted and acted on by the Review Authority identified in Section 516 prior to January 11, 2010.~~

~~The following standards apply to all medical marijuana dispensaries:~~

- A. Marijuana Businesses shall not locate within 500 feet of a public or private school, a state licensed daycare of any size, or Correctional Facility. Measurement shall be from the exterior wall of the Marijuana Business to the property line of the protected use. This section shall not prohibit the activity of a caregiver or other authorized individual from administering medical marijuana to a qualified patient who is located within one of these protected areas.

~~Location criteria. No medical marijuana dispensary shall be sited within 500 feet of the lot lines of any of the following:~~

~~A public or private school;~~

~~Any juvenile or adult halfway house, correctional facility, or substance abuse rehabilitation or treatment center;~~

~~A State of Maine licensed child care facility; or~~

~~A State of Maine licensed family home child care~~

~~The distance cited in this subsection shall be measured between the lot line of the proposed site for the medical marijuana dispensary and the lot line of the site of the use listed in subsections (1) or (2) above at their closest points.~~

- B. Marijuana Businesses shall not have any odor of marijuana detectible beyond the area controlled by the business, whether that be a leased or owned area that is a portion or all of a recorded parcel of land. Odors shall be controlled by whatever best-practices exist.

- C. Marijuana grown by any Marijuana Business shall be grown indoors only. A Medical Marijuana Caregiver shall not conduct any sale of the product on premises unless the business is also permitted as a Medical Marijuana Caregiver Retail Store.

1. Medical Marijuana grown by Medical Marijuana Caregivers shall be limited to less than one thousand (1,000) square feet floor area.

2. Marijuana grown by Marijuana Cultivation Facilities shall be limited to less than seven (7,000) square feet floor area.

- D. Medical Marijuana Registered Caregiver and Medical Marijuana Registered Caregiver (Home Occupation), when required by state law to be licensed to manufacture, may only manufacture medical marijuana products in zoning districts where Marijuana Manufacturing Facilities are permitted.

- E. Medical Marijuana Registered Caregiver (Home Occupation) shall meet all permit requirements for a home occupation and the additional license requirements for a Medical Marijuana Registered Caregiver (Home Occupation). See Section 526 Home Occupation 1 for limitations of Medical Marijuana Caregiver (Home Occupation).

1. This use shall be a delivery only operation, with no customers coming to the site for any purpose. All in-person caregiver operations shall be done at the patient's home or other legal site.

Commented [ALL1]: 1,000 sf and greater requires site plan review.

Commented [ALL2]: The state has four types of cultivation facilities based on the square footage of plant canopy (<http://legislature.maine.gov/statutes/28-B/title28-Bsec301.html>): Nursery < 1,000 sf, Tier 1 < 500 sf, Tier 2 < 2,000 sf, Tier 3 < 7,000 sf, and Tier 4 < 20,000 sf.

2. Medical Marijuana grown by Medical Marijuana Caregiver (Home Occupation) in basements and accessory structures shall be limited to less than one thousand (1,000) square feet floor area measured cumulatively.

Commented [ALL3]: Section 526 Home Occupation 1 excludes basement floor area and accessory structure floor area from the calculation of the maximum 20% of the total floor area of the dwelling unit.

~~B. Hours of operation. Medical marijuana dispensaries may be open for business only between the hours of 8:00 a.m. and 5:00 p.m., locally prevailing time.~~

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~~C. Signage and advertising. All signage and advertising for a medical marijuana dispensary shall comply with all applicable provisions of Section 700 of the Land Use Ordinance. In addition, no signage or advertising shall use the word "marijuana" or "cannabis," or any other word, phrase or symbol commonly understood to refer to marijuana unless such word, phrase or symbol is immediately preceded by the word "medical" in type and font that is at least as readily discernible as all other words, phrases or symbols on the sign. Such signage and advertising must clearly indicate that the products and services are offered only for medical marijuana patients and primary caregivers.~~

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~~D. Security requirements. Security measures at a medical marijuana dispensary and any associated cultivation facility shall include, at a minimum, the following:~~

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~~1. security surveillance cameras installed, recording and operating 24 hours a day, 7 days a week to monitor all entrances, along with the interior and exterior of the premises, to discourage and facilitate the reporting of criminal acts and nuisance activities occurring at the premises;~~

~~(a) All security recordings shall be preserved for at least thirty (30) days by the medical marijuana dispensary. The medical marijuana dispensary shall provide the Police Chief or his designee with the name and functioning telephone number of a 24-hour on-call staff person to whom the Town may provide notice of any operating problems associated with the medical marijuana dispensary.~~

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~~2. door and window intrusion robbery and burglary alarm systems with audible and Police Department notification components that are professionally monitored and maintained in good working condition;~~

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~~3. exterior lighting that illuminates the exterior walls of the licensed premises and complies with applicable provisions of Section 812(R) of the Land Use Ordinance. The Code Enforcement Officer shall approve a photometric plan submitted by the applicant. The plan shall be signed by a Maine licensed professional. The~~

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~~photometric plan shall demonstrate how the lighting will illuminate the exterior walls of the licensed premise while complying with the applicable requirements of Section 812(R). The applicant shall be required to install all exterior lighting in accordance with the approved photometric plan; and~~

- ~~4. deadbolt locks on all exterior doors and locks or bars on any other access points (e.g., windows);~~

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- ~~E. Cultivation. If there is both the cultivation and dispensation of marijuana occurring on the same site, the cultivation area shall not be greater than 25% of the total floor area of the portion of the building used for dispensation of marijuana.~~

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- ~~F. On site consumption of medical marijuana. The consumption, ingestion or inhalation of medical marijuana on or within the premises of a medical marijuana dispensary or cultivation facility is prohibited; provided, however, that a medical marijuana dispensary employee who is a registered patient, as that term is defined in 22 M.R.S.A. § 2422(12), as may be amended, may consume medical marijuana within the enclosed building area of the premises if such consumption occurs via oral consumption (i.e., eating only). For purposes of this subsection, the term "premises" includes the actual building, as well as any accessory structures, parking lot or parking areas, or other surroundings within 200 feet of the medical marijuana dispensary's entrance.~~

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- ~~G. Visibility of activities; control of emissions; disposal plan.~~

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- ~~1. All activities of medical marijuana dispensaries and cultivation facilities, including, without limitation, cultivating, growing, processing, displaying, selling and storage, shall be conducted indoors.~~

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- ~~2. No marijuana or paraphernalia shall be displayed or kept in a dispensary or cultivation facility so as to be visible from outside the premises.~~

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- ~~3. Sufficient measures and means of preventing smoke, odors, debris, dust, fluids and other substances from exiting a dispensary or cultivation facility must be provided at all times. Sufficient measures shall be provided for the proper disposal of all such materials, items and other substances in a safe, sanitary and secure manner and in accordance with all applicable federal, state and local laws and regulations.~~

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- ~~4 All medical marijuana dispensaries shall have in place an operational plan for proper disposal of marijuana and related~~

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~~byproducts. The plan shall be placed on file with the Code Enforcement Officer and the Chief of Police. Disposal records created and maintained in accordance with State of Maine statutes shall be submitted each month to the Code Enforcement Officer and Chief of Police. The disposal records for each month shall be submitted no later than the fifteenth (15) day of the following month.~~

~~—H.— Sale of edible products. No food products shall be sold, prepared, produced or assembled by a medical marijuana dispensary except in compliance with all operating and other requirements of state and local law and regulation, including, without limitation, food establishment licensing requirements. Any goods containing marijuana for human consumption shall be stored in a secure area.~~

~~—I.— Other laws remain applicable. A medical marijuana dispensary shall meet all operating and other requirements of state and local law and regulation. To the extent the State of Maine has adopted or adopts in the future any stricter law or regulation governing medical marijuana dispensaries, the stricter law or regulation shall control.~~

~~—J.— Maximum number. The maximum number of medical marijuana dispensaries in the Town shall be capped at one (1).~~

~~—K.— Application Submission Requirements. The applicant shall provide the Code Enforcement Officer with documentation of any required state or federal approvals for the medical marijuana dispensary operation.~~

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535536 Medical Office

A. Residential Districts – F, FR, RL, RM.

1. A medical office located on a lot in a residential district shall have a combined footprint of 2,000 gross square feet or less. (*See definition of "Building Footprint"*)
2. A medical office located in a residential district shall be limited to the first story of the building. The additional height of the building's roof shall meet the height standard of the applicable zoning district.

536 Mobile Home Park

- A. Mobile home parks shall located according to the Mobile Home Park Overlay District.

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

The Farm district is intended primarily for rural and residential land uses. Development is restricted in order to protect farmlands, woodlands, open space, wildlife habitat and scenic areas.

2. Permitted Uses

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

- Agriculture
- Agriculture, Piggery
- Agriculture, Poultry Facility
- Building, Accessory
- Campground, Commercial
- Campground, Personal
- Cemetery
- Child Care, Family Home
- Contractor Services, Landscaping
- Contractor Storage Yard
- Dwelling, Single-Family Detached
- Dwelling, Two-Family
- Dwelling, Multifamily
- Forestry
- Golf Course
- Home Occupation 1
- Home Occupation 2
- Kennel, Minor
- [Medical Marijuana Caregiver](#)
- [Medical Marijuana Caregiver \(Home Occupation\)](#)
- Mineral Extraction
- Place of Worship
- Public Building
- Research Laboratory
- Retail Sales, Nursery
- Riding Stable
- Sawmill, Permanent
- Sawmill, Temporary
- Shipping Container
- Use, Accessory
- Wireless Telecommunications Tower and Facility

3. Conditional Uses

The following uses, as defined in Section 300, shall be allowed as a Conditional Use in accordance with Section 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

- Kennel, Major
- Medical Office
- Nursing Home
- Public Utility Facility
- Recreation Facility, Indoor
- Recreation Facility, Outdoor
- Retail Sales, Convenience
- Rooming House

4. **Prohibited Uses**

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

5. **Dimensional Standards**

The following dimensional standards shall apply in the Farm District:

- | | |
|---|-------------|
| (a) Minimum Lot Size: | |
| (1) Standard (Non-Cluster) | 80,000 s.f. |
| (2) Cluster Subdivision: | |
| (a) All Subdivision lots connected to public water | 30,000 s.f. |
| (b) Subdivision served by wells or a private system | 30,000 s.f. |
| (3) Rooming House | 4 acres |
| (b) Maximum Lot Size: | |
| (1) Cluster Subdivision | 50,000 s.f. |
| (2) Cluster Subdivision: one (1) lot within subdivision | 60,000 s.f. |
| (c) Net Residential Density: | 60,000 s.f. |
| (d) Minimum Frontage: | |
| (1) Standard (Non cluster) | 200 ft. |
| (2) Cluster Subdivision | 100 ft. |
| (3) Cluster Subdivision, where frontage is entirely on cul-de-sac | 50 ft. |
| (e) Minimum Front Setback: | |
| (1) Standard (Non cluster) | 40 ft. |
| (i) The minimum front Setback of a lot may be reduced to the average setback distance of the existing buildings located on the lots to either side of said lot. | |
| (2) Cluster subdivision | 25 ft. |
| (3) Non-Residential Use: Minimum Landscaped Buffer Strip | 15 ft. |
| (f) Minimum Side Setback: | |
| (1) Standard (Non cluster) | 10 ft. |
| (2) Cluster Subdivision: | 10 ft. |
| (g) Minimum Rear Setback: | |

- | | |
|--|----------|
| (1) Standard (Non cluster): | 10 ft. |
| (2) Cluster Subdivision: | 10 ft. |
| (h) Maximum Building Height: | 35 ft. |
| (1) Agriculture, Public Buildings, Church Steeples | No Limit |
| (i) Maximum Building Coverage: | 25% |

6. District Standards

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

- (a) Automobile Repair Services in existence prior to August 7, 2014.
 - (1) All repair operations shall be conducted inside an enclosed building.
 - (2) No more than three vehicles shall be serviced or stored on the property at any one time.
 - (3) Hours of operation shall be Monday through Saturday from 8:00 A.M. to 5:00 P.M.
- (b) Cluster Subdivision. (*See Sec. 900 Subdivision Review*)
 - (1) Cluster subdivisions shall only be permitted on lots with a minimum of 5 acres of gross land area.
- (c) Curb Cuts. See “Curb Cuts and Driveway Openings” in Section 500 Performance Standards for standards applicable to the Farm District
- (d) Dwelling, Two-Family and Dwelling, Multifamily. These uses shall only be allowed for the conversion of an existing dwelling or accessory building that was in existence prior to May 13, 1986. The following standards shall apply:
 - (1) No more than three (3) dwelling units may be created per lot.
 - (2) All dwelling units shall have a minimum area of 500 s.f.
- (e) Medical Office. See “Medical Office” in Section 500 Performance Standards for size limitations.
- (f) Research Laboratory. This use in the Farm District must conduct investigative research that is primarily related to the items defined in the definition of, “Agriculture.” Refer to Section 300 Definitions.
- (g) Contractor Services, Landscaping.. This use shall be an accessory use to a Retail Sales, Nursery use under the following conditions:

- (1) The Contractor Services, Landscaping and Contractor Storage Yard use shall not exceed fifty (50) percent of the gross area (both interior and exterior areas) occupied by the principle Retail Sales, Nursery use.
- (h) Buffer Requirements for Specific Non-residential Uses. The following uses shall provide a buffer strip, as defined, from all abutting properties that are solely occupied by a residential dwelling(s):
 - (1) Boarding Home for Sheltered Care
 - (2) Medical Office
 - (3) Nursing Home
 - (4) Retail Sales, Convenience
 - (5) Retail Sales, Nursery
 - (5) Service Business, Landscaping

B. Farm-Residential District (FR)

1. Intent

The Town, as a rapidly growing community, recognizes that certain areas of the town will experience residential growth while the basic rural agricultural orientation remains. It is the intent of this chapter to allow these uses to coexist and develop harmoniously.

2. Permitted Uses

The following uses, as they are defined in Section 300, shall be permitted in the Farm-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
- Campground, Commercial
- Campground, Personal
- Cemetery
- Child Care, Family Home
- Dwelling, Two-Family
- Dwelling, Multifamily
- Dwelling, Single-Family Detached
- Forestry
- Golf Course
- Home Occupation 1
- Home Occupation 2
- Kennel, Minor
- Medical Marijuana Caregiver
- Medical Marijuana Caregiver (Home Occupation)
- Mineral Extraction
- Place of Worship
- Public Building
- Sawmill, Temporary
- Shipping Container
- Use, Accessory
- Wireless Telecommunications Tower and Facility

3. Conditional Uses

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

- Agriculture, Piggery
- Agriculture, Poultry Facility
- Assisted Living Facility
- Bed and Breakfast Inn
- Boarding Home for Sheltered Care
- Kennel, Major
- Medical Office
- Nursing Home
- Public Utility Facility
- Recreation Facility, Indoor
- Recreation Facility, Outdoor
- Retail Sales, Convenience
- Retail Sales, Nursery
- Riding Stable
- Sawmill, Permanent

4. Prohibited Uses

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

5. Dimensional Standards

The following dimensional standards shall apply in the Farm-Residential District:

- (a) Minimum Lot Size:
 - (1) Standard (Non cluster) 50,000 s.f.
 - (2) Cluster Subdivision:
 - (i) All subdivision lots connected to public water 20,000 s.f.
 - (ii) Subdivision served by wells or a private system 20,000 s.f.
- (b) Maximum Lot Size:
 - (1) Cluster Subdivision 35,000 s.f.
 - (2) Cluster Subdivision, one (1) lot within subdivision 45,000 s.f.
- (c) Net Residential Density: 40,000 sf.
- (d) Minimum Frontage:
 - (1) Standard (Non cluster) 150 ft.
 - (2) Cluster Subdivision 75 ft.
 - (3) Cluster Subdivision, where Frontage is entirely on cul-de-sac 50 ft.
- (e) Minimum Front Setback:
 - (1) Standard (Non cluster) 30 ft.
 - (i) The minimum front Setback of a lot may be reduced to the average setback distance of the existing buildings located on the lots to either side of said lot.
 - (2) Cluster Subdivision 25 ft.
 - (3) Non-Residential Use: Minimum Landscaped Buffer Strip 15 ft.
- (f) Minimum Side Setback:
 - (1) Standard (Non cluster) 10 ft.
 - (2) Cluster Subdivision: 10 ft.
- (g) Minimum Rear Setback:
 - (1) Standard (Non cluster): 10 ft.
 - (2) Cluster Subdivision: 10 ft.
- (h) Maximum Building Height: 35 ft.
 - (1) Agriculture, Public Buildings, Church Steeples No Limit
- (i) Maximum Building Coverage: 20%

6. District Standards

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

- (a) Agriculture, Poultry Facility
 - (1) A facility may raise twenty-five (25) or fewer birds at any one time.
- (b) Agriculture, Piggery. Piggeries shall conform with the standards for “Agriculture, Piggery” in Section 503 of the Performance Standards.
- (c) Cluster Subdivision (*See Sec. 900 Subdivision Review*)
 - (1) Cluster subdivisions shall only be permitted on lots with a minimum of 5 acres of gross land area:
 - (i) Lots completely contained by the FR District: 5 acres
 - (ii) Lots with area in both the F and FR Districts: 5 acres
- (d) Curb Cuts. See “Curb Cuts and Driveway Openings” in Section 500 Performance Standards for standards applicable to the Farm Residential District
- (e) Dwelling, Two-Family and Dwelling, Multifamily. These uses shall only be allowed for the conversion of an existing dwelling or accessory building that was in existence prior to May 13, 1986. The following standards shall apply:
 - (1) No more than three (3) dwelling units may be created per lot.
 - (2) All dwelling units shall have a minimum area of 500 s.f.
- (f) Medical Office. See “Medical Office” in Section 500 Performance Standards for size limitations.
- (g) Buffer Requirements for Specific Non-residential Uses. The following uses shall provide a buffer strip, as defined, from all abutting properties that are solely occupied by a residential dwelling(s):
 - (1) Boarding Home for Sheltered Care
 - (2) Medical Office
 - (3) Nursing Home
 - (4) Retail Sales, Convenience
 - (5) Retail Sales, Nursery

C. Light-Density Residential District (RL)

1. Intent

It is the intent of this district to ensure the proper development of residential areas by encouraging the formation of community units while developing, protecting, and preserving open spaces.

2. Permitted Uses

The following uses, as they are defined in Section 300, shall be permitted in the Light-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)
- Place of Worship
- Public Building
- Sawmill, Temporary
- Shipping Container
- Use, Accessory
- Wireless Telecommunications Tower and Facility

3. Conditional Uses

The following uses, as defined in Section 300, shall be allowed as a Conditional Use in accordance with Section 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
- Hotel
- Nursing Home
- Medical Office
- Mineral Extraction
- Motel
- Public Utility Facility
- Recreation Facility, Indoor
- Recreation Facility, Outdoor
- Retail Sales, Convenience
- Retail Sales, Nursery

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 Light-Density Residential District:

- (a) Minimum Lot Size:
 - (1) Standard (Non cluster) 40,000 s.f.
 - (2) Cluster Subdivision:
 - (i) All subdivision lots connected to public water 20,000 s.f.
 - (ii) Subdivision served by wells or a private system 20,000 s.f.
- (b) Maximum Lot Size:
 - (1) Cluster Subdivision 30,000 s.f.
 - (2) Cluster Subdivision, one (1) lot within subdivision 35,000 s.f.
- (c) Net Residential Density: 30,000 s.f.
- (c) Minimum Frontage:
 - (1) Standard (Non cluster) 150 ft.
 - (2) Cluster Subdivision 75 ft.
 - (3) Cluster Subdivision, where Frontage is entirely on cul-de-sac 50 ft.
- (e) Minimum Front Setback:
 - (1) Standard (Non cluster) 30 ft.
 - (i) The minimum front Setback of a lot may be reduced to the average setback distance of the existing buildings located on the lots to either side of said lot.
 - (2) Cluster Subdivision 25 ft.
 - (3) Non-Residential Use: Minimum Landscaped Buffer Strip 15 ft.
- (f) Minimum Side Setback: 10 ft.
- (g) Minimum Rear Setback: 10 ft.
- (h) Maximum Building Height: 35 ft.
 - (1) Agriculture, Public Buildings, Church Steeples No Limit
- (i) Maximum Building Coverage: 20%

6. District Standards

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

- (a) Curb Cuts. See “Curb Cuts and Driveway Openings” in Section 500 Performance Standards for standards applicable to the Light-Density Residential District
- (b) Dwelling, Two-Family and Dwelling, Multifamily. These uses shall only be allowed for the conversion of an existing dwelling or accessory building that was in existence prior to May 13, 1986. The following standards shall apply:
 - (1) No more than three (3) dwelling units shall be erected per lot.
 - (2) All dwelling units shall have a minimum area of 500 s.f.
- (c) Cluster Subdivision (*See Sec. 900 Subdivision Review*)
 - (1) Cluster subdivisions shall only be permitted on lots with a minimum of 5 acres of gross land area.
 - (2) Cluster 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.
- (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) Retail Sales, Convenience
 - (4) Retail Sales, Nursery

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

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

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) Cluster Subdivision	20,000 s.f.	20,000 s.f.
(b) Maximum Lot Size in Cluster Subdivision	30,000 s.f.	30,000 s.f.
(1) Cluster Subdivision, one lot within the Cluster subdivision	35,000 s.f.	35,000 s.f.
(c) 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
(d) Minimum Frontage:	100 ft.	100 ft.
(1) Cluster Subdivision:	50 s.f.	50 s.f.
(e) 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.
(f) Minimum Side Setback:	10 ft.	10 ft.
(g) Minimum Rear Setback:	10 ft.	10 ft.
(h) Maximum Building Height:	35 ft.	35 ft.
(i) 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) Cluster Subdivision (*See Sec. 900 Subdivision Review*)
 - (1) Cluster subdivisions shall only be permitted on lots with a minimum of 5 acres of gross land area.
 - (2) Cluster 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

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
- 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 Cultivation Facility
- Marijuana Manufacturing Facility
- ~~Medical Marijuana Dispensary~~
- 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) on Route 302: | 10-20 ft. |
| (2) all other streets | 0-20 ft. |
| (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 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.
(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*).

G. Commercial District III (C3)

1. Intent

The intent of the Commercial District III is to provide areas for a mixture of light, low-traffic generating commercial uses and single-family housing.

2. Permitted Uses

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

- | | |
|--------------------------------------|--|
| • Agriculture | • <u>Medical Marijuana Caregiver (Home Occupation)</u> |
| • Adult Business Establishment | • Medical Office |
| • Building, Accessory | • Place of Worship |
| • Business and Professional Office | • Public Building |
| • Child Care, Facility | • Recreation Facility, Indoor |
| • Child Care, Family Home | • Retail Sales |
| • Contractor Services | • Retail Sales, Convenience |
| • Contractor Services, Landscaping | • Retail Sales, Nursery |
| • Contractor Storage Yard | • Retail Sales, Outdoor |
| • Dwelling, Single-Family | • Service Business, Personal |
| • Dwelling, Two-Family | • Theater |
| • Dwelling, Multifamily | • Use, Accessory |
| • Dwelling, Mixed Use | • Warehousing, Private |
| • Forestry | • Warehousing, Public |
| • Home Occupation 1 | • Wireless Telecommunications Tower and Facility |
| • Home Occupation 2 | |
| • <u>Medical Marijuana Caregiver</u> | |

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 | • Club |
| • Automobile Repair Services | • Hotel |
| • Bed and Breakfast Inn | • Industry, Light |
| • Campground, Commercial | • Motel |
| • Campground, Personal | • Nursing Home |

- Public Utility Facility
- Restaurant
- Shipping Container
- Small Engine Repair

4. **Prohibited Uses**

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

5. **Dimensional Standards**

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

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

6. **District Standards**

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

- (a) Automobile Repair Services. The repair of commercial trucks shall be limited to those vehicles with a Gross Vehicle Weight Rating equal to, or less than, 26,000 lbs.

- (b) Controlled Access Street. For standards pertaining to controlled access streets in the C3 District see Section 500 Performance Standards.
- (c) Curb Cuts. See “Curb Cuts and Driveway Openings” in Section 500 Performance Standards for standards applicable to the C3 District.
- (d) Dwelling, Two-Family and Dwelling, Multifamily. These uses shall only be allowed for the conversion of an existing dwelling or accessory building that was in existence prior to May 13, 1986. The following standards shall apply:
 - 1) No more than three (3) dwelling units may be created per lot.
- (e) 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.
- (f) 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*)
- (g) Zoning District Boundary Buffer. Lots on which non-residential uses are located shall require a fifty (50) foot buffer from all property lines that abut a residential zoning district. The buffer shall meet the following requirements:
 - 1) No development shall be allowed within the buffer. This includes, but is not limited to, parking lots, signage, and light fixtures.
 - 2) The buffer must provide screening as described in the definition of “Buffer Strip”, in Section 300 Definitions.

H. Industrial District (I)

1. Intent

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

2. Permitted Uses

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

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

3. Conditional Uses

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

- Automobile Storage Lot
- Correctional Facility, Public
- Public Building
- Public Utility Facility
- Shipping Container

4. Prohibited Uses

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

5. Dimensional Standards

The following dimensional standards shall apply in the Industrial District:

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

6. District Standards

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

- (a) Curb Cuts. See "Curb Cuts and Driveway Openings" in Section 500 Performance Standards for standards applicable to the I District.
- (b) Industry, Heavy. In accordance with the Conditional Use standards in Section 500, the appropriate Review Authority may approve the manufacturing or use of hazardous material, as defined in Section 300. (*See Sec. 300 for definition of "manufacturing, hazardous"*)

- (c) Open Space Requirement. All non-residential uses, except for agriculture, must provide two (2) square feet of open space, as defined, for every one (1) square foot of floor area. (*See Sec. 300 Definitions*)
- (d) Zoning District Boundary Buffer. Lots on which non-residential uses are located shall require a fifty (50) foot buffer from all property lines that abut a residential zoning district. The buffer shall meet the following requirements:
 - (1) No development shall be allowed within the buffer. This includes, but is not limited to, parking lots, signage, and light fixtures.
 - (2) The buffer must provide screening as described in the definition of “Buffer Strip”, in Section 300 Definitions.

I. Enterprise Development District (ED)

1. Intent

The intent of this district is to provide a unique area within the Town of Windham to allow manufacturing, processing, treatment, warehousing, storage, research and distribution with safe, well regulated vehicle access located off a major street which can conform to the performance standards set forth in this section and in all other applicable ordinances of the Town of Windham.

2. Permitted Uses

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

- Auction House
- Automobile Auction Facility
- Automobile Repair Services
- Building, Accessory
- Business and Professional Office
- Contractor Services
- Contractor Storage Yard
- Construction Services, Heavy, Major
- Construction Services, Heavy, Minor
- Convention Center
- Distribution Facility
- Forestry
- Hotel
- Industry, Heavy
- Industry, Light
- [Marijuana Cultivation Facility](#)
- [Marijuana Manufacturing Facility](#)
- [Marijuana Testing Facility](#)
- Mineral Extraction
- Motel
- Public Utility Facility
- Retail Sales, Accessory
- Small Engine Repair
- Use, Accessory
- Warehousing, Private
- Warehousing, Public
- Wireless Telecommunications Tower and Facility

3. Conditional Uses

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

- Automobile Storage Lot
- Shipping Container

4. Prohibited Uses

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

5. Dimensional Standards

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

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

6. District Standards

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

- (a) **Access Management**
- (1) Any parcel of land which is divided or developed may be required by the Town to provide one (1) or more sixty (60) foot right-of-ways to abutting land in the Enterprise Development Zone.
 - (2) An Enterprise Development District may have one (1) or more dead-end access streets from an existing public right-of-way.

- (i) If two (2) or more entrances to an Enterprise Development District are proposed, such entrances shall be separated by at least one thousand (1000) linear feet, unless waived by the Planning Board.
- (3) The Town may require that one (1) or more turning lanes be provided on the public right-of-way from which the Enterprise District is accessed. The need for these lanes will be based on proposed traffic volumes and conditions.
- (4) Access to all lots within an Enterprise Development District shall be limited to the District's interior road system.
- (b) **Convention Center.** Convention Centers shall only be permitted as an Accessory Use to a Hotel or Motel.
- (c) **Buffers and Screening**
 - (1) **Residential District Boundary Buffer.** Where a lot abuts, or is within one hundred (100) feet of the side or rear boundary line of any residential district (including any residential district in an adjacent municipality), or within one hundred (100) feet of the side or rear boundary line of an existing improved residential lot within an ED District a fifty (50) foot wide buffer strip shall be provided. The following standards shall apply to the required buffer:
 - (i) Twenty (20) feet nearest the boundary shall be used and maintained as a landscaped buffer strip, as defined.
 - a) Within the landscaped buffer strip, screening of adjoining properties must be achieved as defined for a Buffer in Section 300 Definitions.
 - (ii) The remaining thirty (30) feet of the landscaped buffer strip shall also be used and maintained as a suitable planting area for lawns with trees, shrubs or other landscape material. Within this portion of the buffer strip, underground utilities such as septic systems, sewer pipes, storage tanks and wells shall be allowed. Employee picnic tables shall also be permitted in this area.
 - (iii) No building, structure, parking area, storage area, or display of equipment or materials shall be constructed, located or otherwise placed within any portion of the buffer strip.
 - (2) **Commercial District Boundary Buffer.** In an ED District where a lot abuts or is within one hundred (100) feet of the side or rear boundary line of any commercial zone, there shall be provided on those sides facing the commercial zone a buffer strip fifteen (15) feet wide which shall be used and maintained as a suitable planting area for lawns, trees, shrubs or other landscape materials.

- (i) Within the landscaped buffer strip, screening of the adjoining commercial district properties must be achieved as defined for a Buffer Strip in Section 300 Definitions.
- (3) Frontage on Existing Public Rights-of-Way Buffer. A landscaped buffer strip of at least one hundred (100) feet shall be required where the District, or a lot within the District, has frontage on an improved public right-of-way that was in existence prior to the creation of the Enterprise Development District.
 - (i) One (1) sign that identifies the establishments within the Enterprise Development District shall be permitted within the landscaped buffer strip. See Section 800 Signs and Graphic Displays.
 - (ii) No equipment, vehicles, materials, articles for sale or signs in addition to that allowed in Subsection 400 I.6.(c)(1)(ii) above, shall be placed within any portion of the landscaped buffer strip unless otherwise provided for in this chapter.
- (4) Screening of Outdoor Storage. Outdoor storage shall be completely screened from adjoining properties by means of evergreen trees at least six (6) feet in height at time of planting.
 - (i) Automobile Auction Facility. Opaque fencing six (6) feet in height shall enclose any outdoor storage area in lieu of evergreen trees.
- (5) Screening of Lighting: See Subsection 400 I.6.(g)(5) below.
- (d) **Industry, Heavy.** In accordance with the Conditional Use standards in Section 500, the appropriate Review Authority may approve the manufacturing or use of hazardous material, as defined in Section 300. (*See Sec. 300 for definition of “manufacturing, hazardous”*)
- (e) **Maximum Building Height Exemption.** Buildings over 40 ft. high shall be allowed if approved by the Zoning Board of Appeals.
 - (1) The Zoning Board of Appeals shall use the Conditional Use standards in Section 516 to make its findings on the application.
- (f) **Parking Lot Setback.** Parking lots shall maintain a 30 ft. setback from all property lines.
- (g) **Performance Standards**

- (1) Air Pollution: All uses shall comply with minimum Federal, State and local air pollution requirements.
 - (i) Applicants shall submit information demonstrating compliance with any applicable federal, state or local requirements. If the application does not require subdivision or site plan review, the information shall be submitted to the Code Enforcement Officer for approval before a building permit is issued.
 - (ii) The maximum permitted density of smoke, dust and other particulate emissions during normal operations of any activity shall not exceed the maximum allowable under the regulations of the Maine Department of Environmental Protection. In case of doubt, the Code Enforcement Officer may employ such independent, recognized consultants as necessary, at the expense of the applicant, to assure compliance with performance standards and all other requirements of this chapter related to the public health, safety and welfare and the abatement of nuisances.
- (2) Electromagnetic Interference. No use, activity or process shall be conducted which produces electromagnetic interference in the transmission or reception of electrical impulses beyond any lot lines, including radio and television. In all cases, Federal, State and local requirements shall be met. Violations of this standard shall be considered a public nuisance.
- (3) Fire Protection.
 - (i) All buildings or structures shall be connected to the public water supply and have a sprinkler system or a fire suppression system installed when required by the Town of Windham Building Code.
 - (ii) Storage, utilization, or manufacture of solid materials or products including free burning and intense burning is permitted provided that said materials or products shall be stored, utilized, or manufactured within completely enclosed buildings having incombustible walls and protected throughout by an automatic fire-extinguishing system.
 - (iii) The storage, utilization, or manufacture of flammable liquids, or materials which produce flammable or explosive vapors or gases shall be permitted in accordance with the most current edition of the National Fire Protection Association Standards for Flammable and Combustible Liquids (NFPA 30) or the most current edition of the Building Officials and Code Administrators (BOCA) Fire Prevention Code. The most restrictive standards shall apply.
 - (iv) Any change in use or occupancy shall require a review and approval by the Code Enforcement Officer and the Fire Chief.

- (v) Tanks or other underground storage facilities abandoned or not in use for a period exceeding one (1) year shall be removed or otherwise assured safe conditions are present. In all cases, applicable Federal, State and local regulations shall prevail.

(4) Groundwater and Surface Water Protection.

- (i) Water Pollution. No activity shall locate, store, discharge, or permit the discharge of any treated, untreated or inadequately treated liquid, gaseous, or solid materials of such nature, quantity, obnoxiousness, toxicity or temperature that run off, seep, percolate, or wash into surface or ground waters so as to contaminate, pollute or harm such waters or cause nuisances, such as objectionable shore deposits, floating or submerged debris, oil or scum, color, odor, taste, or unsightliness or be harmful to human, animal, plant or aquatic life.
 - a) All provisions of 38 M.R.S.A. Chapter 3, Protection and Improvements of Waters and such rules and regulations adopted by the Maine Board of Environmental Protection pursuant to the referenced purpose shall apply.
 - b) No development or use shall result in the existing groundwater quality becoming inferior to the physical, biological, chemical and/or radiological levels for raw and untreated drinking water supply sources specified in the Maine State Drinking Water Regulations, pursuant to 22 M.R.S.A., §2601 et seq. If the existing groundwater quality is inferior to the State Drinking Water Regulations, the developer or land owner will not degrade the water quality any further.
 - c) Representatives of the municipality or the Maine Department of Environmental Protection may enter the premises for the purpose of gauging, sampling and testing any waste water systems which may enter into water courses.
 - d) No development or use of land shall lower the groundwater table more than ten (10) feet.
- (ii) Subsurface Wastewater Disposal. The Enterprise Development District has been determined by the Town of Windham to be particularly sensitive to the discharge of pollutants from on-site subsurface sewage disposal systems and is therefore designated as a groundwater sensitive area. When the sewage contains effluent other than usual bathroom and/or on-premises food preparation water, the Town of Windham may

require a pretreatment system of the effluent before its entry into any subsurface sewage disposal system

- a) The Town may hire a third party consultant to review any subsurface wastewater disposal applications. The costs for this review shall be the responsibility of the applicant.
- b) The Town of Windham may require groundwater monitoring of the project at the owner's expense.

(5) Lighting

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

- (i) Such activities shall comply with applicable minimum Federal, State and local requirements.
 - (ii) Detailed plans shall be submitted to the Code Enforcement Officer for approval before a permit is granted.
 - (iii) Violations of this standard shall be considered a public nuisance.
- (8) Vibrations. No vibration shall be produced which is transmitted through the ground and is discernible without the aid of instruments at or at any point beyond any lot line.
- (h) **Street and Road Design**
 - (1) All streets in the Enterprise Development District shall be designed and constructed to meet the industrial road standards set forth in Section 900 Subdivision Review.
 - (i) **Utilities.** All utilities, including telephone and electrical services, shall be placed underground. If the development is being reviewed by the Planning Board as either a site plan or subdivision, the applicant may request a waiver under the applicable waiver standards of either Section 800 Site Plan or Section 900 Subdivision.

J. Village Commercial District (VC)

1. Intent

The intent of the Village Commercial District is to serve as a primarily residential area with a mix of stores, services and commercial enterprises. Growth, at a village scale, is to be well planned in this area of town served by public water and sewer.

2. Permitted Uses

- Agriculture
- Artist Studio
- Assisted Living Facility
- Bank
- Bed & Breakfast Inn
- Boarding Home for Sheltered Care
- Building, Accessory
- Business & Professional Office
- Child Care Facility
- Child Care, Family Home
- 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.

D. Stream Protection District.

The Stream Protection District includes all land areas within one hundred (100) feet, horizontal distance, of the normal high-water line of a stream, exclusive of those areas within two-hundred and fifty (250) feet, horizontal distance, of the normal high-water line of a great pond, river or within two hundred-fifty (250) feet, horizontal distance, of the upland edge of a freshwater wetland, or as shown on the official Shoreland Zoning map. Where a stream and its associated shoreland area is located within two-hundred and fifty (250) feet, horizontal distance, of the above water bodies or wetlands, that land area shall be regulated under the terms of the shoreland district associated with that water body or wetland. (Amended 9/25/95. Effective 10/25/95.)

§199- 14. Table of Land Uses

All land use activities, as indicated in Table 1, Land Uses in the Shoreland Zone, shall conform with all of the applicable land use standards in Section 15. The district designation for a particular site shall be determined from the Official Shoreland Zoning Map.

Key to Table 1:

- YES- Allowed (no permit required but the use must comply with all applicable land use standards.)
- NO- Prohibited
- CEO- Allowed with permit issued by the Code Enforcement Officer
- LPI- Allowed with permit issued by the Local Plumbing Inspector
- PB- Allowed with permit issued by the Planning Board

Abbreviations:

- RP- Resource Protection
- LR- Limited Residential
- GD- General Development
- SP- Stream Protection

TABLE 1. LAND USES IN THE SHORELAND ZONE

<u>LAND USES</u>		<u>DISTRICTS</u>			
		SP	RP	LR	GD
1.	Non-intensive recreational uses not requiring structures such as hunting fishing and hiking	YES	YES	YES	YES
2.	Motorized vehicular traffic on existing roads and trails	YES	YES	YES	YES
3.					
4.					
5.	Clearing or removal of vegetation for activities other than timber harvesting	CEO	CEO ¹	YES	YES
6.	Fire prevention activities	YES	YES	YES	YES
7.	Wildlife management practices	YES	YES	YES	YES
8.	Soil and water conservation practices	YES	YES	YES	YES
9.	Mineral exploration	NO	YES ²	YES ²	YES ²
10.	Mineral extraction including sand and gravel extraction	NO	PB ³	PB	PB
11.	Surveying and resource analyses	YES	YES	YES	YES
12.	Emergency operations	YES	YES	YES	YES
13.	Agriculture	YES	PB	YES	YES
14.	Aquaculture	PB	PB	PB	YES
15.	Principal structures and uses				
	A. One and two family residential, including driveways	CEO	PB ⁹	CEO	CEO
	B. Multi-unit residential	NO	NO	PB	PB
	C. Commercial	NO	NO	PB	PB
	D. Industrial	NO	NO	NO	PB
	E. Governmental and Institutional	NO	NO	PB	PB ⁸
	F. Small non-residential facilities for educational, scientific, or nature interpretation purposes	PB ⁴	PB	CEO	CEO
16.	Structures accessory to allowed uses	CEO	CEO	CEO	CEO
17.	Permanent piers, docks, wharves, bridges and other structures and uses extending over or below the normal high-water line or within a wetland	PB	PB	PB	PB
18.	Conversions of seasonal residences to year-round residences	LPI	LPI	LPI	LPI
19.	Home occupations	CEO	CEO	CEO	CEO
20.	Private sewage disposal systems for allowed uses	LPI	LPI	LPI	LPI
21.	Essential services	PB ⁵	PB ⁵	PB	PB
	A. Roadside distribution lines (34.5k V and lower)	CEO ⁵	CEO ⁵	YES ¹¹	YES ¹¹
	B. Non-roadside or cross-country distribution lines involving ten poles or less in the shoreland zone.	CEO ⁵	CEO ⁵	CEO	CEO
	C. Non-roadside or cross-country distribution lines involving eleven or more poles in the shoreland zone.	PB ⁵	PB ⁵	PB	PB
22.	Service drops, as defined, to allowed uses	YES	YES	YES	YES
23.	Public and private recreational areas involving minimal structural development	PB	PB	PB	PB
24.	Individual, private campsites	CEO	CEO	CEO	CEO
25.	Campgrounds	NO	NO ⁶	PB	PB
26.	Road and driveway construction	CEO	PB ⁷	CEO	CEO
27.	Medical marijuana registered caregiver / Medical marijuana registered caregiver (home occupation)	NO	NO	NO	CEO
28	Other marijuana businesses	NO	NO	NO	NO
2829	Parking facilities	NO	PB	PB	PB

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3230	Signs	CEO	CEO	CEO	CEO
3331	Uses similar to allowed uses	CEO	CEO	CEO	CEO
3432	Uses similar to uses requiring a CEO permit	CEO	CEO	CEO	CEO
3533	Uses similar to uses requiring a PB permit	PB	PB	PB	PB
3634	Wireless Telecommunications Facilities 3/28/00	NO	NO	NO	PB

¹ In RP not allowed within 75 feet horizontal distance, of the normal high-water line of great ponds, except to remove safety hazards.

² Requires permit from the CEO if more than 100 square feet of surface area, in total, is disturbed.

³ In RP not permitted in areas so designated because of wildlife value.

⁴ Provided that a variance from the setback requirements is obtained from the Board of Appeals.

⁵ See further restrictions in Section 15 L.

⁶ Except when area is zoned for RP due to flood plain criteria in which case a permit is required from the PB

⁷ Except as provided in Section 199-15(H)(4).

⁸ Correction Facilities are a Special Exception in the General Development (GD) District requiring both Planning Board and Zoning Board of Appeals approval. Correction Facilities must meet the Performance Standards listed under Article V, § 140-31 of the Land Use Ordinance.

⁹ Single family residential structures may be allowed by special exception only according to the provisions of Section 16(G), Special Exceptions. Two-family residential structures prohibited.

¹⁰ Except for commercial uses otherwise listed in this Table, such as marinas and campgrounds, that are allowed in the respective district.

¹¹ Permit not required, but must file a written "notice of intent to construct" with CEO.

NOTE: A person performing any of the following activities shall require a permit from the Department of Environmental Protection, pursuant to 38 M.R.S.A., section 480-C, if the activity occurs in, on, over or adjacent to any freshwater wetland, great pond, river, stream or brook and operates in such a manner that material or soil may be washed into them:

- A. Dredging, bulldozing, removing or displacing soil, sand, vegetation or other materials;
- B. Draining or otherwise dewatering;
- C. Filling, including adding sand or other material to a sand dune; or
- D. Any construction or alteration of any permanent structure.

§199- 15. Land Use Standards:

All land use activities within the shoreland zone shall conform with the following provisions, if applicable. No development in excess of two thousand (2,000) square feet of floor space or twenty-five thousand (25,000) square feet of development, as defined in Section 199-17, shall commence until the Planning Board has reviewed and approved the plans. Subject to this section are nonresidential uses, public and semi-public buildings and multi-family units, whether or not such development includes a subdivision or re-subdivision of a site. Excepted from this section are the construction of residential single or two-family dwellings or accessory buildings thereto or agricultural uses. All applications for site plan approval shall be accompanied by a fee payable by check to the Town of Windham. (Please refer to §140-38 of the Land Use Ordinance as amended 10/24/89 for standards.)

A. Minimum Lot Standards

Adult use marijuana store: A facility licensed under 28-B MRS Chapter 1 to purchase adult use marijuana, immature marijuana plants and seedlings from a cultivation facility, to purchase adult use marijuana and adult use marijuana products from a manufacturing facility and to sell adult use marijuana, adult use marijuana products, immature marijuana plants and seedlings to consumers.

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Aggrieved party: an owner of land whose property is directly or indirectly affected by the granting or denial of a permit or variance under this Ordinance; a person whose land abuts land for which a permit or variance has been granted; or any other person or group of persons who have suffered particularized injury as a result of the granting or denial of such permit or variance.

Agriculture: the production, storage, keeping, harvesting, grading, packaging, processing, boarding or maintenance, for sale, lease, or personal use, of plants and animals useful to humans, including but not limited to: forages and sod crops; grains and seed crops; dairy animals and dairy products; poultry and poultry products; livestock, including beef cattle, sheep, swine, horse, ponies, mules, or goats or any mutations or hybrids thereof, including the breeding and grazing of any or all of such animals; bees and apiary products; fur animals; trees and forest berries; fruits and vegetables; nursery, floral, ornamental and green house products. Agriculture does not include forestry or gardens, as defined in this Chapter. Please refer to §199-15 (V).

Antenna: a device for radiating or receiving radio or television signals and which is situated on a permanent foundation.

Applicant: the individual who completes the initial permit forms and accepts responsibility for compliance with pertinent rules, regulations and restrictions. The applicant may or may not be the owner. If the applicant is not the owner, he/she must have written permission to act on the owner's behalf. Refer to 199-16(B)(2).

Aquaculture: the growing or propagation of harvestable freshwater, estuarine, or marine plant or animal species.

Backlots: A lot that does not have its required minimum frontage on a public road, a town road or a private road, and is accessed over a private right-of-way having a minimum width of fifty (50) feet, whenever possible, except for a backlot that is created for a single-family dwelling, which shall be regulated by the criteria listed in items A-F below. Facilities for the reception of CATV signals, wireless telecommunications facilities as defined in this section and water storage and distribution facilities shall be allowed on a backlot upon receiving all required permits, review and approval from the Town of Windham. Back lot use for any single-family dwelling shall be permitted, provided that: **(Amended 11/26/02) (Effective 12/26/02)**

- A. Each backlot shall be at least the minimum lot size for the zoning district in which the backlot is located. Only one (1) dwelling unit may be erected on a backlot.

Great Pond classified GPA: any great pond classified GPA, pursuant to Title 38 M.R.S.A. Article 4-A §465-A. This classification includes some, but not all impoundments of rivers that are defined as great ponds.

Ground Cover: small plants, fallen leaves, needles and twigs, and the partially decayed organic Matter of the forest floor.

Hazard tree: a tree with a structural defect, combination of defects, or disease resulting in a structural defect that under the normal range of environmental conditions at the site exhibits a high probability of failure and loss of a major structural component of the tree in a manner that will strike a target. A normal range of environmental conditions does not include meteorological anomalies, such as, but not limited to: hurricanes; hurricane-force winds; tornados; microbursts; or significant ice storm events. Hazard trees also include those trees that pose a serious and imminent risk to bank stability. A target is the area where personal injury or property damage could occur if the tree or a portion of the tree fails. Targets include roads, driveways, parking areas, structures, campsites, and any other developed area where people frequently gather and linger.

Hazardous Material: Hazardous material includes the following:

- .01 Highly combustible or explosive products or materials that are likely to burn with extreme rapidity or that may produce poisonous fumes or explosions;
- .02 Highly corrosive, toxic, or noxious alkalis, acids, or other liquids or chemicals producing flame, fume, or poisonous, irritant, or corrosive gases;
- .03 Materials producing explosive mixtures of dust or that result in the division of matter into fine particles subject to spontaneous ignition.
- .04 Any substance that is a present or potential danger to people or to the natural environment when deposited on land or discharged on or into water or ambient air.

Height of a structure: the vertical distance between the mean original (prior to construction) grade at the downhill side of the structure and the highest point of the structure, excluding chimneys, steeples, antennas, and similar appurtenances that have no floor area.

Historic or Archaeological Resources: Areas identified by a government agency such as the Maine Historic Preservation Commission as having significant value as a historic or archaeological resource or any areas identified in the municipality's Comprehensive Plan.

Home occupation: an occupation or profession which is customarily conducted on or in a residential structure or property and which is:

1. Clearly incidental to and compatible with the residential use of the property and surrounding residential uses; and

2. Which employs no more than two (2) persons other than family members residing in the home. The following are examples of permitted uses under this definition:
 - a. Office of teacher or musician.
 - b. Office of real estate broker, salesman, insurance agent.
 - c. Dressmaking.
 - d. Beauty shop
 - e. Day care home which cares for 12 or less children.
 - f. Woodworking
 - g. Arts and crafts studio or shop
 - h. Small engine repair excluding motorized vehicles such as mopeds, motorcycles, ATV's, snowmobiles
 - i. Saw sharpening.
 - j. [Medical Marijuana Register Caregiver \(Home Occupation\) that comply with the standards Section 535 of the Land Use Ordinance.](#)

The following uses are specifically prohibited as a home occupation:

- a. Auto body repair
- b. Auto repair
- c. Welding or any other similar activity that is noise oriented or is objectionable
- d. Slaughter house or smoke house.

The term "commercial structure," as used in this chapter, shall not include a single-family residential dwelling or accessory structure in which a home occupation or enterprise is carried on by a person residing in the dwelling unit, provided that such home occupation or enterprise is incidental and secondary to the use of the dwelling unit for residential purposes; such home occupation conforms to the requirements of section 15 of this chapter.

Increase in nonconformity of a structure: any change in a structure or property which causes further deviation from the dimensional standard(s) creating the nonconformity such as, but not limited to, reduction in water body, tributary stream or wetland setback distance, increase in lot coverage, or increase in height of a structure. Property changes or structure expansions which either meet the dimensional standard or which cause no further increase in the linear extent of nonconformance of the existing structure shall not be considered to increase nonconformity. For example, there is no increase in nonconformity with the setback requirement for water bodies, wetlands, or tributary streams if the expansion extends no further into the required setback area than does any portion of the existing nonconforming structure. Hence, a structure may be expanded laterally provided that the expansion extends no closer to the water body, tributary stream, or wetland than the closest portion of the existing structure from that water body, tributary stream, or wetland. Included in this allowance are expansions which in-fill irregularly shaped structures.

Individual private campsite: an area of land which is not associated with a campground, but which is developed for repeated camping by only one group not to exceed ten (10)

Institutional: a non-profit or quasi-public use, or institution such as a church, library, public or private school, hospital, or municipality owned or operated building, structure or land used for public purposes.

Lot area: the area of land enclosed within the boundary lines of a lot, minus land below the normal high-water line of a water body or upland edge of a wetland and areas beneath roads serving more than two lots.

Marijuana: The leaves, stems, flowers and seeds of a marijuana plant, whether growing or not. "Marijuana" includes marijuana concentrate but does not include industrial hemp as defined in 7 M.R.S. § 2231, subsection 1 or a marijuana product.

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Marijuana Businesses: Includes Adult Use Marijuana Store, Marijuana Testing Facility, Marijuana Manufacturing Facility, Medical Marijuana Registered Caregivers, Medical Marijuana Caregiver Retail Store, and Medical Marijuana Registered Caregiver (Home Occupation).

Marijuana Cultivation Facility: A facility used to purchase marijuana plants and seeds from other cultivation facilities; to cultivate, prepare and package adult use marijuana; to sell marijuana to products manufacturing facilities, stores and to other cultivation facilities; and to sell marijuana plants and seeds to other cultivation facilities and immature marijuana plants and seedlings to marijuana stores

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Marijuana Manufacturing Facility: (1) a registered tier 1 or tier 2 manufacturing facility, as designated by state law, or a person authorized to engage in marijuana extraction under 22 MRS §2423- F; or (2) a facility licensed under M.R.S. 28-B, Subchapter 2 to purchase marijuana from a cultivation facility or another products manufacturing facility; to manufacture, label and package marijuana and marijuana products; and to sell marijuana and marijuana products to marijuana stores and to other products manufacturing facilities.

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Marijuana Testing Facility: A public or private laboratory that is authorized and accredited in accordance with state law for the research and analysis of marijuana, marijuana products or other substances for contaminants, safety or potency.

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Marina: a business establishment having frontage on navigable water and, as its principal use, providing for hire offshore moorings or docking facilities for water craft, and which may also provide accessory services such as water craft and related sales, water craft repair and construction, indoor and outdoor storage of water craft and marine equipment, bait and tackle shops and marine fuel service facilities.

Market value: the estimated price a property will bring in the open market and under prevailing market conditions in a sale between a willing seller and a willing buyer, both conversant with the property and with prevailing general price levels.

Medical Marijuana Caregiver Retail Store: A store that has attributes generally associated with retail stores, including, but not limited to, a fixed location, a sign, regular business hours, accessibility to the public and sales of goods or services directly to a consumer, and that is used by a registered caregiver to offer marijuana plants or harvested marijuana for sale to qualifying patients.

Medical Marijuana Registered Caregiver: A person or an assistant of that person that provides care for a qualifying patient in accordance with state law and licensing and is registered with the state in accordance with state law.

Medical Marijuana Registered Caregiver (Home Occupation): A person or an assistant of that person that provides care for a qualifying patient in accordance with state law and licensing and is registered with the state in accordance with state law and in accordance with the Home Occupation standards of this ordinance. This use shall be delivery-only, with no visits to the Caregiver's home by patients.

Mineral exploration: hand sampling, test boring, or other methods of determining the nature or extent of mineral resources which create minimal disturbance to the land and which include reasonable measures to restore the land to its original condition.

Mineral extraction: any operation within any twelve (12) month period which removes more than one hundred (100) cubic yards of soil, topsoil, loam, sand, gravel, clay, rock, peat, or other like material from its natural location and transportation of the product removed, away from the extraction site.

Minimum lot width: the closest distance between the side lot lines of a lot. When only two lot lines extend into the shoreland zone, both lot lines shall be considered to be side lot lines.

Multi-unit residential: a residential structure containing two (2) or more residential dwelling units.

Native: indigenous to the local forests.