

# **Zoning Regulations**

## **Town of Windham, Connecticut**

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**THESE REGULATIONS REPLACE ALL REGULATIONS  
PREVIOUSLY ADOPTED AND AMENDED BY**

**THE TOWN OF WINDHAM  
PLANNING & ZONING COMMISSION**

As revised effective July 16, 2014  
\*updated July 1, 2015

**For more information, please contact the  
Planning Department at 860-465-3041**

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**DATE í í í í ..SECTION**

JANUARY 1, 1986	21.7, 22.7, 31.9, 34.7, 34.9, 35.8, 41.7, 41.9, 42.3.3, 43.9.5, 45.8
FEBRUARY 11, 1986	61.4, 62.2, 62.3, 62.4, 75.3, 75.4, 76.2, 77.5.1
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JUNE 10, 1996	27.2.2, 27.2.3, 27.3, 27.3.1b, 27.3.2, 27.3.7, 27.4, 27.4.2, 27.4.6, 27.5, 27.6, 27.7, 27.8, 27.10, 62.0, 62.6.7, 62.6.8, 74.11, 80.2, 80.3, 80.3.2, 80.3.3, 80.3.4, 80.3.5, 80.3.6, 80.4, 80.4.1, 80.4.2, 80.6, 80.7, 80.8, 81 (delete), 92
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MAY 17, 1998	75 (COMPLETE REVISION OF SECTION)
DECEMBER 11, 1998	52.4, 52.5.1, 52.5.10c, 52.8.1
MARCH 31, 1999	2.2
NOVEMBER 18, 1999	35.2.7, 35.7

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JULY 1, 2000	72.3.5, 72.4.1
NOVEMBER 1, 2000	4.2, 62.6.5
NOVEMBER 29, 2001	51.3.4, ADDED NEW SECTION 55 ARTSPACE PDD
MARCH 1, 2002	73.1, 73.1.1, 73.1.2, 73.1.3, 73.1.4, 73.2, 73.2.1, 73.2.2, 73.2.3, 73.2.4, 73.2.5, 73.2.6, 73.2.7, 73.2.8, 73.2.9, 93.2.10, 73.3 (NEW)
MARCH 21, 2002	34.2.7
MAY 16, 2002	32.4.2, 32.3.4
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APRIL 17, 2003	62.5, 62.5.1, 62.5.2
DECEMBER 16, 2004	31.0, 31.2.4, 31.3.1, 31.4.4
MAY 19, 2005	62.2.4, 62.4, 62.5.8, 62.5.10,
SEPTEMBER 15, 2005	31.8, DELETED CERTAIN PROVISIONS IN SIGN REGULATIONS OF SECTION 72
JUNE 22, 2006	REVISE SECTION REAR LOT PROVISIONS IN SECTION 78.3.1
DECEMBER 13, 2006	REVISE SECTION 72 ON SIGNS
JUNE 21, 2007	ADDED NEW SECTION 56 CEDAR WOODS PLANNED DEVELOPMENT DISTRICT
SEPTEMBER 2007	ADDED NEW SECTION 57 FROG BRIDGE PLANNED DEVELOPMENT DISTRICT
JUNE 5, 2008	ADDED NEW PROVISIONS ON ENFORCEMENT BY DENIAL TO SECTIONS 61, AND 62
AUGUST 13, 2008	REVISED DEFINITIONS OF FAMILY, AND ROOMING HOUSE
AUGUST 5, 2009	REVISED M-3 DISTRICT
JUNE 10, 2009	REVISED SECTIONS 3.3.6 GENERAL PROVISIONS ON BUILDABLE ENVELOPE, & PROVISIONS ON THE DIVISION OF PROPERTY REQUIRING A PLOT PLAN; 3.3.7 EXCEPTIONS TO FRONTAGE REQUIREMENTS ON A CURVE, AND 3.9.1 ON TEMPORARY EMERGENCY TRAILER/MOBILE HOME; SECTION 4 DEFINITIONS; SECTION 21.2.2 ALLOWING IN-LAW DWELLINGS BY SPECIAL EXCEPTION THROUGH ZBA.; SECTIONS 21.3, 22.3, 23.3 LOT AREA, SHAPE AND FRONTAGE BY INCREASING MINIMUM LOT AREA TO 2 ACRES WITH 200 FEET OF FRONTAGE UNLESS LOT HAS OFF-SITE SANITARY FACILITIES; 21.4 INCREASING SETBACKS FOR NEW LOTS; ADDING 21.4.4 SETBACKS FOR EXISTING LOTS; 21.6 LOT COVERAGE INCLUDE MAXIMUM IMPERVIOUS SURFACES; ADDING NEW SECTION 28 ON FLEXIBLE DESIGN SUBDIVISIONS; DELETE PART OF SECTION 62.4 ON SPECIAL PERMIT FOR CLUSTERED DEVELOPMENTS AND 62.6.7 CLUSTERED DEVELOPMENT; AND REVISING SECTION 78 REAR LOT DEVELOPMENT.
FEBRUARY 17, 2011	ADOPTED NEW SECTION 36 HEALTH CARE DISTRICT 6 B-4, ALONG WITH DEFINITION OF SERVICE AREA
JUNE 23, 2011	REVISED SECTIONS 61.4, 62.4, 76.4 DELETED REFERENCE AND REFERRAL TO PLANNING COMMISSION; 3.1, 3.2.1 CHANGED VARIOUS GENERAL PROVISIONS RELATING TO CERTIFICATES OF ZONING COMPLIANCE FROM "APPLICATION" TO "REQUEST" ALL OF SECTION 3.10 ON NON-CONFORMITIES TO COMPLY MORE CLOSELY WITH STATE LAW; REVISED SEC. 52 ON SPECIAL FLOOD HAZARD AREA TO CLARIFY PROCEDURES FOR FILLING WITHIN FLOOD ZONE; REVISED 3.16 REFERENCE TO STATE EROSION & SEDIMENT CONTROL PROVISIONS, AND DELETED OUTDATED PROVISIONS IN SECTION 77 IN THEIR ENTIRETY; REVISED SECTION 80 ON HOME OCCUPATIONS TO EXPAND ZONING ADMINISTRATORS AUTHORITY TO APPROVE AND SET CONDITIONS FOR USE, AND TO EXPAND RANGE OF OPPORTUNITIES FOR RESIDENTS TO QUALIFY; ADDED SECTION 91.10 OUTLINING VIOLATION OF APPROVAL PROCEDURES; DELETED SECTION 92.5 ON REFERRAL TO ZONING BOARD OF APPEALS FOR ISSUANCE OF CERTIFICATES OF

LOCATION OF SALE OR REPAIR OF MOTOR VEHICLES, AND GASOLINE STATIONS OR SALE OF BULK OIL, AS STATE LAW CHANGED THE REVIEW AUTHORITY TO THE PLANNING & ZONING COMMISSION. ALSO REVISED SECTION 74 ON PERFORMANCE STANDARDS AND SECTION 71 ON OFF STREET PARKING AND LOADING IN THEIR ENTIRETY;

JULY 11, 2011 REVISED SECTION 31 ON THE DOWNTOWN BUSINESS DISTRICT; ADDED A NEW SECTION GENERAL DOWNTOWN BUSINESS DISTRICT B-1A, AND REVISED SECTION 73 ON ALCOHOLIC BEVERAGES IN B-1 AND B-1A DISTRICTS TO EXPAND OPPORTUNITIES FOR BUSINESSES SERVING ALCOHOL, AND THE ZONING ADMINISTRATOR'S AUTHORITY TO APPROVE AND SET CONDITIONS.

JULY 28, 2011 ESTABLISHED NEW SECTION 39 NORTH WINDHAM RETAIL-EAST C-4

APRIL 26, 2012 REVISED SECTION 73 ON ALCOHOLIC

SEPTEMBER 27, 2012 REVISED SECTION 39, SECTION 61 & SITE PLAN, SECTION 62 SPECIAL PERMITS ; RELOCATED SPECIAL USES FROM 62.6 TO SECTION 84 (NEW), AND MODIFIED RELATED REFERENCES IN 25.3.3 AND 34.2.9d

OCTOBER 25, 2012 REVISED SECTIONS SECTION 32 & 35 COMPLETE REVISION; AND ADDED NEW SECTIONS 32 A & 35A, AND VARIOUS ZONING MAP REVISIONS; ALSO ADDED NEW SECTION 58 & WINDHAM MILLS PLANNED DEVELOPMENT DISTRICT

AUGUST 22, 2013 COMPLETE REVISION OF SECTION 72 SIGNAGE, AND ADOPTION OF SECTION 77 LIGHTING REGULATIONS, AND SECTION 30 INCENTIVE HOUSING OVERLAY ZONES (EFFECTIVE SEPT. 12, 2013

JUNE 26, 2014 COMPLETE REVISION OF MANUFACTURING DISTRICTS, SECTIONS 41, 42, 43, & 44; ALSO REVISIONS TO DEFINITIONS TO ADD 'ROAD' TO DEFINITION OF 'ABUTTING'; ALSO REVISED RESERVED LAND DISTRICT TO CHANGE 'EDUCATIONAL USE', TO MUNICIPAL USE' - ALL CHANGES TO TAKE EFFECT JULY 16, 2014.

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Update July 1, 2015 A change in the Town Charter affecting the Planning & Zoning Commission resulted in a change in composition of the Commission resulting in fewer members. Now, the Commission is comprised of five full members, and three alternate members

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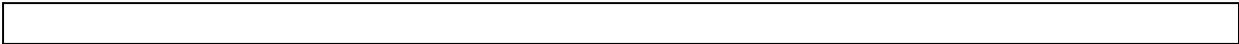
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**ARTICLE I**

**Section 1 - Title and Jurisdiction**

- 1.1 **TITLE:** These Regulations shall be known and may be cited as the "Zoning Regulations of the Town of Windham, Connecticut."
- 1.2 **JURISDICTION:** Within the Town of Windham, no land, building or other structure shall be used and no building or other structure shall be constructed, reconstructed, enlarged, extended, moved or structurally altered except in conformity with these Regulations.

## Section 2 - Districts

2.1 DISTRICTS: For the purpose of these Regulations, the Town of Windham is hereby divided into the following classes of Districts:

DISTRICT	ZONING MAP CODE
RESIDENCE R-1 DISTRICT	R-1
RESIDENCE R-2 DISTRICT	R-2
RESIDENCE R-3 DISTRICT	R-3
RESIDENCE R-4 DISTRICT	R-4
RESIDENCE R-5 DISTRICT	R-5
RESIDENCE R-6 DISTRICT	R-6
RESIDENCE NPR-1 DISTRICT	NPR-1
RESIDENCE NPR-2 DISTRICT	NPR-2
DOWNTOWN BUSINESS DISTRICT	B-1
GENERAL DOWNTOWN BUSINESS DISTRICT	B-1A
GENERAL BUSINESS DISTRICT	B-2
GENERAL BUSINESS DISTRICT	B-2A
BUSINESS DISTRICT	B-3
HEALTH CARE DISTRICT	B-4
GENERAL COMMERCIAL DISTRICT	C-1
COMMERCIAL DISTRICT	C-2
COMMERCIAL DISTRICT	C-2A
INCENTIVE HOUSING OVERLAY ZONES	IHZ A-D
• THREE PROPERTIES IN HISTORIC DOWNTOWN	IHZ A
• RIPE FOR REDEVELOPMENT	IHZ B
• RIGHT ON THE RIVER	IHZ C
• NEED FOR NEIGHBORHOOD INFILL	IHZ D
NORTH WINDHAM RETAIL-EAST	C-4
GENERAL COMMERCIAL/INDUSTRIAL DISTRICT	M-1
INDUSTRIAL DISTRICT	M-2
INDUSTRIAL DISTRICT	M-3
INDUSTRIAL DISTRICT	M-4
PLANNED DEVELOPMENT DISTRICTS	PDD
• ART-SPACE-WINDHAM - PDD	
• CEDARWOODS - PDD	
• FROG BRIDGE - PDD	
• WINDHAM MILLS - PDD	
SPECIAL FLOOD HAZARD AREA	SFH
RESERVED LAND DISTRICT	RL
AQUIFER PROTECTION ZONE	APZ

2.2 ZONING MAP: The boundaries of these districts are hereby established as shown on a map entitled "Zoning Map of the Town of Windham, Connecticut" dated July 16, 2014, including any supplementary maps, boundary descriptions and subsequent amendments thereto, which map is hereby declared to be a part of these Regulations and is hereinafter referred to as "Zoning Map".

- 2.2.1 Interpretation of Map: Where a question arises as to exact boundaries of a district, the boundary shall be determined by the Planning & Zoning Commission upon due notice and public hearing as required for adoption of these Regulations.
- 2.2.2 Extension of Use: Where the boundary of a district divides a lot, the existence of which lot is evidenced by deed or deeds recorded in the land records of the Town of Windham on the date for which zoning regulations first applied to the parcel in question, the Board of Appeals may grant a Special Exception as specified under Section 92 to authorize a use of land, buildings and other structures permitted in one district to be extended into the other district or districts for a distance of not more than fifty (50) feet in Willimantic or 100 feet in Windham. The Board of Appeals may grant such Special Exception subject to conditions and necessary to protect the public health, safety, convenience and property values. (*amended 06/10/96*)

## Section 3 - General Provisions

3.1 CERTIFICATE OF ZONING COMPLIANCE: No building or other structure, or part thereof, shall be constructed, reconstructed, enlarged, moved or structurally altered until a request for a Certificate of Zoning Compliance has been approved by the Zoning Enforcement Officer. No land, building or other structure, or part thereof, shall be used or occupied, or changed in use, until a Certificate of Zoning Compliance therefore has been issued by the Zoning Enforcement Officer certifying conformity with these Regulations. No Certificate of Zoning Compliance, however, is required for a nursery, truck garden or farm when no building or other structure is proposed. *(amended 06/10/96 and 6/23/11)*

3.2 APPROVED CERTIFICATE OF ZONING COMPLIANCE: Unless otherwise specifically provided in these Regulations, nothing in these Regulations shall require any change in the designated use of any land, buildings or other structures, or part thereof, for which a Certificate of Zoning Compliance shall have been issued by the Zoning Enforcement Officer pursuant to law. Nothing in these Regulations shall require any change in the plans, construction or designated use of any buildings or other structures, or part thereof, for which a request for a Certificate of Zoning Compliance shall have been approved by the Zoning Enforcement Officer pursuant to law and any required building permit shall have been issued by the Building Inspector, the construction of which shall be lawfully in progress on the effective date of these Regulations or any amendment thereto, provided that construction shall be promptly and diligently prosecuted.

3.2.1 Time Limit: An approved request for a Certificate of Zoning Compliance that authorizes plans, construction or a designated use which does not conform to any amendment of these Regulations, made effective subsequent to the request, shall remain in effect provided the construction or use authorized shall have commenced, substantially, within three years of the approval and provided further that the authorized activity has been established, as indicated by the issuance of a Certificate of Zoning Compliance.

Upon written request to the Commission or Board that granted the original request of the holder of an approved application, the Commission/Board may grant an extension, as appropriate, consistent with the needs of the plans, construction or designated use authorized provided all activities undertaken to date, if any, shall have been consistent with the activities authorized.

All Special Exceptions, Special Permits and variances shall remain in effect provided all conditions attached to the Special Exception/ Special Permit are maintained including any required schedule of construction. All Special Exceptions/Special Permits and variances shall become void if substantial construction has not commenced within one year of approval or the approved schedule of construction is not maintained unless an extension has been granted by the Commission/Board. However, if an approved site plan has been filed in the land records of the Town, then the plan shall be subject to statutory provision for construction, completion of the work, automatic expiration of the approved plan, and the provisions allowing the Commission/Board to grant extensions.

3.2.2 Certificate of Occupancy: The provisions of Paragraph 3.2 and 3.2.1 shall apply to applications for Certificates of Occupancy approved, to building permits and to Certificates of Occupancy issued under *(continued next page)*

(Section 3.2.2 continued)... the Zoning Regulations in effect prior to these Regulations.

3.3 CHANGE IN LAND: No lot or land shall be subdivided, sold, encumbered or transferred so as to make a lot non-conforming or more non-conforming, to make any use, building or other structure non-conforming or more non-conforming, to reduce any setback, yard, court, open space or off-street parking and loading spaces to less than is required by these Regulations or to make any non-conforming setback, yard, court, open space or off-street parking and loading spaces more non-conforming.

3.3.1 Lot Area and Shape: In determining compliance with minimum lot area and shape requirements of these Regulations, land subject to easements for drainage facilities and underground utilities may be included, but no street or highway, easement of vehicular access, private right-of-way for vehicles or easement for above ground utilities may be included. Area consisting of ponds, lakes, rivers or marsh shall not be used for compliance with more than twenty-five (25) percent of the minimum lot area requirement. Land in a Zoning District having a higher lot area requirement shall not be used to satisfy a lot area requirement in a Zoning District having a lesser lot area requirement; land in a Residence District shall not be used to satisfy a lot area requirement in any other District. At no point shall the width of a lot diminish to less than seventy-five (75) percent of the minimum required frontage and in no case to less than twenty-five (25) feet. *(added 06/10/96)*

3.3.2 Non-Standard Lot The Zoning Board of Appeals may grant approval of minor deviations to the standard lot requirements for the creation of a non-standard lot by Special Exception under the provisions specified in Section 92 provided, however, that the non-standard lot shall not be more than twenty-five (25) percent smaller than the standard lot requirements for the district. Any request for a deviation beyond this limit shall require application for a variance necessitating proof of some unique hardship. Only one non-standard lot may be approved during a period of twenty-four (24) months from the division of the original tract or parcel from which the non-standard lot is created. Such lot may also require approval by the Planning & Zoning Commission. *(added 06/10/96)*

3.3.3 Exceptions to setback requirements:

a. Retaining Walls, Fences and Terraces: The provisions on setbacks in these Regulations shall not be construed to apply to retaining walls, steps or to land-formed terraces (excluding decks or porches); nor shall they apply to fences along property lines, provided they do not interfere with traffic visibility. Such fences shall be subject to certain height limits as follows: In residential districts, fences are limited to six (6) feet in height above natural grade for side or rear yards, and four feet in height for front yards. In Commercial and Industrial Districts, fences are limited to nine (9) feet in height above grade. The Zoning Board of Appeals is authorized to approve a taller fence; in accordance with the procedures and criteria for Special Exceptions under Section 92 provided the increased height does not exceed the standard height by fifty (50) percent.

b. Railroad: In Commercial or Industrial Districts, no setback is required from a railroad right-of-way on the side of a building or structure where a railroad siding is located. *(continued next page)*

*(Section 3.3.3 continued)...*

- c. Hedges: Hedges or other vegetation, which is planted along a property line, should be appropriately placed so as not to encroach on a neighboring property, street or sidewalk when mature. At a minimum, shrubs should be planted at least two feet from the property line, and trees five feet. *(added 06/10/96)*
- 3.3.4 Vision Clearance at Corners: At street intersections, nothing shall be placed, erected, or maintained in such a manner as to impede vision between the heights of three feet above the highest elevation of the street directly abutting the property and within a triangle formed by the intersecting street lines five feet (in Willimantic) and fifteen (15) feet (in Windham), and a third line joining the points on the street lines from the intersection. *(added 06/10/96)*
- 3.3.5 Buildable Square: Each lot proposed for development shall have a buildable square as defined in these Regulations which provides a minimum dimensional equal to eighty (80) percent of the frontage specified for lots in the district at the front building setback line. *(added 06/10/96)*
- 3.3.6 Buildable Envelope *(effective 10/1/09)* In order to facilitate lot development and lessen the risk of post-development problems, such as septic system failures, poor drainage, and erosion, each lot must contain a minimum amount of contiguous buildable envelope as defined in Section 4 of these Regulations. The required amount of buildable land for a lot not served by public water/sewer shall be a minimum of 25,000 square feet; 20,000 square feet for a lot in a Flexible Design Subdivision.
  - a) The principal buildings and septic system shall be located entirely within the buildable envelope. Any well serving such principal buildings need not be located within the buildable envelope.
  - b) Any proposed building lot for which a subdivision or re-subdivision Application is required under the Subdivision Regulations for the Town of Windham will include a Buildable Envelope which complies with this Section. The Windham Planning & Zoning Commission will determine compliance with the buildable envelope requirement for subdivision lots.
  - c) Any division of land for building purposes, which does not require approval under the Subdivision Regulations for the Town of Windham, shall meet the buildable envelope requirements of this Section.
  - d) Prior to the division of property, a Plot Plan meeting the requirements of District shall be submitted to the Town Planner/Zoning Administrator for review and certification, which demonstrates that the minimum buildable envelope has been satisfied for both the proposed new lot and the original lot. No lot will be transferred by deed, and no building permit will be issued for the lot until the Town has issued the certification of compliance with all of the applicable lot requirements.
- 3.3.7 Exception to frontage requirement: Where the lot abuts a curved portion of a street, or cul-de-sac, a deviation from the minimum frontage requirement to a dimension of not less than 75% of the stated requirement may be permitted when the minimum width of the lot is provided at the front yard setback line. *(effective 10/1/09)*

- 3.4 OFF-STREET PARKING AND LOADING: Off-street parking and loading spaces shall be provided off the street for any use of land, buildings and other structures in accordance with Section 71 of these Regulations.
- 3.5 SIGNS: All signs shall be established in accordance with the requirements of Section 72 of these Regulations.
- 3.6 ALCOHOLIC BEVERAGES: The sale of alcoholic beverages shall conform to the requirements of Section 73 of these Regulations.
- 3.7 PERFORMANCE STANDARDS: The use of land, buildings and other structures, wherever located, shall be established and conducted so as to conform to the performance standards specified in Section 74 of these Regulations.
- 3.8 ACCESS: No existing lot shall be used or occupied for a building or other structure, except a farm building not used for human occupancy, unless such lot has a frontage of twenty (20) feet or more on a street.
- 3.9 TRAILERS: No trailer, mobile home, camper, camp-car or other vehicle designed to be moved shall be used as a dwelling for more than twenty-four (24) hours in any calendar year except as follows (*amended 06/10/96*):
- 3.9.1 Temporary Emergency Trailer/Mobile/Manufactured Home for Damaged/Destroyed Residence: The Zoning Enforcement Officer may issue approval of a temporary Certificate of Zoning Compliance for the temporary use of a trailer or mobile home in the case of fire, collapse, explosion or freak effect of nature and building or renovation to allow a person who's building or rehabilitating a home involving the applicant's place of residence or business to have a single section mobile/ manufactured home on site and occupied by the owner while ongoing work is being performed by the building owner. Such Certificate shall be valid for up to twelve (12) months or one year, but may be renewed for an additional twelve (12) months or one year upon application to the Zoning Enforcement Officer. Approval from the Building Official and Sanitarian must be obtained prior to occupancy. (*effective 10/1/09*)
- 3.9.2 Construction Field Office: The Zoning Enforcement Officer may issue a temporary Certificate of Zoning Compliance for the use of a trailer as a construction field office accessory to a bona fide construction operation, but such use shall not extend to a real estate or sales office connected with the sale of land and/or buildings, or other merchandise. Such construction trailer shall be removed after the construction is completed.
- 3.9.3 Industrial Custodian Accommodation: The Zoning Board of Appeals is authorized to grant a Special Exception for the use of a trailer or mobile home/manufactured home as an accommodation for a watchman or caretaker in connection with a permitted use in a Commercial or Industrial District. Such accommodation shall be screened from public view from the street and shall have sanitary facilities and potable water, but shall not serve as a residence for a family.
- 3.9.4 Mobile/Manufactured Homes: As allowed by State law.
- 3.9.5 The Zoning Board of Appeals may grant a Special Exception in accordance with Section 92 for the placement of a single section mobile/manufactured home on a rear lot, or an accessory/in-law dwelling, provided it is placed in a manner which is screened from public view, and is not objectionable to the neighborhood.

3.10 CONTINUANCE OF NON-CONFORMITIES: Notwithstanding any other provision in these Regulations, and subject to the provisions of this Section, any non-conforming use, building, structure or lot, as these terms are defined in Section 4, may be continued. In accordance with the Connecticut General Statutes Chapter 124 Section 8-2, the zoning regulations shall not prohibit the continuance of any nonconforming use, building or structure existing at the time of the adoption of such regulations. Further, such regulations shall not provide for the termination of any nonconforming use solely as a result of nonuse for a specified period of time without regard to the intent of the property owner to maintain that use. *(revised 6/23/11)*

3.10.1 Purpose: The following provisions contain guidelines and standards designed to regulate land parcels, uses, structures, and buildings, which exist on the date that zoning regulations are adopted or amended but for which these properties do not conform with these regulations. These provisions come after a long study by the Commission and its staff of the relationship between non-conformities and their effects on their surrounding areas and/or communities they serve, on the hindrances to the property owners by virtue of their non-conformities, and their relationship to the zoning scheme for the Town of Windham.

The Zoning Enforcement Officer shall have the authority to approve a modification if it serves to bring the property into greater conformity with the spirit of these regulations and will provide greater protection to the general public to promote the health, public safety, welfare, or improve the property values for the surrounding neighborhood. *(added 6/23/11)*

The Commission has determined that the Special Exception or Special Permit process, which embodies specific standards and applied by the Town's land use agencies, non-conforming uses, buildings, structures and lands can be allowed to expand under a regulated fashion in order to promote their benefits to the community, commercial interests, and to protect the health, safety and welfare of the Town of Windham.

While the Commission recognizes that these non-conformities may, or do, serve a benefit to the community where they are located, they are generally not appropriate for the districts in which they are located. Further, once these non-conformities are abandoned, terminated, changed or otherwise brought into conformity, they should not be re-established except in conformity with these Regulations. For these latter reasons, the uses are not added to the list of permitted uses.

3.10.2 Non-Conforming Uses: Except as provided in this Section 3.10, no non-conforming use shall be enlarged or expanded to occupy or include any land, building, structure, or portion thereof not subject to such non-conformity, nor shall such use be changed or altered, and no structure or part thereof that is devoted to a non-conforming use shall be enlarged, extended, constructed or structurally altered.

3.10.3 Changing a Use: A non-conforming use may be changed to a use permitted in the zoning district where the non-conforming use is located, subject to the applicable provisions regulating such permitted use.

3.10.4 Revision of Use, or Change Back: No non-conforming use, once changed to conform with the Regulations, shall thereafter be changed to a non-conforming use. No non-conforming use, once changed to conform more nearly with these Regulations, shall be changed to be less conforming.

- 3.10.5 Movement of a Use: No non-conforming use shall be moved to another part of a lot, building or structure, and no non-conforming use of a structure shall be moved to any part of the structure which was not manifestly arranged and designed for such use at the time the use first became non-conforming. No structure containing a non-conforming use shall be moved, unless the movement will result in the termination of the non-conforming use or it serves to bring the property into greater conformity with the spirit of these regulations and will provide greater protection to the general public to promote the health, public safety, welfare, or improve the property values for the surrounding neighborhood. The Zoning Enforcement Officer shall have the authority to approve such modification.
- 3.10.6 Repair: Nothing herein shall be deemed to prohibit the ordinary repair and maintenance of a non-conforming building or structure, or replacement of existing materials with similar materials.
- 3.10.7 Extension by Permit: The Zoning Board of Appeals may allow a property owner by permit to extend or enlarge (not to change or alter) a non-conforming use. The permit issued by the Zoning Board of Appeals shall be a Special Exception to these Regulations, and the procedure for obtaining the permit, and the standards applicable to the review and action by the Zoning Board of Appeals, shall be governed by Section 92. In addition to applying the provisions and standards of Section 92, when reviewing a request for Special Exception under this Section, the Zoning Board of Appeals shall determine that:
- i. The applicant has proven that the use claimed as a non-conforming use was lawfully existing the date the regulation which made it non-conforming became effective.
  - ii. The proposed extension or enlargement will not adversely affect the character of or property values of neighboring properties or adversely affect the general health, welfare or safety of the Town.
  - iii. The proposed extension or enlargement conforms to the provisions of Article V, Section 52, Special Flood Hazard Areas.
  - iv. The proposed extension or enlargement will not result in an increase greater than twenty-five (25) percent in the area devoted to the non-conforming use or uses on the subject property within five years of the date the permit was granted, such area being that which existed on the date the regulation which made it non-conforming became effective.
- 3.10.8 Change by Permit: The Planning & Zoning Commission may allow a property owner, by Special Permit, to change a non-conforming use to another non-conforming use where the new non-conforming use is less intensive. The procedure for obtaining the Special Permit, and the standards applicable to the review and action by the Commission, shall be governed by Section 62. The proposed new use must not be one that is prohibited in the district nor one that is prohibited in any district where the former or existing use is permitted.
- Where the non-conforming use is not expressly listed in the tables of permitted uses for any district, the Commission may characterize the use and liken it to a listed use when applying the standards of this Section and those of Sections 52 and 62.

- 3.10.9 Abandoned Uses: No non-conforming use which has been abandoned shall be re-established, and no building, lot or structure, or any in combination, formerly devoted to the non-conforming use shall be devoted to any use other than a permitted use. *(revised 6/23/11)*
- 3.10.10 Non-conforming Buildings and Structures: Except as provided in this Section 3.10, no non-conforming building or structure shall be enlarged, extended or altered where the enlargement, extension or alteration increases the degree to which the building or structure fails to conform with these Regulations.
- 3.10.11 Repair: Nothing herein shall be deemed to prohibit the ordinary repair and maintenance of a non-conforming building or structure, or the replacement of existing materials with similar materials.
- 3.10.12 Enlargement Where Use is Conforming: A non-conforming building or structure used in connection with a conforming use(s) may be enlarged, extended or altered in dimension provided the enlargement, extension or alteration conforms with the Regulations.
- 3.10.13 Enlargement by Permit: The Zoning Board of Appeals may permit an enlargement, extension or alteration of all or any portion of a non-conforming building or structure that does not meet the applicable dimensional requirements. The permit shall be a Special Exception to these regulations, and the procedure for obtaining the permit, and the standards applicable to the review and action by the Zoning Board of Appeals, shall be governed by Section 92.
- When reviewing a request for Special Exception under this Section, the Zoning Board of Appeals shall determine the following:
- i. That the proposed enlargement, extension or alteration will not adversely affect the character of or property values of neighboring properties or adversely affect the general health, safety or welfare of the residents.
  - ii. The enlargement, extension or alteration does not exceed twenty-five (25) percent of the remaining non-conforming dimension.
  - iii. That the Zoning Board of Appeals shall not issue a permit under this Section when one has been issued for the property and/or the use within five years of the date of the new application.
- 3.10.14 Fire and Casualty Damage: If a non-conforming building or structure is damaged by fire or other casualty, such building or structure may be repaired, and the use resumed, provided the reconstruction does not exceed the original area or (where applicable) degree of dimensional non-conformity. *(revised 6/23/11)*
- 3.10.15 Non-conforming Lots: A non-conforming lot shall be exempt from the area, shape and minimum frontage requirements provided the lot satisfies all other requirements of these Regulations for development and is located on a suitably improved public street.
- 3.11 NON-CONFORMING LOT: Nothing in these Regulations shall prevent the construction, enlargement, extension or structural alteration of a building or other structure on or the use of a lot, as defined in Section 4, lawfully existing on the date on which Zoning Regulations first applied to the parcel in question, which does not conform to area and shape requirements of the Regulations provided that such use, building or other structure conforms to all other requirements of the Regulations, provided í *(continued next page)*

*(Section 3.11 continued)* í that the use is not a Special Exception use, other than a single detached dwelling for one family in an Industrial M-1 or M-2 District, and provided that such non-conforming lot has access on a street as required by these Regulations. Any dwelling on such non-conforming lot, however, shall be only a single detached dwelling for one family.

- 3.12 ON-SITE SEWAGE AND WATER SUPPLY: In any District, each lot that is not served by public sanitary sewers and public water supply systems as prescribed by the State Department of Environmental Protection as a prerequisite to the issuance of a Certificate of Zoning Compliance.
- 3.13 FLOOD PLAIN: There shall be no encroachment upon any flood plain, or other area subject to potential flooding, by filling or by buildings or other structures. This regulation shall be applicable to flood plains, and other areas subject to potential flooding, which have been so designated by the State of Connecticut. Areas in the Special Flood Hazard District shall be utilized in accordance with Section 52.
- 3.14 EARTH EXCAVATION: There shall be no excavation, grading or removal of earth, loam, topsoil, sand, gravel, clay or stone on any lot, except in accordance with the provisions of Section 75.
- 3.15 MOBILE HOME and Mobile Manufactured Home Parks: Mobile home and mobile manufactured home parks shall be established in accordance with the provisions of these Regulations.
- 3.16 EROSION AND SEDIMENTATION CONTROL PLANS: Any application for development which will cumulatively disturb more than one half acre shall submit an erosion and sediment control plan in accordance with the most recent Connecticut Erosion and Sedimentation Guidelines. *(revised 6/23/11)*
- 3.17 REAR LOT DEVELOPMENT: Land zoned for residential use not having the required frontage on a street may be developed in the permitted uses of the applicable zoning district only if the provision of Section 78 - Rear Lot Development are met.
- 3.18 HOME OCCUPATION: Home occupation shall be established in accordance with the provisions in Section 80.

## Section 4 - Definitions

4.1 GENERAL(amended 06/10/96): The words used in these Regulations shall have the meaning commonly attributed to them. The Planning & Zoning Commission or Zoning Board of Appeals as applicable in accordance with the purpose and intent of these Regulations, the Planning & Zoning Commission or Zoning Board of Appeals may interpret the precise meaning of any specific term, and in doing so, may use its understanding of the common meaning of the term(s) in question. Words used in the present tense include the future, or past tense; the singular includes the plural, and the plural includes the singular. The word "used" includes "designed, intended, or arranged to be used". The word "shall" is mandatory, whereas the word "may" is permissive. The word "building" includes the word "structure". The word "lot" includes the word "plot or parcel".

4.2 SPECIAL DEFINITIONS: Certain words used in these Regulations are defined and explained as follows:

Abandonment: To cease or discontinue a use or activity without intent to resume, but excluding temporary or short term interruptions to a use or activity.

Abutting: Having a common border with, or being separated from such a common border by a right-of-way, road, alley or easement. *(revised effective 7-16-14)*

Accessory Apartment: A second dwelling unit either in or added to an existing single family detached dwelling, or in a separate accessory structure on the same lot as the main dwelling, for use as a complete, independent living facility with provision within the accessory apartment for cooking, eating, sanitation, and sleeping. Such a dwelling is a special accessory use to the main dwelling.

Accessory Structure or Use: An accessory structure or use is a structure or use which:

1. Is subordinate to and serves a principal building or a principal use;
2. Is subordinate in area, extent and purpose to the principal structure or use served;
3. Contributes to the comfort, convenience or necessity of the occupants, business or industry in the principal structure or principal use served; and,
4. Is located on the same zoning lot as the principal structure or principal use served.

Adult Uses(added 11/27/93): The definition of adult uses specifies the following types of establishments, which are not otherwise described or defined under the Connecticut General Statutes Title 53a-193 through 53a-197 inclusive, regarding obscenity and related offenses.

1. Adult Arcade: An establishment where, for any form of consideration, one or more motion picture projectors, slide projectors, or similar machines for viewing by five or fewer persons each are used to show films, motion pictures, video cassettes, slides, or other photographic reproductions that are characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.
2. Adult Bookstore: An establishment that has as a substantial portion of its stock-in-trade and offers for sale, for any form of consideration, any one or more of the following: 1) books, magazines, periodicals, or *(continued next page)*

*(Adult Bookstore continued from previous page)*...other printed matter, or photographs, films, motion pictures, video cassettes, slides, or other visual representations that are characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas; or 2) instruments, devices, or paraphernalia that are designed for use in connection with specified sexual activities.

3. Adult Cabaret: A nightclub, bar, restaurant, or similar establishment that regularly features live performances that are characterized by the exposure of specified anatomical areas or by specified sexual activities, or films, motion pictures, video cassettes, slides or other photographic reproductions in which a substantial portion of the total presentation time is devoted to the showing of material that is characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas. *(added 11/27/93)*
4. Adult Motion Picture Theater: An establishment where, for any form of consideration, films, motion pictures, video cassettes, slides or other photographic reproductions are shown and in which a substantial portion of the total presentation time is devoted to the showing of material that is characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas. Those movies, which are rated R or lower, are not included.
5. Adult Theater: A theater, concert hall, auditorium or similar establishment characterized by activities featuring the exposure of specified anatomical areas or by specified sexual activities.
6. Specified Anatomical Areas: As used herein, specified anatomical areas means and includes any of the following: 1) less than completely and opaquely covered human genitals, pubic region, buttocks, anus or female breasts below a point immediately above the top of the areola; or, 2) human male genitals in a discernibly turgid state, even if completely and opaquely covered.
7. Specified Sexual Activities: As herein specified, sexual activities means and includes any of the following: 1) the fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts; 2) sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy; 3) masturbation, actual or simulated; or, 4) excretory functions as part of or in connection with any of the activities set forth in subdivision 1 through 3 of this subsection.

Alteration: Any change, addition or modification in construction or occupancy of an existing structure.

Alteration, Structural: Any change in the supporting members of a building or structure, such as bearing walls, columns, beams or girders; provided, however, that the application of any exterior siding to an existing building for the purpose of beautifying and modernizing shall not be considered a structural alteration.

Antenna (see also Satellite Dish Antenna and Tower): Any system of wires, poles, rods, reflecting discs, or similar devices used for the transmission or reception of electro-magnetic waves external to or attached to the exterior of any building.

Aquifer: A geologic unit of stratified drift capable of yielding usable amounts of water.

Basement: A story partly underground and having at least one-half of its height above the average adjoining grade. A basement shall be termed a cellar when more than one-half of its height is below the average adjoining grade. A basement or cellar shall be counted as a story if the vertical distance from the average adjoining grade to the ceiling is over five feet.

Bed and Breakfast Inn: An owner-occupied dwelling unit that contains guest rooms where transient or temporary lodging, with or without meals, is provided for compensation.

Bedroom: The term bedroom includes any room used principally for sleeping purposes, an all-purpose room, a study, or a den, provided that no room having less than seventy (70) square feet of floor area shall be considered a bedroom.

Billboard: A sign that identifies or communicates a commercial or non-commercial message related to an activity conducted, a service rendered, or a commodity sold at a location other than where the sign is located.

Boarding House: An establishment with lodging for three or more persons where meals are regularly prepared and served for compensation and where food is placed upon the table family style, without service or ordering of individual portions from a menu.

Boarding Stable, Public: A building or land where animals are kept for remuneration, hire, sale, boarding, riding or show.

Borrow Pit: Any place or premises where dirt, soil, sand, gravel or other material is removed below the grade of surrounding land for any purpose other than that necessary and incidental to site grading or building construction.

Buffer Area: A landscaped area intended to separate and partially obstruct the view of two adjacent land uses or properties from one another.

Buildable Envelope: Land that does not have any of the following physical characteristics: slopes in excess of twenty percent (20%) that extend 50ø or more; bedrock observed, known or reasonably anticipated to be within four feet (4ø) of the surface; a seasonally high water table observed, known or reasonably anticipated to be within eighteen inches (18ö) of the ground surface; inland wetland soils, as defined by Conn. Gen. Statutes Section 22a-38; or land that is submerged during the mean annual high water level of watercourses, as defined by Conn. Gen. Stat. Section 22a-38; the buildable envelope shall be contiguous and of a more or less rectangular shape. *(Effective 10/1/09)*

Buildable Square: An element of a lot of which the minimum dimension and shape is free of wetlands, slopes in excess of twenty-five (25) percent over fifty (50) percent of the minimum lot requirements, and/or other serious site limitations as specified by the district qualifying the lot for development.

Building: A building is a structure having a roof supported by walls or columns and resting on its own foundation.

Cafe/Bar: Any premises wherein alcoholic beverages are sold at retail for consumption on the premises and minors are excluded there from by law. It shall not mean a premises wherein such beverages are sold in conjunction with the sale of food for consumption on the premises and the sale of said beverages comprises less than twenty-five (25) percent of the gross receipts.

Cage House, Poultry: A building or structure designed to hold or house 1,000 chickens or other poultry.

Camping Area: An area or tract of land on which accommodations for temporary occupancy are located or may be placed, including cabins, tents, and major recreational equipment, which is primarily used for recreational purposes and retains an area of open space or natural character.

Car Wash: (See Vehicle Washing Facility)

Child Day Care Center: A building or structure where care, protection and supervision are provided, on a regular schedule, to no more than twelve (12) children, including children of the adult provider.

Child Day Care Home, Family: A private residence where care, protection and supervision are provided, for a fee, at least twice a week to no more than six children at one time, including children of the adult provider.

Child Day Care Home, Group: A building or structure where care, protection and supervision are provided, for a fee, at least twice a week to no more than six (6) children at one time, including children of the adult provider.

Clear-cutting: The indiscriminate removal of trees, shrubs or undergrowth with the intention of preparing real property for non-agricultural development purposes.

Cluster Development: A development design technique that concentrates buildings in specific areas on a site to allow the remaining land to be used for recreation, common open space, and preservation of environmentally sensitive areas.

Common driveway: A driveway serving more than one lot. (Effective 10/1/09)

Commercial Use: An occupation, employment or enterprise that is carried on for profit by the owner, lessee or licensee. For the purpose of clarification on accessory home occupation constituting less than one third of the gross floor area, shall not be classified as a commercial use under these definitions.

Condominium: An estate in real property consisting of an undivided interest in common with other purchasers in a portion of a parcel of real property, together with a separate interest in space in a residential building, such as an apartment. A condominium may include, in addition, a separate interest in other portions of such real property.

Congregate Housing: A residential facility for four or more elderly persons (age 60 or older) within which are provided living and sleeping facilities, meal preparation, laundry services, and room cleaning. Such facilities may also provide other services, such as transportation for routine social and medical appointments, and counseling.

Conservation Areas: Environmentally sensitive and valuable lands protected from any activity that would significantly alter their ecological integrity, balance or character, except in cases of overriding public interest. Conservation areas include freshwater marshes, shallow grassy ponds, hardwood swamps, cypress swamps, natural shorelines, and other areas of significant biological productivity or uniqueness. *(added 06/10/96)*

Convalescent Home: (See Nursing Home)

Convenience Store: Any retail establishment offering for sale pre-packaged food products, household items, and other goods commonly associated with the same and having a gross floor area of less than 5,000 square feet.

Density: The number of dwelling units per area.

Dormitory: A building that is owned and/or operated by an educational institution whose primary purpose is to provide living accommodations for individuals associated with the institution.

Drive-in Facility: Any portion of a building or structure from which business is transacted, or is capable of being transacted, directly with customers located in a motor vehicle during such business transaction.

Duplex: A dwelling with two dwelling units, each having a separate entrance, but sharing a common party wall, as distinguished from a two family dwelling where the units are horizontally attached.

Dwelling: A building or portion thereof that provides living facilities for one or more families.

Dwelling, Attached: A one family dwelling attached to two or more one family dwellings by common vertical walls, as a townhouse.

Dwelling, Detached: A single family dwelling which is not attached to any other dwelling, other than an accessory or in-law apartment designed to appear as a single family dwelling.

Dwelling, Multi-family: A dwelling with three or more dwelling units, and may include a dwelling with rooms if authorized, but does not include transient lodging facilities such as a hotel, motel or bed and breakfast inn.

Dwelling, Seasonal: A dwelling which is not used for permanent residence and not occupied for more than eight (8) months in each year.

Dwelling Unit: A dwelling unit is a building or part of a building designed for occupancy, and so occupied, by one family. A room or group of rooms located within a dwelling forming a habitable unit for one family.

Emergency Shelter/Mission: A facility providing temporary housing for one or more individuals who are otherwise homeless.

Facade: The front face of an exterior wall of a building exposed to public view or a wall of a building facing a street or courtyard.

Family: A Family is any number of persons related by blood, adoption, foster care marriage or civil union together with two unrelated persons.

Farm: A farm is a low intensity use devoted to agriculture, stock raising, dairying or other allied activity. This is distinguished from a high intensity agricultural use, which may not be appropriate for certain areas.

Farm Produce Stand: A roadside stand which is small in size, open-air structure situated at the side of a road in which agricultural products are publicly displayed and offered for sale. Use of such structure is generally seasonal.

Feedlot: Any tract of land or structure, pen or corral, wherein cattle, horses, sheep, goats and swine are maintained.

Fence: Any artificially constructed barrier of any material or combination of materials erected to enclose or screen areas of land.

Flea Market: An occasional or periodic sales activity held within a building, structure or open area where groups of individual sellers offer goods, new and used, for sale to the public, not to include private garage sales.

Flexible Design Subdivisions: A subdivision where the required land, lot or unit standards are adjusted under an approved subdivision plan to permit design flexibility, such as concentrating lots, reducing required lot size, shapes and other minimum criteria. *(Effective 10/1/09)*

Flood Plain: Flood plain or flood-prone area means any land area susceptible to being inundated by water from any source. (See Special Flood Hazard District for other definitions)

Floor Area: In determining compliance with minimum floor area requirements for dwellings, only finished livable floor area having a ceiling height of at least seven (7) feet shall be counted, excluding garages, terraces, corbelled bay windows, basements, cellars, utility rooms for heating apparatus, attics, open porches and enclosed porches not heated by a central heating system for the dwelling. In the case of dwellings for two or more families, common hallways, entrances and similar floor area designed for use by more than one family shall not be counted. Measurements of floor area for any building are taken to the outside surfaces of exterior walls or partitions enclosing the areas. Any floor other than the ground floor must have access thereto by a permanent built-in stairway to be included in computing floor area.

Floor Area, Gross: The sum of the areas of the several floors of a building, including areas used for human occupancy in basements, attics, and penthouses, as measured from the exterior faces of the walls. It does not include cellars, unenclosed porches, or attics not used for human occupancy, or any floor space in accessory buildings or in the main building intended and designed for the parking of motor vehicles in order to meet the parking requirements of these Regulations, or any such floor space intended and designed for accessory heating and ventilation equipment. It shall include the horizontal area at each floor level devoted to stairwells and elevator shafts. (See Lot Coverage)

Frontage: The required contiguous length of any one-property line of a premises, which abuts a suitably improved and legally accessible public street right-of-way. Also, the front or frontage is that side of a lot abutting on a street or way and ordinarily regarded as the front of the lot, but it shall not be considered as the ordinary side line of a corner lot. *(added 06/10/96)*

Garage, Private: A building for the private use of the owner or occupant of a principal building situated on the same lot of the principal building for the storage of motor vehicles with no facilities for mechanical service or repair of a commercial or public nature.

Garage, Public: A building designed and used for the storage of motor vehicles operated as a business enterprise with a service charge or fee being paid to the owner or operator for the parking or storage of privately owned vehicles.

Glare: A sensation of brightness within the visual field that causes annoyance, discomfort, or loss in visual performance and visibility.

Grade: The lowest point of elevation of the finished surface of the ground, paving or sidewalk within the area between the building and the property line, or when the property line is more than ten (10) feet from the building, between the building and a line ten (10) feet from the building.

Gross Leasable Area: The total floor area designed for tenant occupancy and exclusive use, including mezzanines and upper floors, if any, excluding basements, expressed in square feet and measured from the center line of joint partitions and from outside well faces.

Group Home for the Handicapped: As used herein, the term handicapped shall mean having: 1) a physical or mental impairment that substantially limits one or more of such person's major life activities so that such person is incapable of living independently; 2) a record of having such an impairment; or, 3) being regarded as having such an impairment. However, "handicapped" shall not include current illegal use of or addiction to a controlled substance, nor shall it include any person whose residency in the home would constitute a direct threat to the health and safety of other individuals. The term "group home for the handicapped" shall not include a treatment center for drug or alcohol abuse, a work release facilities for convicts or ex-convicts, or other housing facilities serving as an alternative to incarceration.

Halfway House: A licensed home for inmates on release from more restrictive custodial confinement or initially placed in lieu of such more restrictive custodial confinement, wherein supervision, rehabilitation, and counseling are provided to mainstream residents back into society, enabling them to live independently. Such placement is pursuant to the authority of the State Department of Corrections.

Health/Recreation Facility: An indoor facility including uses such as game courts, exercise equipment, locker rooms, Jacuzzi, and/or sauna and pro shop.

Height: The height of a building shall be measured as the vertical distance of a line drawn at the center line of the principal front, from the established street grade, or shall be measured from the average ground level within ten (10) feet of the building or other structure to the average level of the highest main roof, whichever is greater. The established street grade is the elevation of a street grade as fixed by the Town. The provisions of these Regulations pertaining to height shall not apply to church steeples, ornamental towers, silos, chimneys and water towers or to elevator, heating, ventilation or air conditioning equipment on the roof of a building.

Helistop, Limited Use: A landing area used for the taking off or landing of helicopters for the purpose of picking up and discharging of passengers or cargo. This facility is not open to use by any helicopter without prior permission having been obtained.

High Intensity Agricultural Use: A use having agricultural characteristics, but may have objectionable aspects. Such use may include a poultry cage house, a feed lot, soil manufacture or composting, or a slaughterhouse. Such a use is distinguished from a farm use.

Historic District: An area containing buildings or places in which historic events occurred or having special public value because of notable architectural or other features relating to the cultural or artistic heritage of the community, of such significance as to warrant conservation and preservation.

Home Based Business, Rural: Any accessory use to a customary farming operation or a non-farm household located in a rural area designed for gainful employment involving the sale or incidental assembly of goods and services that is conducted either from within the dwelling and/or from accessory buildings located on the same lot as the dwelling unit occupied by the family conducting the home occupation.

Home Occupation: An accessory use conducted within a single family residence dwelling by the residents thereof within a customary accessory structure to that residence dwelling for living purposes, and which use does not change the character thereof.

Homeowners Association: A private, non-profit corporation of homeowners for the purpose of owning, operating and maintaining various common properties.

Hotel: A facility offering transient lodging accommodations to the general public and may provide additional services, such as restaurants, meeting rooms, and recreational facilities.

Household: A family living together in a dwelling with common access to, and common use of, all living and eating areas and all areas and facilities for the preparation and storage of food within the dwelling unit, as distinguished from roomers or boarders in a rooming or boarding house.

Household Pet: Animals that are customarily kept for personal enjoyment within the home. Household pets shall include but not be limited to domestic dogs, domestic cats, domestic tropical birds, and rodents. Household pets are distinguished from customary farm animals, which are housed in a barn, stable, paddock, barnyard or stable yard.

Housing for the Elderly/Senior Apartments: Multi-family dwelling units occupied by persons fifty-five (55) years or older. In the case of double occupancy of a unit, only one resident is required to be at least fifty-five (55) years of age. The housing must be self-contained and physically accessible to elderly citizens.

In-law Apartment: An accessory dwelling unit in a single-family home for individuals who are related by blood, marriage or adoption. Any of the above relationships that were established by marriage are not ended by death or divorce.

Incentive housing development: means a residential or mixed-use development (A) that is proposed or located within an approved incentive housing zone; (B) that is eligible for financial incentive payments set forth in CT General Statutes sections 8-13m to 8-13x, inclusive; and (C) in which not less than twenty per cent of the dwelling units will be conveyed subject to an incentive housing restriction requiring that, for at least thirty years after the initial occupancy of the development, such dwelling í *(continued next page)*

*(Incentive Housing continued)*... units shall be sold or rented at, or below, prices which will preserve the units as housing for which persons pay thirty per cent or less of their annual income, where such income is less than or equal to eighty per cent or less of the median income. *(effective 9-2-13)*

Incentive housing zone: means a zone adopted by a zoning commission pursuant to CT General Statutes 8-13m to 8-13x, inclusive, as an overlay to one or more existing zones, in an eligible location zone. *(effective 9-2-13)*

Incentive housing restriction: means a means a deed restriction, covenant, zoning regulation, site plan approval condition, subdivision approval condition, or affordability plan constituting an obligation with respect to the restrictions on household income, sale or resale price, rent and housing costs required by CT General Statutes 8-13m to 8-13x, inclusive, enforceable for thirty years as required by said sections, and recorded on the land records of the municipality where the housing is located. *(effective 9-2-13)*

Impervious Surface: A surface that has been compacted or covered with a layer of material so that it is highly resistant to infiltration by water. It includes surfaces such as compacted sand, lime-rock or clay, as well as most conventionally surfaced streets, roofs, sidewalks, parking lots and other similar structures.

Industrial Park: A planned, coordinated development of a tract of land with two or more separate industrial buildings. Such development is planned, designed, constructed and managed on an integrated and coordinated basis with special attention given to on-site vehicular circulation, parking, utility needs, building design and orientation, and open space.

Industry, Heavy: A use engaged in the basic processing and manufacturing of materials or products predominately from extracted or raw materials, or a use engaged in storage of, or manufacturing processes using flammable or explosive materials, or storage or manufacturing processes that potentially involve hazardous or commonly recognized offensive conditions.

Industry, Light: A use engaged in the manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales and distribution of such products, but excluding basic industrial processing.

Junk: Old, dilapidated, scrap or abandoned metal, paper, building material and equipment, bottles, glass, appliances, furniture, beds and bedding, rags, rubber, or motor vehicle parts.

Junk Yard: The term junk yard shall be construed to included any junk yard or motor vehicle junk business and motor vehicle junk yard as defined in the General Statutes of the State of Connecticut. The term shall also include any place of outside storage or deposit, whether in connection with a business or not, for one or more motor vehicles which are no longer intended or in condition for legal use on the public highways and shall include any place of outside storage or deposit of used parts of motor vehicles and old materials, iron, glass, paper, cordage and other similar material specifically intended to be salvaged and recycled. A junk yard shall not be construed to mean a sanitary landfill or disposal site for general wastes or a site for the storage or disposal of hazardous wastes in Residence Districts. The term shall í *(continued next page)*

*(Junk Yard continued)*... also include the outside storage of any unregistered motor vehicle for a period longer than thirty (30) days and the outside storage or deposit of parts of bodies of motor vehicles.

Kennel, Commercial: An establishment licensed to operate a facility housing dogs, cats or other household pets and where grooming, breeding, boarding, training or selling of animals may be conducted as a business.

Kennel, Private: Any building or buildings or land designated or arranged for the care of dogs and cats belonging to the owner of the principal use, kept for the purpose of show, hunting or as a pet.

Landfill: A type of operation in which refuse and earth or other suitable cover material are deposited in alternate layers of specified depth in accordance with a definite plan on a specified portion of open land, with each layer being compacted by force applied by mechanical equipment.

Leasing of Rooms: The leasing of rooms in a dwelling shall not be construed to include the provision of cooking facilities for such rooms but may include table board or sharing of the cooking facilities of the dwelling.

Lot: A lot is defined as one of the following:

- a. A parcel of land which conforms to the area, shape and frontage requirements of these Regulations;
- b. A building lot shown on a subdivision map approved by the Windham Planning & Zoning Commission and recorded in the land records of the Town of Windham; or,
- c. A parcel of land, which is owned, separately from any adjoining lot or lots as evidenced by deed or deeds recorded in the land records of the Town of Windham.

Lot, Corner: A corner lot is defined as a lot having an interior angle of less than 135 degrees at the intersection of two streets whether public or private. A lot abutting upon a curved street shall be considered a corner lot if the central angle of the curve is less than 135 degrees.

Lot Coverage: Determined by dividing that area of a lot which is occupied or covered by the impervious surfaces including all paved surfaces, as well as the total horizontal projected surface of all buildings, including covered porches and accessory buildings, by the gross area of the lot. *(Effective 10/1/09)*

Lot Depth: The average horizontal distance between the front and rear lot lines.

Lot, Non-standard: A lot, which deviates from or falls below standard lot requirements, but is not considered non-conforming or substandard.

Lot, Rear: A lot with access provided to the bulk of the lot by means of a narrow corridor.

Lot, Standard: A lot, which conforms to the lot requirements of the district, having a uniform shape, which is convenient and conducive to a standard pattern of development.

Lot Line: A line dividing one lot from another lot or from a street or alley.

Lot Line, Rear: The lot line not intersecting a front lot line that is most distant from and most closely parallel to the front lot line. A lot bounded by only three lot lines will not have a rear lot line.

*(continued next page)*

Lot Line, Side: Any lot line, which is not a front, or rear lot line.

Lot Width: The horizontal distance between side lot lines, measured at the required front setback line.

Massage Parlor: An establishment where, for any form of consideration, massage, alcohol rug, fomentation, electric or magnetic treatment, or similar treatment or manipulation of the human body is administered, unless such treatment or manipulation is administered by a medical practitioner, chiropractor, acupuncturist, physical therapist, or similar professional person licensed by the state. This definition does not include an athletic club, health club, school, gymnasium, reducing salon, spa, or similar establishment where massage or similar manipulation of the human body is offered as an incidental or accessory service. (11/27/93)

Mixed-use development: means a development containing one or more multifamily or single-family dwelling units and one or more commercial, public, institutional, retail, office or industrial uses. Specific mixed-use developments for incentive housing developments will vary by zone. (effective 9-2-13)

Mixed-use townhouse: (also known as ðLive/Workö units) means a residential building consisting of a single-family dwelling unit constructed in a group of three or more attached units, in which each unit extends from foundation to roof and has open space on at least two sides and which the first storey is a commercial, retail, artistic, or office work space utilized by a resident of the unit. (effective 9-2-13)

Mobile Home: A mobile home is a mobile unit similar to a trailer or any vehicle used for sleeping or living quarters but which is equipped with running water, bath facilities, flush toilet and appropriate sanitary connections.

Manufactured/Mobile Home: A structure which is a transportable dwelling built on a wheeled chassis constructed in accordance with the federal manufactured home construction and safety standards which became effective on June 15, 1976. Such residence is designed for use with or without a permanent foundation when attached to the required utilities prior to occupancy. The term manufactured home does not include a recreational vehicle.

Modular Home: A prefabricated home constructed in compliance with the State Building Code mutually exclusive of a manufactured home.

Motel: A building or group of detached or connected buildings designed or used primarily for providing sleeping accommodations for automobile travelers and having a parking space adjacent to a sleeping room. An automobile court or a tourist court with more than one unit or a motor lodge shall be deemed a motel.

Nightclub: An establishment where a dance floor or entertainment is the main attraction.

Non-conforming Building: A non-conforming building is a building, which exists lawfully on the date, a regulation is adopted but does not conform to those regulations in any respect. (amended 11/01/96)

Non-conforming Lot: A non-conforming lot is a lot or parcels of land that exists lawfully on the date regulations are adopted but does not conform to those regulations in any respect. A use that exists lawfully on the date regulations are adopted and which is a use that the regulations identify as a Special Exception or Special Permit use shall not be a non-conforming use in any respect, but shall be regulated under the standards applicable to that use. (amended 11/01/96)

Non-conforming Structure: A non-conforming structure is a structure, which exists lawfully on the date, a regulation is adopted but does not conform to those regulations in any respect. *(added 11/01/96)*

Non-conforming Use: A non-conforming use is any use of land, building(s) or structure(s) that exists lawfully on the date regulations are adopted but does not conform to those regulations in any respect. A use that exists lawfully on the date regulations are adopted and which is a use that the regulations identify as a Special Exception or Special Permit use shall not be a non-conforming use in any respect, but shall be regulated under the standards applicable to that use. *(amended 11/01/96)*

Nursing Home (Also Extended Care, Immediate Care and/or Long Term Care Facilities): An extended or immediate care facility licensed or approved to provide full time convalescent or chronic care to individuals who, by reason of advanced age, chronic illness or infirmity, are unable to care for themselves.

Open Space: An area that is intended to provide light and air, and is designed for either environmental, scenic, or recreational purposes.

Open space may include, but is not limited to, lawns, decorative planting, walkways, and active and passive recreation areas, playgrounds, fountains, swimming pools, wooded areas and watercourses. Open space shall not be deemed to include driveways, parking lots, or other surfaces designed or intended for vehicular travel.

Open Space, Common: Open space typically found within or related to a cluster development, or flexible design subdivision, exclusive of individually owned lots or other areas dedicated for public use, but which is designed and intended for the common use or enjoyment of the residents of the development.

Parking Garage/Facility: A building designed and used for the storage of automotive vehicles operated as a business enterprise with a service charge or fee being paid to the owner or operator for the parking or storage of privately owned vehicles.

Parking Lot: An area designed to serve as an accessory use to accommodate a principal use for off street parking needs or requirements exclusive of any street.

Parking Space: An area on a lot and/or within a building intended for the use of temporary parking of a personal vehicle. This term is used interchangeably with parking stall. Each parking space must have a means of access to a public street. Tandem parking stalls in single family detached, single family attached, and townhouse residential uses shall be considered to have a means of access to a public street.

Performance Guarantee: A financial guarantee to ensure that all improvements, facilities, or work required by this ordinance will be completed in compliance with the ordinance, regulations, and the approved plans and specifications of a development.

Planned Development: Land under unified control to be planned and developed as a whole in a single development operation or a definitely planned series of development operations or phases. A planned development includes principal and accessory structures and uses substantially related to the character and purposes of the planned development. A planned development is built according to general and detailed plans that include not only streets, utilities, lots and building location, and the like, but also site plans for all buildings as are intended to be located, constructed, used and related to each other, and plans for other uses and improvements í *(continued next page)*

*(Planned Development continued)* 1 on the land as related to the buildings. A planned development includes a program for the provisions, operations and maintenance of such areas, facilities and improvements as will be for common use by some or all of the occupants of the planned development, but which will not be provided, operated or maintained at general public expense.

Principal Building: A building in which the primary use of the lot on which the building is located is conducted.

Principal Use: The main use of land or structures, as distinguished from a secondary or accessory use.

Public Sanitary Sewers: Public sanitary sewers is a system of pipes, pump stations and treatment facilities for disposal of liquid wastes and: a) approved by the Director of Health of the Town of Windham, the Connecticut State Health Department, and the Connecticut Department of Environmental Protection; and, b) owned by the Town of Windham, or a special municipal district.

Public Water Supply: A public water supply is a system of wells, reservoirs, pipes, pump stations, storage tanks and treatment facilities for provision of potable water supply and: a) approved by the Department of Health of the Town of Windham and the Connecticut State Health Department; and, b) owned by the Town of Windham, or a special municipal district.

Recreational Vehicle: A vehicular type of portable structure without permanent foundation, which can be towed, hauled or driven and primarily designed as a temporary living accommodation for recreational, camping and travel use and including, but not limited to, travel trailers, truck campers, camping trailers and self-propelled motor homes.

Recycling Collection Point: A collection point for small refuse items, such as bottles and newspapers, located either in a container or small structure.

Recycling Plant: A facility that is not a junkyard and in which recoverable resources, such as newspapers, magazines, books and other paper products; glass; metal cans; and other products, are recycled, reprocessed, and treated to return such products to a condition in which they may again be used for production.

Restaurant: An establishment that serves food and beverages primarily to persons seated within the building.

Restaurant, Drive-in: An establishment that delivers prepared food and/or beverages to customers in motor vehicles, regardless of whether or not it also serves prepared food and/or beverages to customers who are not in motor vehicles, for consumption either on or off premises.

Restaurant, Fast-food: An establishment that offers quick food service, which is accomplished through a limited menu of items already prepared and held for service, or prepared, fried or griddled quickly, or heated in a device such as a microwave oven. Orders are not generally taken at the customer's table, and food is generally served in disposable wrapping or containers. It may include drive-up facilities where customers are served in motor vehicles.

Right-of-way: A strip of land occupied or intended to be occupied by a street, crosswalk, railroad, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, or other special use.

Rooming House: A building in which rooms are provided by the owner, for compensation, to three or more adult persons not related by blood, marriage, or adoption to the owner. A property manager shall reside on the premises unless otherwise regulated. (See also Boarding House) *(added 08/13/08)*

Satellite Dish Antenna: A round, parabolic antenna intended to receive signals from orbiting satellites and other sources. Non-commercial dish antennas are defined as being less than four meters in diameter, while commercial dish antennas are usually those larger than four meters and typically used by broadcasting stations.

Screening: The method by which a view of one site from another adjacent site is shielded, concealed or hidden. Screening techniques include fences, walls, hedges, berms or other features.

Seating Capacity: The actual seating capacity of an area based upon the number of seats or one seat per twenty-four (24) inches of bench or pew length. For other areas where seats are not fixed, the seating capacity shall be determined as indicated by the State Building Code.

Self-service Storage Facility: A building consisting of individual, small, self-contained units that are leased or owned for the storage of business and household goods or contractors supplies.

Self-service Station: An establishment where liquids used as motor fuels are stored and dispersed into the fuel tanks of motor vehicles by persons other than the service station attendant and may include facilities available for the sale of other retail products.

Service Area: Area for waste storage and collection, loading and unloading areas, loading docks, storage facilities, dumpsters, recycling areas, fueling areas and vehicle service and maintenance areas. *(added 02/17/2011)*

Service Station: Any premises where gasoline and other petroleum products are sold and/or light maintenance activities such as engine tune-ups, lubrication, minor repairs and carburetor cleaning are conducted. Service stations shall not include premises where heavy automobile maintenance activities such as engine overhauls, automobile painting and body fender work are conducted.

Setback: The required minimum horizontal distance between the structure or building line, and the related front, side or rear property line.

Setbacks - Rear Property Line: A rear property line is any lot line which is parallel to or within forty-five (45) degrees of being parallel to a street line, except for a lot line that is itself a street line, and except that in the case of a corner lot, only one line shall be considered a rear property line.

Sign: A structure or device designed or intended to convey information to the public in written or pictorial form, or to attract attention to the business.

Sign Area: The entire area within a continuous perimeter, enclosing the extreme limits of sign display, excluding any frame or border. Curved, spherical, or any other shaped sign face shall be computed on the basis of actual surface area. The copy of signs composed of individual letters, numerals or other devices shall be the perimeter of the area of the smallest rectangle or other geometric shape encompassing all of said lettering or design, or graphic display obviously related to the sign together with any background that is visually different from the balance of the wall on which it is located. The calculation for a double-faced sign shall be the area of one face only. Double-faced signs shall be so constructed that the perimeter of both faces coincide and are parallel and not more than twenty-four (24) inches apart.

Sign, Flashing: Any sign, which, by method or manner of illumination, or graphic display, flashes on or off, winks or blinks with varying light intensity, shows motion, or creates the illusion of motion or revolves in a manner to create the illusion of being on or off.

Sign, Free Standing: A sign supported by one or more up-right poles, columns, or braces placed in or on the ground and not attached to any building or structure.

Sign, Illuminated: A sign illuminated in any manner by an artificial light source.

Sign, Portable: Any sign not permanently affixed to the ground or to a building, including any sign attached to or displayed on a vehicle that is used for the express purpose of advertising a business establishment, product, service or entertainment, when that vehicle is so parked as to attract the attention of the motoring or pedestrian traffic. This does not include those vehicles, which are used on a routine or daily basis to provide or deliver services of the business.

Sign, Projecting: Any sign other than a wall sign that is attached to and projects from the wall or face of a building or structure, including an arcade/marquee sign.

Sign, Roof: Any sign erected upon, against or directly above a roof or roof eave, or on top or above the parapet, or on a fundamental architectural appendage above the roof or roof eave.

Sign, Temporary: A display, informational sign, banner or other advertising device constructed of cloth, canvas, fabric, wood, plastic or other temporary material, with or without a structural frame, and intended for a limited period of display, including decorative displays for holidays, festive occasions and special events (i.e. grand opening) or public announcements.

Sign, Wall: A sign painted on the outside of a building, or attached to, and erected parallel to the face of a building and supported by such building.

Sign, Window: A sign painted, stenciled or affixed on a window, which is visible from a right-of-way.

Story: That portion of a building included between the surface of any floor and the surface of the next floor above it, or if there be no floor above it, the space between such floor and the ceiling above it. A basement shall be counted as a story if its ceiling is over five feet above the average level of the finished ground surface adjoining the exterior walls of such story, or if it is used for business or dwelling purpose.

Street: A term used interchangeably with road and highway; (a) an existing State "highway" as defined by Section 13a-1(a) of the Connecticut General Statutes, as amended; (b) an existing public highway, street or road accepted by the Town of Windham pursuant to Section 13a-48 of the Connecticut General Statutes, as amended; (c) a proposed highway, street, road, private street or private way in a subdivision or re-subdivision for which a Subdivision Map has been approved by the Planning & Zoning Commission; (d) streets laid out in accordance with Section 13a-61 of the Connecticut General Statutes, as amended. The term shall not include private or common driveways and rights-of-ways. *(Effective 10/1/09)*

Street Line: A street line is either: a) the right-of-way, easement or taking line of any public street or highway, other than a limited access highway, or any private street, easement or access or private right-of-way; or, b) a line twenty-five (25) feet from and parallel to the center line of any such street, highway, easement of access or private right-of-way if such street, highway, easement of access or private right-of-way has a width of less than fifty (50) feet.

Structure: A structure is anything constructed or erected which has a permanent location on the ground, or anything attached to something having a permanent location on the ground. The term structure shall not include necessary retaining walls, flag poles or utility poles for distribution lines; the term shall include outdoor swimming pool more than twenty-four (24) inches in depth or having a water surface area of more than 250 square feet.

Subdivision: As set forth in the Connecticut General Statutes, shall mean the division of a tract or parcel of land into three or more parts or lots made subsequent to the adoption of subdivision regulations by the Commission, for the purpose, whether immediate or future, of sale or building development expressly excluding development for municipal, conservation or agricultural purposes, and includes re-subdivision.

Suitably Improved Street: A suitably improved street shall be one that either satisfies the requirements of the Public Works Specifications which are part of the Subdivision Regulations, or is of such character that it can support the existing and proposed traffic.

Temporary Use: A prospective use, intended for limited duration, to be located in a zoning district not permitting such use, and not continuing a non-conforming use or building.

Townhouse housing: means a residential building consisting of a single-family dwelling unit constructed in a group of three or more attached units, in which each unit extends from foundation to roof and has open space on at least two sides. *(effective 9-2-13)*

Trailer: A trailer is a trailer coach or any vehicle used for sleeping or living quarters, but which is not equipped with running water, bath facilities, flush toilet and appropriate sanitary connections. (see also Mobile Home) *(amended 06/10/96)*

Truck Terminal: A building or area in which goods are brought by truck for storage or stored for routing or reshipment, or in which semi-trailers, including tractor and/or trailer units and other trucks, are parked or stored.

Vehicle Display Area: An open area other than a right-of-way or public parking area, used for display, sale or rental of new or used vehicles in operable condition and where no repair work is performed.

Vehicle Washing Facility: Any facility, including structures and accessory uses operated wholly or partly to wash and clean vehicles, including automatic, semi-automatic and self-serve facilities, which facilities are characterized as follows: *(amended 11/01/00)*

- Automatic: Any facility, including structures and accessory uses operated wholly or partly to wash and clean vehicles using conveyORIZED automatically operated mechanical equipment. *(added 11/01/00)*
- Semi-Automatic: Any facility, or part of a facility, in which the vehicle is driven to a stationary position and the automatically operated mechanical equipment moves around the vehicle. Normally, the vehicle is driven to the wash position by the driver of the vehicle and that person remains in the vehicle throughout the operation. Directions to the driver are normally communicated by means of illuminated signs or signals, sometimes augmented by audible signals. *(added 11/01/00)*
- Self-Service Facility: Any facility, or part of a more extensive facility, in which the vehicle is washed by hand by the customer, using equipment which is primarily hand-held and frequently coin operated, such as pressurized hose. *(added 11/01/00)*

A vehicle washing facility shall not include a washing facility located on the same lot as a new or used vehicle dealership; provided that such vehicle washing facility is utilized solely to wash vehicles available for sale or resale, and is not available for public use. *(added 11/01/00)*

Yard: A required open space on a lot adjoining a lot line, containing only landscaping or other uses as provided by these Regulations.

Yard, Front: A yard extending along the full width of a front lot line between side lot lines and front lot line to the front building line in depth.

Yard, Rear: A yard extending across the full width of the lot and lying between the lot line and the nearest line of the building. Rear yard depth shall be measured at right angles to the rear line of the lot.

Yard, Side: A yard lying between the side line of the lot and the nearest line of the building and extending from the front yard to the rear yard, or in absence of either of such front or rear yards, to the front or rear lot lines. Side yard width shall be measured at right angles to sidelines of the lot.

Zoning District: A portion of the territory of the Town, exclusive of streets, alleys, and other public ways, within which certain uses of land, premises and buildings are not permitted and within which certain yards and open spaces are required and certain height limits are established for buildings.

## Section 5 - Wireless Communications

5.0 DESCRIPTION AND PURPOSE: (*entire Section added 06/01/97*) The purpose and intent of these Regulations is to protect neighborhoods, minimize conflict with adjacent uses, and to assure the health and safety of the public. The Town recognizes the quasi-public nature of wireless communications systems, and has determined that these Regulations are necessary to protect the ecological, scenic, historical and recreational values of the Town in order to prevent any adverse visual and operational effects that may contribute to blight or deterioration of the surrounding neighborhood. More specifically, the purposes are:

- a. To accommodate the need for wireless communications antennae while regulating their location and number.
- b. To minimize adverse visual effects of wireless communications antennae or wireless site towers through proper design, siting and vegetative screening.
- c. To avoid potential damage to adjacent properties from the collapse of antenna or wireless site towers (i.e. from falling ice), through proper siting and engineering controls.
- d. To encourage the joint use of any new antenna or wireless site tower in order to reduce the number that may be needed in the future.

5.1 DEFINITIONS: When used in this Section, the following words or phrases shall have the meaning defined below:

Antenna: A device used to collect or transmit telecommunications or radio signals. Examples include panels, microwave dishes, single pole devices and whips.

Antenna Height: The vertical distance measured from the base of the antenna support structure at grade to the highest point of the structure. If the support structure is on a sloped grade, then the average between the highest and lowest grades shall be used in calculating the antenna height.

Tower: A structure that is intended to support equipment used to transmit and/or receive telecommunications or radio signals. Examples of such structures include monopoles and lattice constructions steel structures.

Wireless Site: The equipment and structures involved in receiving or transmitting telecommunications or radio signals from a mobile radio communications source and transmitting those signals to another wireless site, another communications source or receiver, or to a central switching computer which connects the mobile unit with land-based telephone lines.

5.2 GENERAL POLICIES: Wireless sites should be located in the following order of preference:

1. On existing structures, such as: buildings, communications towers and smokestacks.
2. In locations where the existing topography, vegetation, buildings or other structures provide the greatest amount of screening.
3. On new towers on bare ground with visual mitigation in business, commercial and industrial districts.
4. On government or institutional structures in residential districts.
5. On new towers with visual mitigation in residential districts.

### 5.2.1 Use Regulations

Application Required: All applications for wireless sites and antennas shall be filed with the Town of Windham Planning Department, concurrently with the Connecticut Siting Council filing if it is required.

The filing shall include a map showing the extent of planned coverage within the Town, as well as the approved locations of the applicant's other wireless sites in the area, and the location and service area of the proposed wireless site.

If the antenna is to be mounted on an existing structure or antenna tower site, a site plan shall be submitted.

### 5.2.2 Location Constraints

As-of-Right: Any antenna that is attached to an existing communications tower, smoke stack, water tower, government or institution building, or other tall structure is permitted in all zoning districts, subject to the following maximum height provisions:

- a. Omni-directional or whip antennas shall not exceed six (6) meters or twenty (20) feet in height or eighteen (18) centimeters or seven (7) inches in diameter, and shall be of a material or color which matches the background.
- b. Directional or parallel antennas shall not exceed 1.8 meters or six (6) feet in height or sixty (60) centimeters or two feet in width and shall be of a material or color which matches the background.
- c. Satellite and microwave dish antennas shall not exceed one meter or 1.1 yard in diameter; and when mounted on buildings or rooftops, they shall be located or screened so as not to be visible from abutting public streets.

5.2.3 Special Permit: An antenna that is not mounted on an existing structure or a new antenna or tower may be permitted by Special Permit from the Planning & Zoning Commission in all districts, subject to the general standards, and those outlined under Section 84.6(relocated standards from former 62.6.6). *(revised 09/27/12)*

5.3 GENERAL STANDARDS: The application shall include a Site Justification Statement, including a description of the process that eliminated other potential sites.

5.3.1 If a proposed antenna tower is within a radius of 2.275 kilometers or a 1 ½ mile radius of the Windham Airport, the applicant must provide evidence that notice of the proposed construction has been filed with the Federal Aviation Administration, and the Connecticut Department of Transportation Aviation Division.

5.3.2 Antenna Height: The applicant shall demonstrate that the antenna is the minimum height required to function satisfactorily. No antenna that is taller than this minimum height shall be approved.

5.3.3 Antenna Tower Setback: If a new tower which is anchored with guy wires is constructed (as opposed to mounting the antenna on an existing structure), the minimum distance between the base of the tower and any guy wire anchors or any property line shall be the largest of the following:

- Fifty (50) percent of antenna height.
- The minimum setback in the underlying zoning district
- Twelve (12) meters or forty (40) feet.

- 5.3.4 Roof Mounted Antenna: If the equipment is located on the roof of a building, the area of the equipment building and other equipment structures should be designed in a manner to minimize the height and prominence of the antenna, equipment or structures from the street view.
- 5.3.5 Antenna Tower Safety: The antenna tower shall be designed and constructed to all applicable standards of the American National Standards Institute, ANSI/EIA-222-E manual, as amended.
- 5.3.6 Site Soil Report: A soil report complying with Appendix I: Geotechnical Investigations, ANSI/EIA-222-E manual standards, as amended, shall be submitted to verify the design specifications of the foundation for the tower and anchors for the guy wires, if used.
- 5.3.7 Fencing: Unless the antenna is mounted on an existing structure, a fence shall be required around the tower and other equipment or as required by FCC regulations.
- 5.3.8 Landscaping may be necessary to soften the appearance of a wireless site involving screening as much of the tower as possible, as well as fencing surrounding the tower and other ground level features such as a building. As specified under Section 74.9, any combination of existing vegetation, topography, walls, decorative fences or other features may be used instead of landscaping, if the same degree of screening occurs which is determined to be satisfactory by the Commission. Otherwise, the following standard shall be used as a guide:
- An evergreen screen shall be required to surround the site. The evergreen screen shall be a minimum height of 1.8 meters or six (6) feet at planting, and shall be a type that shall grow to a minimum height of 4.5 meters or fifteen (15) feet at maturity.
  - Existing vegetation on and around the site shall be preserved to the greatest extent possible, and all plantings shall be maintained in good condition in order to serve the general purpose of screening.
- 5.3.9 Commercial Advertising shall not be permitted on an antenna or antenna tower.
- 5.3.10 Signal Lights or Illumination shall not be permitted unless required by the Federal Communications Commission (FCC), the Federal Aviation Administration (FAA), or the Connecticut Siting Council.
- 5.3.11 In residential areas, all other uses that may be ancillary to the antenna and associated equipment (such as business office, maintenance depot, vehicle storage, etc.) are prohibited.
- 5.3.6 Joint Use Accommodated: To minimize the number of antenna or wireless site towers in the community, the proposed support structure
- 5.3.7 shall be designed in a manner to accommodate other users where practical, unless it is determined to be technically infeasible based on information submitted by the applicant. These include: other wireless communication companies, police, fire and ambulance companies.
- 5.3.8 The related unmanned equipment and/or building(s) shall not exceed the lot coverage and bulk restrictions of the underlying district; and shall be designed in a manner to minimize its appearance by appropriate screening.
- Where such structure exceeds an area of seventy-one (71) square meters or 750 square feet in size, it should be designed to resemble a *(continued next page)*

(continued from 5.3.8) single-family house in any residential district. Emergency generators shall be designed with suitable noise suppression devices, to avoid creating a nuisance to neighbors.

5.4 STANDARDS for Special Permit Approval: Using technological evidence, the applicant shall demonstrate that the proposed location is necessary to satisfy its function in the company's grid system. Specific locations will be evaluated using the following criteria (not listed in any order of priority):

- a. Availability of suitable structures for antenna mounting.
- b. Topography as it relates to line of sight transmission for optimum service efficiency.
- c. Other potentially feasible lands and willing landlords.
- d. Screening potential of existing vegetation, structures and topographic features.
- e. Compatibility with adjacent land uses.
- f. Least number of sites to cover desired areas.
- g. Greatest coverage consistent with physical requirements.
- h. Opportunities to mitigate possible visual impact.
- i. Availability of sites not located within an established residential neighborhood.
- j. Preservation of view corridors, vistas.
- k. Potential for preservation of pre-existing character of site.
- l. Minimal impact on residential area surrounding commercial or industrial zoned sites including efforts to suppress noise from emergency generators.
- m. Selection of sites which lend themselves to visual mitigation.
- n. Availability of road access.
- o. Availability of electric power.
- p. Availability of land based telephone lines or microwave link capability.

5.4.1 If a tower is proposed, the application shall include supporting materials that identify the location of tall structures within one-quarter mile radius of the site proposed. Further, the applicant shall provide information on the survey of the owners of those locations regarding the viability of installing the antenna on those structures. This would include smokestacks, water towers, tall buildings, antenna or towers of other wireless communications companies, other communication towers (fire, police, etc.) or any other tall structures. The Planning & Zoning Commission may deny an application to construct a new tower if the applicant has not made a good faith effort to mount the antenna on an existing structure.

5.5 ABANDONMENT: The applicant shall provide a decommissioning plan to be implemented when the antenna and/or tower are no longer needed.

## ARTICLE II

### Section 21 - Residence R-1 District

- 21.0 PURPOSE AND INTENT: The purpose of this District is to maintain the existing rural character of the area, and to promote self-sufficient low density residential and agricultural uses in order to limit the need for major capital improvements in the District. *(added 06/10/96)*
- 21.1 GENERAL: The following regulations shall apply to the use of land, buildings and other structures, and the location and bulk of buildings and other structures in any Residence R-1 District.
- 21.2 PERMITTED USES: Land, buildings and other structures shall be used for one or more of the following purposes:
- 21.2.1 A single detached dwelling for one family and not more than one such dwelling per lot.
- 21.2.2 The Zoning Board of Appeals is authorized to permit separate quarters for an in-law/accessory apartment within an owner occupied single-family dwelling or accessory structure by Special Exception in accordance with Section 92 provided that separate utilities are not connected for a second dwelling unit. Such dwelling unit shall be integrated into the existing structure. The use of such separate quarters as a rental unit shall be prohibited unless approved by the Zoning Board of Appeals as a Special Exception in accordance with Section 92 as an accessory apartment. If a separate entrance is planned, it shall be placed on the side or rear of the dwelling. *(amended 06/10/09)*
- 21.2.3 Buildings, uses and facilities of the Town of Windham, State of Connecticut and Federal Government.
- 21.2.4 Low intensity general farming uses provided that the lot is at least five acres in size. Where any structure is used to house animals, it shall be located not less than 100 feet from any neighboring residence (exclusive of the farm owner's house) or street line. *(added 06/10/96)*
- 21.2.5 Railroad rights-of-way including customary accessory services therein but not including switching, freight yards, freight terminals or storage sidings.
- 21.2.6 SPECIAL USES: *(entire Section amended 06/10/96)* The following uses are permitted by Special Permit in accordance with Section 62 by the Planning & Zoning Commission *(amended 11/22/02)*:
- a. churches, cemeteries, places of worship and parish halls;
  - b. private schools or colleges;
  - c. private museums, libraries, membership clubs, charitable institutions, excluding drug or alcohol addiction treatment facilities or a halfway house;
  - d. day care centers and facilities for more than six (6) children or adults;
  - e. nursing and rest homes;
  - f. public utility substations;

*(continued next page)*

*(Section 21.2.6 continued)*

- g. bed and breakfast inns within existing buildings limited to six (6) rooms;
- h. camping areas;
- i. private clubs and non-profit recreational facilities;
- j. commercial kennels, veterinary hospitals and commercial boarding stables;
- k. commercial radio, communications or television towers;
- l. high intensity agricultural uses; and,
- m. Nurseries, truck gardens and commercial greenhouses, provided that such use is located on a lot of at least five acres and not less than 100 feet from any residential property or street.

21.2.7 ACCESSORY STRUCTURES AND USES PERMITTED: *(entire Section amended 06/10/96)* Permitted accessory uses include, but are not limited to, the following:

- a. An attached or detached private garage or carport.
- b. Private greenhouse, vegetable, fruit or flower garden and shed for the storage or maintenance of recreation and yard equipment used on the premises.
- c. Roadside Stands for Farm Produce: Stands for the purpose of displaying and selling agricultural or farming products which are grown or produced on the owners premises on which said stand is located. Said stand shall not exceed ground coverage of 300 square feet, and limited to one stand per parcel of property. Such stand shall be limited in its operation to daylight hours only. Further, the stand shall not be located closer than twenty (20) feet from a street, and access to the stand shall be from an entrance to the farm or residence.
- d. Children's playhouse and playground equipment.
- e. Structures for the shelter of household pets except kennels. Private kennels may be permitted provided that any such kennel occupied by more than three dogs, and any run connected therewith, is located not less than 100 feet from any property or street line. Commercial kennels as defined may only be permitted by the Planning & Zoning Commission by Special Permit in accordance with Section 62. *(Revised June 23, 2011)*
- f. Barbecue pits, flagpoles, trellises, statuary, arbors and gazebos.
- g. Tennis courts, lighted or unlighted, accessory to a residential building and limited to use by the occupants thereof and their guests subject to the setback requirements of the District and the performance requirements for lighting.
- h. A private swimming pool and bathhouse accessory to a residential building and limited to use by the occupants thereof and their guests.
- i. Fences, retaining walls and hedges subject to Section 3.3.3.

*(continued next page)*

*(21.2.7 continued)*

- j. Outdoor storage of no more than one boat and boat trailer and no more than one camping trailer or recreational vehicle per dwelling unit; provided no part of such storage area shall be located in a front yard setback area and provided such boat and camping trailer or recreational vehicle shall not be used for living, sleeping or housekeeping purposes.
- k. The leasing of rooms in a dwelling to not more than three persons or the taking of not more than three boarders; the person or persons leasing rooms or providing board shall reside in the dwelling.
- l. A satellite dish antenna provided it is located in the rear yard; or where a large lot exists, it should be placed at least fifty (50) feet from the street.
- m. Community fairs sponsored by a local charitable or benevolent organization and then for a period not to exceed three days.
- n. Permitted signs as specified in these Regulations.
- o. Home occupations as specified in these Regulations and provided that no home occupation shall be permitted in which there is associated therewith:
  - 1. Any commodity sold upon the premises except that which is produced thereon or is accessory to the home occupation conducted on the premises.
  - 2. Any disturbance such as noises, vibration, smoke, dust, odor, heat or glare beyond the confines of the dwelling unit or accessory building.
  - 3. Any house calls after 9:00 p.m. or before 8:00 a.m., or other indication from the exterior that the dwelling unit or accessory building is being used in part for any use other than that of a dwelling or accessory building for purely residential purposes.
  - 4. Any exterior displays, or exterior storage of materials, except as expressly permitted.
- p. Radio and television antennas subject to the height restrictions of the district in which they are located.
- q. Off-street parking subject to the provisions of these Regulations.
- r. Roadside bus shelters may be permitted provided said shelter does not exceed fifty (50) square feet in area or ten (10) feet in height. Its location shall be no closer than one foot from the owner's front or side property line subject to Section 3.3.4 and shall not be placed on a permanent foundation. Shelters may be located within the road right-of-way with written approval of the Connecticut Department of Transportation, as applicable. In no case shall the shelter be located closer than ten (10) feet of the traveled portion of the road. Said shelter shall be removed by the owner if not used for its intended purpose for one year, or upon order of the Superintendent of Public Works or the Board of Selectmen if the building interferes with road right-of-way.

*(continued next page)*

*(21.2.7 continued)*

- s. Farm buildings and structures such as windmills, silos, buildings or shelters for farm equipment and machinery, water wells, water reservoirs and storage tanks.
- t. Buildings or structures required to house, nurture or for the confinement or storage of animals, products or other uses lawfully produced or permitted on the property.
- u. Livestock and Poultry: These Regulations are not intended to prevent the keeping and raising of a limited supply of livestock and poultry on a lot at least two acres in size for the owner's personal use, except roosters over six (6) months of age. However, any outdoor fenced or enclosed area for such use shall be no less than ten (10) feet from the property line abutting a residence. Buildings or structures housing such animals shall be placed no less than 100 feet from any abutting residence.
- v. Horses or Large Animals: The keeping of horses or large animals for non-commercial purposes is permitted as an accessory use to a permitted principal residential use, subject to the following conditions and standards:
  - 1. No horse or large animal shall be maintained on any parcel of land less than two acres in area. Horses or large animals shall be allowed at the rate of one for the first two acres, and one for each one half (1/2) acre in addition thereto exclusive of any wetland area or steep slope in excess of fifteen (15) percent in grade.
  - 2. All outdoor areas for the pasturing of horses or large animals shall be enclosed with a fence capable of confining the horse(s) or large animal(s) to the property, which fence shall be no less than three feet from any abutting property line exclusive of a street line.
  - 3. In addition, when more than three horses or large animals are kept, the following conditions and standards shall apply:
  - 4. A stall or other space in a suitable, dry, weather tight shelter, by a barn, stable or other permanent structure, shall be provided for each and every horse or large animal excluding a garage where a vehicle or flammable liquids are stored to be maintained on the property. Horses or large animals shall not be housed in trailers, tents, or other mobile or temporary shelters.
  - 5. No stable, barn or other structure housing horses or large animals, nor any feed or watering trough shall be established or maintained within 100 feet of any dwelling on an adjacent property. Any outdoor fenced or enclosed area for the pasturing of horses or other large animals shall be no less than three feet from the property line abutting a residence in order to prevent the animals from eating a neighbor's vegetation.
  - 6. Best management practices shall be employed to control odor and insects, especially where abutting a neighboring residence.

21.2.8 ACCESSORY USE RESTRICTIONS: (*entire Section amended 06/10/96*) The following is a list of restrictions on accessory uses and structures:

- a. There shall be no parking of trucks, buses or other vehicles with a manufacturer's rating of more than two tons, except on a farm, unless a Special Exception is granted by the Zoning Board of Appeals in accordance with Section 92.
- b. On corner lots, accessory structures and uses shall conform to the setback requirements on both street frontages.
- c. Vision clearance areas shall be free of obstructions as specified under Section 3.3.4.
- d. Accessory buildings and structures shall not cover more than thirty (30) percent of any rear yard and shall abide by all setback requirements unless otherwise specified.
- e. Maximum Height: Accessory buildings and structures shall not exceed a height of twenty (20) feet unless for a farm use or when attached to the principal building, then it shall not exceed the height limits for the district.
- f. Attached Accessory Buildings: Attached accessory buildings shall be located pursuant to the requirements for principal buildings.

21.2.9 SPECIAL USE REGULATIONS: (*entire Section amended 06/10/96*) The following regulations shall be used as a guideline for certain special uses:

- a. Farm Labor Quarters: The Zoning Board of Appeals may grant a Special Exception in accordance with Section 92 to the owner or operator of a farm for farm laborer(s) quarters employed on the premises. Such Special Exception shall be limited to the following conditions:
  1. The farm shall be a bona-fide farming operation and the owner or operator shall reside in a permanent dwelling on the farm.
  2. The dwelling shall be occupied only by a person who is employed on the premises, and may include the family of such person
  3. There shall be not more than one additional dwelling for each ten- (10) acres of land on a bona-fide farming operation.
  4. The use of two or more dwellings on a farm under this Section shall not be construed as a camp and the requirements applicable to such use shall not apply.
  5. The number, size, occupancy and other characteristics of the dwellings allowable under this Section shall be such as to constitute an accessory use, as that term is defined in these Regulations, to the principal farming use.
- b. Commercial Kennels, Commercial Boarding Stables and Veterinary Hospitals: The Planning & Zoning Commission (*Revised June 23, 2011*) may approve the use of a property for these uses by Special Permit in accordance with Section 62.

(continued next page)

(21.2.9b Commercial Kennels ...continued)

1. Minimum Parcel Size: Commercial kennels, commercial boarding stables, and veterinary hospitals shall not be permitted on a parcel less than five acres in area.
  2. Setback: No building, run, pen or other structure or enclosure designed or intended for occupancy by dogs and no stable, paddock or other structure or enclosure designed or intended for overnight occupancy or exercise by horses shall be less than 100 feet from any neighboring residence. The foregoing shall not apply to pasture areas or other large, open areas for the grazing of horses, provided, however, that any such areas abutting private property under separate ownership shall be no less than three feet from the property line.
  3. Noise Control: All runs, pens or other enclosures designed or intended for occupancy by dogs shall be surrounded by walls or earthen berms no less than eight (8) feet in height. All buildings or structures for occupancy by dogs shall be fully enclosed, with walls, roof and windows, and shall be ventilated by louvered or baffled openings or by mechanical ventilation equipment to control noise.
  4. Waste Control: All fecal waste shall be enclosed in a watertight enclosure designed to prevent the escape of odor or access by insects or other pests. Such container shall be emptied regularly or otherwise disposed, so as to control odor or risks to the public health.
- c. Camping Areas: (Revised June 23, 2011) For the establishment or expansion of a camping area, the following regulations shall apply:
1. No camping areas may be established or operated unless a Special Permit for such purposes has been issued by the Planning & Zoning Commission in accordance with Section 62. Any existing campground may continue to operate, but any changes to the property shall be reviewed in accordance with these Regulations, and/or the provisions for non-conforming properties under Section 3.10 as applicable for minor modifications or Section 62 for substantial changes by Special Permit.
  2. Applications for the establishment or expansion of a camping area shall be accompanied by a site plan showing: lot lines, dimensions of the lot, setback dimensions; location and description of shelter and toilet facilities; location and capacity of parking facilities; general layout of campsites including overflow field, access and egress roads; and such other information as may be required by the Planning & Zoning Commission to determine that the proposed facility complies with these Regulations. The site plan shall also show the names of the owners of land abutting the property for which a camping area permit is being requested.
  3. The following guidelines will be used in evaluating the proposed camping area:

(continued next page)

*(21.2.9 c Camping Areas continued)*

- i. Minimum Area of Lot: Twenty (20) acres
- ii. Maximum Density: Eight (8) seasonal campsites per acre. Each campsite for recreational vehicles shall have a minimum area of thirty (30) feet by fifty (50) feet in size, excluding the area of any wetland. Such campsite shall not be converted to year round residency, unless satisfying the standard lot requirements of the district.
- iii. Minimum Toilet Facilities: One men's room and one ladies room for each twenty-five (25) campsites or fraction thereof.
  - a. Each men's room shall include at least: a shower room; two lavatories; a utility sink; and two water closets; and two urinals. Each ladies room shall include at least: a shower room; two lavatories; a utility sink; and four water closets. Each toilet facility shall have adequate provisions for the supply of running hot and cold water to corresponding fixtures. All toilet facilities proposed shall meet the approval of the Town Health Officer.
  - b. In those camping areas where the use is restricted to self-contained camping vehicles with full sanitary facilities, the above requirements shall not apply, but sanitary facilities shall be as required by the public health code of the State of Connecticut, as to the number, location, physical features and construction. A self-contained camping vehicle means a camping vehicle equipped with a sink, shower and toilet, a water supply tank and a holding tank or tank for sink, shower and toilet waste.
    - i. Refuse Disposal: The site plan shall also indicate areas designated for the location of refuse containers. Said containers shall be rodent and odor proof, and located within suitable visual barriers away from campsites.
    - ii. Shelter: All weather shelter structures shall be provided. Said shelter shall be of adequate size and design and located within walking distance from the camping site.
    - iii. Buffer Zone/Strip: Each camping area shall be provided with a buffer zone/strip of at least 100 feet around its boundaries. If natural vegetation does not exist, said buffer zone/strip shall be properly planted with evergreen trees and/or shrubbery of no less than six (6) feet in height in order to provide adequate year round screening.
    - iv. Open Space Recreational Area: Each camping area shall be provided with open space recreational areas (excluding overflow fields, campsites, and circulation spaces) at the rate of no less than twenty (20) percent of the total area of the lot.

*(continued next page)*

*(21.2.9 c Camping Areas continued)*

4. Camping areas shall be provided with driveways of adequate design and paving and shall be in accordance with the Town's Public Improvement Specifications.
  5. Permittees of camping areas shall maintain an up-to-date register indicating the names of campsite occupants including number of license plates on all motor vehicles in the campground. A copy of said register shall be available for inspection by the Planning & Zoning Commission or its authorized agent.
- 21.3 LOT AREA, SHAPE AND FRONTAGE: Each lot shall have a minimum area of 2 acres, shall be consistent with Section 3.3.1 regarding lot area and shape, and a buildable envelope as specified under Section 3.3.6 will fit on the lot and shall have a frontage of 200 feet or more on a street. The only exceptions shall be as provided in these Regulations for flexible design subdivisions, and rear lots or as otherwise authorized. *(Effective 10/1/09)*
- 21.4 SETBACKS: No building or other structure shall extend within thirty (30) feet of any street line or within thirty (30) *(Effective 10/1/09)* feet of any property line, except as follows:
- 21.4.1 The required setback from a street line shall be increased to fifty (50) feet from the street line of Plains Road, Back Road, Jerusalem Road, Tuckie Road and any state highway.
  - 21.4.2 Permitted signs, as specified in Section 72, may extend within lesser distances of a property or street line.
  - 21.4.3 Marquees, canopies, eaves, open fire escapes, ground story unenclosed porches and similar projections without projecting walls may project not more than two feet into the area required for setback from a property or street line.
  - 21.4.4 Any property of record created prior to October 1, 2009 would be subject to a twenty foot building line setback along any side and rear property line. *(Effective 10/1/09)*
  - 21.4.5 Roadside stands, permitted under Paragraph 21.2.6, may extend to within twenty-five (25) feet of a street line.
  - 21.4.6 Fences and Terraces: The installation of these features shall be guided by the general provisions of Section 3.3 of these Regulations. *(added 06/10/96)*
- 21.5 HEIGHT: No building or other structure shall exceed a height of three stories or thirty-five (35) feet, whichever is less.
- 21.6 COVERAGE AND BULK: The aggregate lot coverage of impervious surfaces of all buildings and other structures on any lot shall not exceed fifteen (15) percent of the area of the lot. The total floor area of all buildings and other structures on any lot, excluding basements, shall not exceed forty (40) percent of the area of the lot. *(Effective 10/1/09)*
- 21.7 MINIMUM FLOOR AREA FOR DWELLING: Each dwelling shall have a minimum floor area of 750 square feet. *(Effective 10/1/09)*
- 21.8 DRIVEWAYS: Each lot shall be served by a driveway or common driveway. *(Effective 10/1/09)*

## Section 22 - Residence R-2 District

- 22.0 PURPOSE AND INTENT: The purpose and intent of this District is to provide an area for moderate density residential development in rural areas where the public facilities and infrastructure support such development. *(added 06/10/96)*
- 22.1 GENERAL: The following regulations shall apply to the use of land, buildings and other structures, and the location and bulk of buildings and other structures in any Residence R-2 District.
- 22.2 PERMITTED USES Any principal or accessory uses permitted in the R-1 District including special uses as prescribed. *(amended 06/10/96)*
- 22.3 LOT AREA, SHAPE AND FRONTAGE: Each lot that is served by public sanitary sewers shall have a minimum area of one-half acre, and shall be of such shape that a buildable square as specified in Section 3.3.5, will fit on the lot and shall have a frontage of 100 feet or more on a street. Each lot that is not served by public sanitary sewers shall have a minimum area of 2 acres, shall be of such shape that a buildable envelope as specified under Section 3.3.6 will fit on the lot and shall have a frontage of 200 feet or more on a street. The only exception shall be as provided in these Regulations for flexible design subdivisions, and rear lots or as otherwise authorized. *(Effective 10/1/09)*
- 22.4 GENERAL PROVISIONS: The general provisions regulating setbacks, height, coverage and bulk, minimum floor area, and driveways shall be as specified in the R-1 District. *(added 06/10/96)*

## Section 23 - Residence R-3 District

- 23.0 PURPOSE AND INTENT: The purpose and intent of this District is to provide an area for development to maintain the existing rural character of the area, and to promote self-sufficient low density residential uses in order to limit the need for major capital improvement in the District. *(Effective 10/1/09)*
- 23.1 GENERAL: The following Regulations shall apply to the use of land, buildings and other structures, and the location and bulk of buildings and other structures in any Residence R-3 District.
- 23.2 PERMITTED USES: Any principal or accessory uses permitted in the R-1 District including special uses as prescribed. *(amended 06/10/96)*
- 23.3 LOT AREA, SHAPE AND FRONTAGE: Each lot shall have a minimum area 2 acres, shall be consistent with Section 3.3.1 regarding lot area and shape, a buildable envelope as specified under Section 3.3.6 will fit on the lot and shall have a frontage of 200 feet or more on a street. The only exception shall be as provided in these Regulations for flexible design subdivisions, and rear lots or as otherwise authorized. *(Effective 10/1/09)*
- 23.4 GENERAL PROVISIONS: The general provisions regulating setbacks, height, coverage and bulk, minimum floor area, and driveways shall be as specified in the R-1 District. *(added 06/10/96)*

## Section 24 - Residence R-4 District

- 24.1 PURPOSE AND INTENT: The purpose and intent of this District is to provide an area of relatively moderate densities appropriate to the public facilities available in the Willimantic Service District. *(added 06/10/96)*
- 24.2 PERMITTED USES: Land, buildings and other structures shall be used for one or more of the following purposes:
- 24.2.1 A single detached dwelling for one family and not more than one such dwelling per lot.
- 24.2.2 The Zoning Board of Appeals is authorized to permit an in-law/accessory apartment within an owner occupied single family dwelling or accessory structure by Special Exception in accordance with Section 92, provided the unit is integrated into the existing structures and designed to appear as a single family residence. If a separate entrance is planned, it shall be placed on the side or rear of the dwelling. Use of separate in-law quarters may not be used as an accessory apartment unit unless approved by the Zoning Board of Appeals as a Special Exception in accordance with Section 92. *(amended 06/10/96)*
- 24.2.3 Building, uses and facilities of the Town of Windham, State or Federal Government. *(amended 06/10/96)*
- 24.2.4 ACCESSORY Structures and USES Permitted: *(entire Section amended 06/10/96)* Accessory uses and structures may be permitted in any Zoning District provided such uses or structures conform to the definition (of accessory uses). Permitted accessory uses and structures include but are not limited to the following:
- a. An attached or detached private garage or car-port for not more than three vehicles limited to 600 square feet in floor area or 9,000 cubic feet in size, unless for a farm or multi-family development, and subject to the standard setback requirements. The Zoning Board of Appeals may grant a Special Exception in accordance with Section 92 for a structure which houses more vehicles provided the purpose is not for a use that is not permitted in the District.
  - b. Private greenhouse, vegetable, fruit or flower garden and shed for the storage or maintenance of recreation and yard equipment used on the premises.
  - c. Roadside Stands: Stands for the purpose of displaying and selling agricultural or farming products which are grown or produced on the owners premises on which said stand is located. Said stand shall not exceed ground coverage of 300 square feet, and will be limited to one stand per parcel of property. Further, the stand shall not be located less than twenty (20) feet from a street, and access to the stand is from an entrance to the farm or residence.
  - d. Children's playhouse and playground equipment.
  - e. Structures for the shelter of household pets except kennels to house more than three adult dogs.
  - f. Barbecue pits, flagpoles, trellises, statuary, arbors and gazebos.

*(continued next page)*

*(continued from Section 22.2.4)*

- g. Tennis courts, lighted or unlighted, accessory to a residential building and limited to use by the occupants thereof and their guests subject to the available setback requirements of the District and the performance requirements for lighting.
- h. A private swimming pool and bathhouse accessory to a residential building and limited to use by the occupants thereof and their guests.
- i. Fences, walls and hedges subject to Section 3.3.3.
- j. Outdoor storage of no more than one boat and boat trailer and no more than one camping trailer or recreational vehicle per dwelling unit; provided no part of such storage area shall be located in a front yard setback area and provided such boat and camping trailer or recreational vehicle shall not be used for living, sleeping or housekeeping purposes.
- k. Community fairs sponsored by a local charitable or benevolent organization and then for a period not to exceed three days.
- l. Satellite dish antenna provided they are located in the rear yard, or where a large lot exists, they should be placed at least fifty (50) feet from the street line.
- m. Permitted signs as specified in these Regulations.
- n. Home occupations as specified in these Regulations and provided that no home occupation shall be permitted in which there is associated there with:
  - 1. Any commodity sold upon the premises except that which is produced thereon or is accessory to the home occupation conducted on the premises.
  - 2. Any disturbance such as noises vibration, smoke, dust, odor, heat or glare beyond the confines of the dwelling unit or accessory building.
  - 3. Any house calls after 9:00 p.m. or before 8:00 a.m., or other indication from the exterior that the dwelling unit or accessory building is being used in part for any use other than that of a dwelling or accessory building for purely residential purposes.
  - 4. Any exterior display, or exterior storage of materials, except as except as expressly permitted.
- o. Radio and television antennas subject to the height restrictions of the district in which they are located.

24.2.5 ACCESSORY USE RESTRICTIONS: *(entire Section amended 06/10/96)* The following is a list of restrictions on accessory uses and structures:

- a. There shall be no storage or overnight parking of trucks, buses or other vehicles with a manufacturer's rating of more than two tons.
- b. On corner lots, accessory structures and uses shall conform to the setback requirements on both street frontages.
- c. Vision clearance areas shall be free of obstructions. *(continued next page)*

*(continued from Section 24.2.5)*

- d. Accessory buildings shall not cover more than thirty (30) percent of any rear yard and shall be at least five feet from lot lines and provided there are no structures within ten (10) feet on an abutting property and that the rear yard is not subject to front yard setback requirements.
- e. Accessory buildings shall not exceed a height of fifteen (15) feet, unless for a farm use or when attached to the principal building, then it shall not exceed the height limits for the district.
- f. Attached accessory buildings shall be located pursuant to the requirements for principal buildings.

24.3 SPECIAL USES: *(entire Section amended 06/10/96)* The following uses are permitted by Special Permit in accordance with Section 62 by the Planning & Zoning Commission: *(Revised June 23, 2011)*

- a. churches, cemeteries, and places of worship;
- b. private schools or colleges;
- c. private museums, libraries, membership clubs, recreational facilities, charitable institutions limited in floor area to 2,500 square feet in size, excluding any drug or alcohol treatment or counseling facilities or half-way houses;
- d. day care centers for more than six (6) children or adults;
- e. mortuary;
- f. leasing of rooms in an owner occupied dwelling to not more than five persons or the taking of not more than five boarders; and,
- g. Bed and breakfast inn within an existing structure.

24.4 LOT AREA, SHAPE AND FRONTAGE: The standard lot requirement for a lot which has public water and sewer connections is an area of 10,800 square feet with a frontage on a suitably improved public street of ninety (90) feet, and shall be consistent with Section 3.3.1 for lot area and shape, and Section 3.3.5 for buildable square. However, where public sewers are not connected, the minimum lot area shall be 30,000 square feet with a frontage of 110 feet on a suitably improved public street, with a buildable square as specified. Where neither public water nor sewers are readily available, a lot area of 40,000 square feet shall be required with a frontage of 125 feet on a suitably improved public street and a buildable square as specified. *(amended 06/10/96)*

24.5 SETBACKS: No building or other structure shall extend within twenty (20) feet of any street line or rear property line or within ten (10) feet of any side property line, except as follows:

- 24.5.1 Permitted signs, as specified in Section 72, may extend within lesser distances of a property or street line.
- 24.5.2 Marquees, canopies, eaves, open fire escapes, ground story unenclosed porches and similar projections without projecting walls may project not more than two feet into the area required for setback from a property or street line.
- 24.5.3 Fences and Terraces: The installation of these features shall be guided by the general provisions of Section 3.3 of these Regulations.

- 24.6 HEIGHT: No building or other structure shall exceed a height of 2 ½ stories or thirty-five (35) feet, whichever is less.
- 24.7 COVERAGE AND BULK: The aggregate lot coverage of all buildings and other structures on any lot shall not exceed twenty (20) percent of the area of the lot. The total floor area of all buildings and other structures on any lot shall not exceed forty (40) percent of the area of the lot. *(amended 06/10/96)*
- 24.8 MINIMUM FLOOR AREA FOR DWELLINGS: Each one story dwelling shall have a minimum floor area of 900 square feet; each split level dwelling or dwelling with two or more floors shall have a total minimum floor area of 1,200 square feet.

## Section 25 - Residence R-5 District

- 25.1 PURPOSE AND INTENT: The purpose and intent of this District is to provide an area permitting a more intensive level of development than that permitted in the R-4 District with the same development standards and uses, on smaller lots; and in special circumstances multi-family developments. *(amended 06/10/96)*
- 25.2 PERMITTED USES: Any use permitted in the Residence R-4 District subject to any conditions as may be required.
- 25.3 SPECIAL USES: *(entire Section amended 06/10/96)* The following uses are permitted by Special Permit in accordance with Section 62 by the Planning & Zoning Commission: *(Revised June 23, 2011)*
- 25.3.1 Any use permitted by Special Permit in the R-4 Residence District subject to any conditions as may be required. *(amended 06/10/96)*
- 25.3.2 Dwellings containing two dwelling units and not more than one such dwelling per lot, provided that any such dwelling shall be located on a lot of at least 10,000 square feet.
- 25.3.3 Dwellings containing three or more dwelling units may be approved in accordance with Section 84.7(relocated standards from former 62.6.8) for multi-family developments and provided the following conditions are satisfied: *(revised 09/27/12)*
- i. Special Lot Requirements: In addition to the provisions of Section 25.3.2, there shall be 2,000 square feet of land provided for each additional dwelling unit in excess of two. *(amended 06/10/96)*
- ii. Yard Requirements: All dwellings shall observe a minimum twenty-five (25) foot setback from all lot lines. Any dwelling exceeding twenty-five (25) feet in height shall be set back an additional foot for each foot it exceeds twenty-five (25) feet in height. All interior drives, parking facilities, and loading areas shall observe a minimum fifteen- (15) foot setback from all lot lines except for necessary access drives.
- 25.4 LOT AREA, SHAPE AND FRONTAGE: Each lot shall have a minimum area of 9,000 square feet and shall be consistent with Section 3.3.1 for lot area and shape and shall have a frontage of seventy-five (75) feet or more on a street. *(amended 06/10/96)*
- 25.5 SETBACK, HEIGHT, COVERAGE AND BULK: As required in the Residence R-4 District.
- 25.6 MINIMUM FLOOR AREA FOR DWELLING: Each one story dwelling shall have a minimum floor area of 750 square feet; each split level dwelling or dwelling with two or more floors shall have a total minimum floor area of 1,000 square feet. Each dwelling unit shall have a minimum floor area of 750 square feet unless as otherwise approved under Section 84.7(relocated standards from former 62.6.8) for a clustered multi-family development. *(revised 09/27/12)*

## Section 26 - Residence R-6 District (RPO)

- 26.1 PURPOSE AND INTENT: The purpose and intent of this District is to provide an area for an intensity of development similar to that of the R-5 District. In addition, office uses may be permitted under special circumstances where they will not impair the residential character of the District. (*amended 06/10/96*)
- 26.2 PERMITTED USES: Those uses permitted in Section 24.2 of the R-4 Residence District.
- 26.2.1 Accessory uses and structures as specified in the R-4 District. (*added 06/10/96*)
- 26.2.2 For hospitals, health care institutions, and educational institutions after site plan approval (*added 06/10/96*):
- a. staff quarters;
  - b. laundry, incidental to principal use;
  - c. cafeteria;
  - d. day care facilities;
  - e. office and conference centers;
  - f. heating plants;
  - g. off-street parking facilities;
  - h. classrooms;
  - i. dormitories;
  - j. fraternity & sorority houses;
  - k. library.
- 26.3 SPECIAL USES: The following uses are approved by the Planning & Zoning Commission: (*Revised June 23, 2011*)
- 26.3.1 Uses permitted by Special Permit as detailed in Section 25.3 of the R-5 Residence District and clustered multi-family developments as specified in the R-5 District under Section 25.3.
- 26.3.2 PROFESSIONAL OFFICES provided the following special requirements are met:
- a. The minimum lot size shall be 20,000 square feet. The Commission may permit the use of an existing lot having an area less than 20,000 square feet for office use provided the lot was legally in existence on or before January 1, 1979, and further provided that, in the opinion of the Commission, it can be developed for office use without impairing the residential character of adjacent lots. (*amended 06/10/96*)
  - b. The location of parking facilities, access drives and other uses necessary to the development of a lot for office use shall be so located as to minimize any adverse impact on adjacent residential properties. (*amended 06/10/96*)
  - c. All required setback yards shall be suitably landscaped and maintained in a sightly manner. (*amended 06/10/96*)
  - d. Use of any lot for offices shall not substantially alter the residential appearance of the lot or substantially impair the residential use and character of the surrounding neighborhood.
- 26.4 THE GENERAL PROVISIONS for lot area, shape, frontage and minimum floor area shall be as specified in the R-5 District. The provisions for accessory uses, structures and setbacks, height, coverage and bulk shall be as specified in the R-4 District. (*amended 06/10/96*)

## Section 27 Neighborhood Preservation District ó NPR 1 & 2

- 27.1 PURPOSE AND INTENT: The purpose and intent of this District is to encourage the preservation and improvement of neighborhoods of special historic and architectural character and to ensure that new and expanded uses are compatible with the historic character, the Neighborhood Preservation Residence District is hereby created subject to the following Regulations. *(Revised June 23, 2011)*
- 27.2 PERMITTED USES: Land, buildings and other structures shall be used for one or more of the following purposes:
- 27.2.1 A single detached dwelling for one family and not more than one such dwelling per lot.
- 27.2.2 Principal and accessory uses as specified in the R-4 District. *(amended 06/10/96)*
- 27.2.3 Signs as specified in these Regulations, limited by the following requirements:
- a. Only one sign shall be permitted on each lot.
  - b. No sign shall exceed ten (10) square feet in area. No ground sign shall exceed six (6) feet in height.
- 27.3 SPECIAL USES: The following uses are permitted by Special Permit in accordance with Section 62 by the Planning & Zoning Commission: *(Revised June 23, 2011)*
- 27.3.1 Conversion of an existing building, including accessory buildings, to not more than three dwelling units provided the following standards are met:
- b. The owner of record shall have his primary residence in one of the units.
  - c. The minimum floor area of each unit shall be as specified in Section 84.7(relocated standards from former 62.6.8) *(revised 09/27/12)*
  - d. No more than three dwelling units will be present on a lot after such conversion.
- 27.3.2 Reserved.
- 27.3.3 Museums, libraries, parish halls.
- 27.3.4 Private non-profit schools, churches, public and private non-profit universities and colleges.
- 27.3.5 Day nurseries.
- 27.3.6 Public schools, offices of the Town of Windham.
- 27.3.7 NEIGHBORHOOD BUSINESS USES, PROFESSIONAL AND OFFICE USES: As permitted in the B-3 District provided they are within existing buildings, and are limited to 2,500 square feet of floor area, and the hours of operation do not exceed twelve (12) hours per day, with a closing time of not later than 10:00 p.m. Also, professional and business offices where an existing structure has its principal frontage on Main Street, Windham Road, Pleasant Street, Mountain Street, High Street, Jackson Street, Valley Street Windham Street or Mansfield Avenue south of Quarry Street. *(amended 06/10/96)*

27.4 SPECIAL REGULATIONS: Changes to site conditions shall be subject to design review by the Planning & Zoning Commission or Zoning Board of Appeals in accordance with Section 61. (*Revised June 23, 2011*)

27.4.1 An addition to any existing structure shall be permitted provided it shall have floor area not to exceed fifty (50) percent of the floor area of the existing structure

27.4.2 The parking provisions of Section 71 shall apply except that where strict adherence to the required schedule of parking spaces would result in damage to the landscape setting of buildings in the district, the Commission may waive the parking requirements, where there is an excess of parking available in the neighborhood and subject to a fee in lieu of parking as provided under Section 71.5.a.

27.4.3 No parking or loading facilities may be located in front of the front building line and no parking facility may be closer than six (6) feet to any lot line.

27.4.4 Where fire safety stairs must be constructed, they shall be enclosed within the present exterior wall of the building and shall be located on the rear elevation of the building.

27.4.5 The applicant shall submit exterior architectural details of all elevations of proposed additions and of any elevation of the existing structure proposed to be altered to accommodate the proposed use. Proposed detailed interior layout shall be submitted for any area proposed to be altered within any existing structure.

27.4.6 In reviewing an application for a design review under this Section, the Commission shall be specifically guided by the following:

- a. The proposed use and any alteration required to existing structures and landscape environments necessary to accommodate that use shall not damage or harm the historic and architectural character of the neighborhood.
- b. The lot shall be large enough to accommodate the uses proposed and the parking necessary without damage to the historic character of the neighborhood.
- c. Any new construction shall be, in scale, height and construction materials used, in harmony with neighboring historic structures.

27.5 LOT AREA, SHAPE AND FRONTAGE:

- a. The standard lot in an **NPR-1** Zone shall have 9,000 square feet in area, where both public water and sewer connections are provided, with a frontage of seventy-five (75) feet on a suitably improved public street.
- b. The standard lot in an **NPR-2** Zone shall have 7,200 square feet in area where both public water and sewer connections are provided, with a frontage of sixty (60) feet on a suitably improved public street.
- c. Where the proposed lots do not have public water and sewer connections, the lot must be 40,000 square feet in area with a frontage of 100 feet on a suitably improved public street. The area and shape of all lots shall be consistent with Sections 3.3.1 and 3.3.5.

- 27.6 **SETBACKS:** The front yard setback shall be ten (10) feet unless the remaining block is non-conforming. Where the neighborhood is non-conforming, the front yard building line setback shall be the average of all existing buildings on the block within 250 feet on either side of the front of the subject property. The side yard setback shall be ten (10) feet except that in the rear yard, the setback shall be three feet from any property line for an accessory structure provided such structure is not located within ten (10) feet of any street line or another structure on a neighboring lot, and is limited in total floor area to no larger than 300 square feet and fifteen (15) feet in height. Otherwise, the standard setbacks shall apply.
- 27.7 **HEIGHT:** A minimum height of twenty (20) feet or 1-½ stories shall be required. No building or other structure shall exceed a height of 2 ½ stories or thirty-five (35) feet, whichever is less, except that where an addition is proposed to an existing structure exceeding such height.
- 27.8 **COVERAGE AND BULK:** The aggregate lot coverage of all buildings and other structures on any lot shall not exceed fifty (50) percent (amended 06/10/96) of the area of the lot. The total floor area of all buildings on any lot shall not exceed seventy (70) percent of the area of the lot.
- 27.9 **MINIMUM FLOOR AREA FOR DWELLING:** Each one story dwelling in an NPR-1 District shall have a minimum floor area of 900 square feet; each dwelling with two or more floors shall have a total minimum floor area of 1,200 square feet. Each one story dwelling in an NPR-2 District shall have a minimum floor area of 750 square feet; each dwelling with two or more floors shall have a total minimum floor area of 1,000 square feet.
- 27.10 **ALTERNATIVE ARCHITECTURE:** The Planning & Zoning Commission may consider construction of a one story, ranch, raised ranch, modern contemporary or split level building by Special Permit on a property where it can be sufficiently demonstrated that it will not be incompatible with the neighborhood of all principal buildings within a radius of 250 feet of the subject property.

## Section 28 - Requirements For Land Used As A Flexible Subdivision

- 28.1 Notwithstanding anything herein to the contrary, land used as a flexible subdivision within the R-1, R-2 and R-3 districts, and the lots or units created therein, shall be of such shape that a minimum buildable envelope as specified in Section 3.3.6 will fit and shall meet the following minimum criteria:

### Minimum Lot Standards for Flexible Design Subdivision (*Effective 10/1/09*)

Zone	Lot Size	Frontage	Front Setback	Rear & Side Setback	Maximum Impervious Surfaces	Rear Lots	Setbacks for Rear Lots
R ó 1	1 acre	100ø	20ø	20ø	25%	2 acres	40'
R ó 2 with on-site sewer	1 acre	100ø	20ø	20ø	25%	1 acres	40'
R ó 2 with off-site sewer	0.25 acre	75ø	20ø	20ø	25%	0.5 acres	30'
R ó 3	1 acre	100ø	20ø	20ø	25%	2 acres	40'

## ARTICLE III

### Section 30 ó Incentive Housing Overlay Zone

30.1 PURPOSE AND INTENT: *(added effective 9-2-13)* The purpose of this District is to promote the creation of better quality housing in targeted downtown neighborhoods. Attractive housing downtown will increase pedestrian activity, support downtown businesses, revitalize vacant or underutilized properties, and make efficient use of existing public infrastructure and transit services.

- **Context-sensitive infill development** *(defined in the Business District Design Guidelines)* is strongly encouraged to promote neighborhood compatibility.
- **Mixed-use developments** are strongly encouraged to provide a variety of business opportunities and to contribute to a vibrant streetscape.

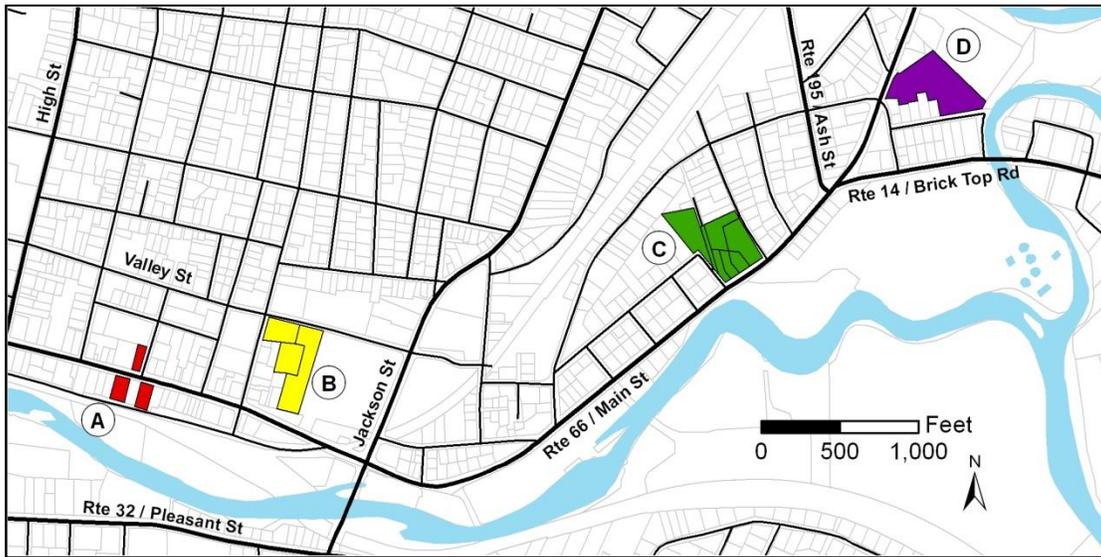
The Incentive Housing Overlay Zone promotes incentive housing development by identifying sites and streamlining the permitting process. Incentive Housing Developments are subject to specific design standards and other requirements detailed below.

30.2 GENERAL: The following regulations shall apply to the use of land, buildings and other structures, and the location, bulk and design of buildings and other structures in any Incentive Housing Overlay Zone (IHZ) and shall meet the requirements of CT General Statutes Sec. 8-13m, et seq., as amended.

30.2.1 OVERLAY ZONE: An overlay zone is a special zoning district, placed over an existing base zone (or zones), which identifies special zoning provisions. The provisions of the Incentive Housing Overlay Zone are optional and intended for only those seeking an Incentive Housing Development. The underlying zoning remains unchanged for those not seeking an Incentive Housing Development.

30.2.2 LOCATION: All sites are located in an eligible location as per the CT General Statutes Sec. 8-13m, et seq., as amended.

## Location of Incentive Housing Zones



### ZONE A: THREE PROPERTIES IN HISTORIC DOWNTOWN

Hooker Hotel	819 Main St.	0.21 acres	MBL 13-3/30/9
YMCA Building	832 Main St.	0.33 acres	MBL 13-3/61/13
Chapman Lot	804 Main St.	0.30 acres	MBL 13-3/61/16

Total combined area = 0.84 acres

### ZONE B: RIPE FOR REDEVELOPMENT

Old Lumberyard	87 Church St.	0.65 acres	MBL 13-3/89/1
Former Cinema	1 Jillson Sq.	0.67 acres	MBL 13-1/89/17-1
Town Land (next to Jillson)	645 Main St.	1.71 acres	MBL 13-1/89/13 & 17

Total combined area = 3.03 acres

### ZONE C: RIGHT ON THE RIVER

161 Main St.	0.86 acres	MBL 14-3/121/8
165 Main St.	0.25 acres	MBL 14-3/121/8-3
179 Main St.	0.24 acres	MBL 14-3/121/8-2
185 Main St.	0.23 acres	MBL 14-3/121/8-1
38 Elm St.	0.62 acres	MBL 14-3/121/8-4
46 Capen Ln.	1.04 acres	MBL 14-3/116/4
access easement	0.16 acres	No MBL

Total combined area = 3.40 acres

### ZONE D: NEED FOR NEIGHBORHOOD INFILL

34 Boston Post Rd.	3.08 acres	MBL 15-3/141/7
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30.3 PERMITTED USES: The following uses are permitted in their specific zones as listed in Section 30.3.1-4 and upon approval of a Site Development Plan accordance with Section 61 of these regulations provided that at least twenty percent (20%) of the housing units in any incentive housing development are subject to an incentive housing restriction.

ABBREVIATED TABLE OF PERMITTED USES

<b>Permitted Uses</b>	<b>IHZ A</b>	<b>IHZ B</b>	<b>IHZ C</b>	<b>IHZ D</b>
Mixed-use with Multifamily Dwellings	Permitted	Permitted on Church St. and new public street		Permitted on Boston Post Rd.
Mixed-Use Townhouses (a.k.a. ðLive/Work unitsö)		Permitted on Valley St.	Permitted on Main St.	
Multifamily Dwellings				Permitted in interior
Townhouses			Permitted	Permitted in interior
Single Family dwellings				Permitted on Lafayette St.

### 30.3.1 ZONE A : THREE PROPERTIES IN HISTORIC DOWNTOWN

- Mixed-use developments (subject to the criteria outlined in Sec. 30.2) containing one or more commercial, public, institutional, retail, or office uses and multifamily dwelling units which may include studios, one-bedroom, and two-bedroom units but shall not include three or more bedrooms in any unit and meeting the definition of incentive housing development.

The first floor shall not contain any residential units except:

- a) dwelling units in an existing building that is listed as contributing to the historic character of the National Registers' Main Street Historic District may be located on the first floor no closer than 30' from the building facade of a street.
- b) dwelling units in any other building may be located on the first floor no closer than 50' from the building facade of a street.

### 30.3.2 ZONE B: RIPE FOR REDEVELOPMENT

- Mixed-use developments (subject to the criteria outlined in Sec. 30.2) containing one or more commercial, public, institutional, retail, or office uses and multifamily dwelling units or townhouse dwelling units (a.k.a. òlive/work unitsö) which may include studios, one-bedroom, and two-bedroom units but shall not include three or more bedrooms in any unit and meeting the definition of incentive housing development.

The first floor shall not contain any residential units except:

- a) dwelling units in an existing building that is listed as contributing to the historic character of the National Registers' Main Street Historic District may be located on the first floor no closer than 30' from the building facade of a street.
- b) dwelling units in any other building may be located on the first floor no closer than 50' from the building facade of a street.

### 30.3.3 ZONE C: RIGHT ON THE RIVER

- Mixed-use developments (subject to the criteria outlined in Sec. 30.2) containing one or more commercial, retail, or office uses and townhouse dwelling units (a.k.a. òlive/work unitsö) which may include studios, one-bedroom, and two-bedroom units but shall not include three or more bedrooms in any unit and meeting the definition of incentive housing development.
- Townhouse dwelling units (subject to the criteria outlined in Sec. 30.2) which may include one-bedroom and two-bedroom units but shall not include three or more bedrooms in any unit and meeting the definition of incentive housing development.

30.3.4 ZONE D: NEED FOR NEIGHBORHOOD INFILL

- Mixed-use developments (subject to the criteria outlined in Sec. 30.2) containing one or more commercial, public, institutional, retail, or office uses and multifamily dwelling units which may include studios, one-bedroom, and two-bedroom units but shall not include three or more bedrooms in any unit and meeting the definition of incentive housing development.
- Townhouses (subject to the criteria outlined in Sec. 30.2) which may include one-bedroom and two-bedroom units but shall not include three or more bedrooms in any unit and meeting the definition of incentive housing development.
- Single family homes (subject to the criteria outlined in Sec. 30.2) which may include one-bedroom and two-bedroom units but shall not include three or more bedrooms in any unit and meeting the definition of incentive housing development.

30.4 PROHIBITED USES: The following uses are prohibited:

- a. Any incentive housing development dwelling unit with three or more bedrooms.
- b. Any commercial, public, institutional, retail, or office use prohibited in the underlying zone.

30.5 LOT AREA, SHAPE AND FRONTAGE: Any new lot created within an Incentive Housing Zone must conform to the minimum lot area, shape, or frontage requirement of the underlying zone.

30.6 SETBACKS: No building or other structure shall extend within the required setbacks of the underlying district. If authorized by the underlying district, the Zoning Board of Appeals is authorized to grant reductions of the setback requirements as specified in the underlying district.

30.7 HEIGHT: No building or other structure shall exceed the maximum height as specified in the underlying district.

30.8 COVERAGE AND BULK: The aggregate lot coverage of all buildings and other structures on any lot shall not exceed the coverage and bulk requirements of the underlying district. The design standards may contain additional requirements concerning building bulk.

30.9 DENSITY: The minimum allowable density shall be as specified in CGS 8-13n (b)(3) and, additionally, cannot include units that constitute housing for older persons permitted by the federal Fair Housing Act, 42 USC 3607 of Sections 46a-64c and 46a-64d of the CT General Statutes.

The following total eligible incentive units meet these minimum requirements:

Zone	Property	Acres	MBL	Incentive Units
IHZ A	Hooker Hotel	0.21	13-3/30/9	4 MF units in new construction
IHZ A	YMCA	0.29	13-3/61/13	5 MF units in new construction
IHZ A	Chapman Lot	0.30	13-3/61/16	5 MF units in new construction
IHZ B	Old Lumberyard	0.65	13-3/89/1	5 MF units <u>and</u> 4 townhouses in new construction
IHZ B	Former Cinema	0.67	13-1/89/17-1	12 MF units in new construction
IHZ B	Town Land	1.64	13-1/89/13 & 17	24 MF units <u>and</u> 4 townhouses in new construction
IHZ C	161-195 Main St., 38 Elm St.	2.2	14-3/121/8, 8-1,8-2,8-3, 8-4	18 townhouses in new construction
IHZ C	46 Capen Ln.	1.04	14-3/116/4	7 townhouses in new construction
IHZ D	34 Boston Post Road	3.08	15-3/141/7	22 MF units <u>and</u> 2 single family <u>or</u> 10 MF units <u>and</u> 6 townhouses <u>and</u> 2 single family in new construction

30.10 DESIGN STANDARDS: All development proposals in Windham must comply with the performance standards contained in Section 74 of the Windham Zoning Regulations.

To ensure that it fits in well with its surroundings, any incentive housing development shall be designed to meet the criteria outlined in the standards of this section.

For any incentive housing development located in the Business (B-1) District (includes IHZ A and B), the Design Guidelines for the Windham Business (B-1) District shall be the first standard for design review, followed by the criteria outlined in the Incentive Housing Overlay Zone Design Standards.

### 30.10.1 OVERALL DESIGN GOALS:

These design standards advise the development, redevelopment and renovation of properties within Windham's Incentive Housing Overlay Zones. High visibility sites deserve a high standard of design. If designed well, they will serve to improve the perception of the community and foster economic development by building community value.

Any proposed incentive housing development must substantially meet the following design standards for each zone:

- Road location, transit service, and traffic circulation,
- Location of uses and density
- Building location, size, minimum height, and design,
- Pedestrian circulation, driveway location, and parking,
- Shared amenities such as common areas, landscaping, and rubbish disposal.

### 30.10.2 GENERAL DESIGN STANDARDS FOR ALL INCENTIVE HOUSING DEVELOPMENTS

#### 30.10.2.1 PEDESTRIAN CIRCULATION, DRIVEWAY LOCATION, AND PARKING

- a) Sidewalks shall be included along every street line.
- b) Common driveways and off-street parking may be shared between units as long as the minimum parking requirements of the zone are met.
- c) Covered bike racks shall be provided for every ten units of housing.

#### 30.10.2.2 SHARED AMENITIES

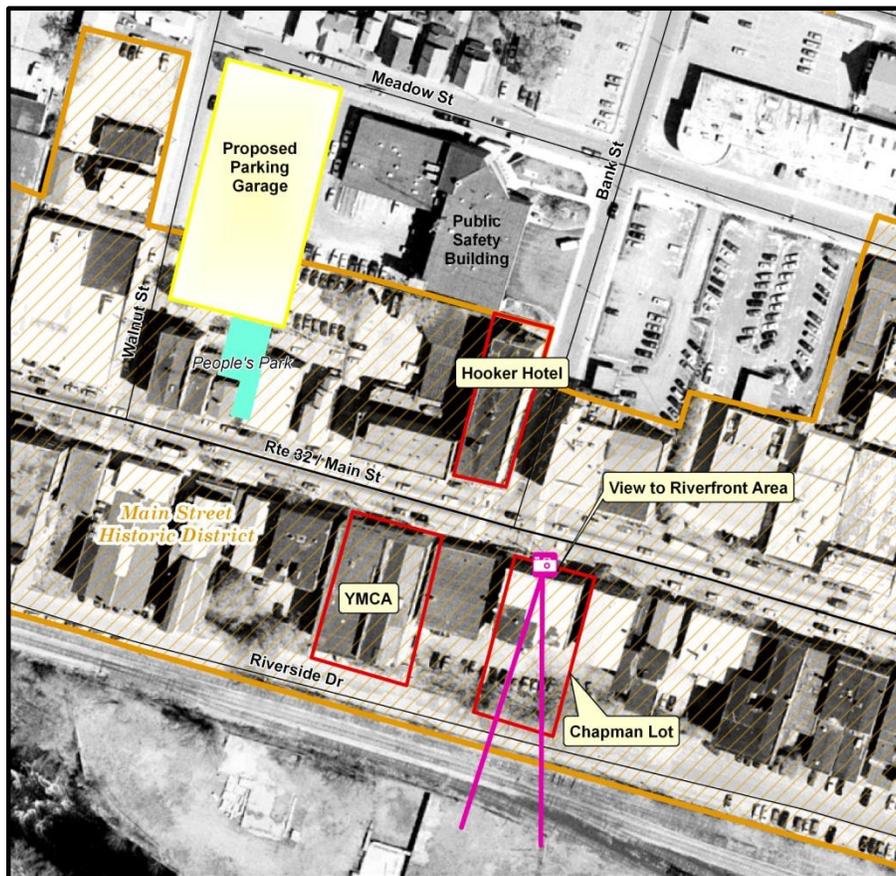
- a) Exterior common areas shall be provided for every 10 units of housing. Exterior common areas may include amenities such as street furniture, artwork, decorative fences, stonewalls, and the like.
- b) Existing trees in good condition shall be preserved as much as possible.
- c) All areas between the front of the building and the sidewalk that are not occupied by a driveway (or other approved hardscape) must be landscaped with grass or other living ground cover, trees, and shrubs.
- d) All perennial plantings shall be native species.
- e) Street trees shall be provided in conformance with the Town's standard.
- f) Mechanical equipment, rubbish and recycling storage shall be screened from public view.

### 30.10.3 ZONE A: THREE PROPERTIES IN HISTORIC DOWNTOWN

Zone A is located in the heart of Windham's downtown and in the center of the Main Street National Register Historic District. Compatibility with the historic character of Main Street is critical for any new construction or renovation in this zone.

This zone includes the vacant Chapman Lot (formerly home of the Chapman Block that was demolished in 2004), the Hooker Hotel and the YMCA building.

The Design Guidelines for the Windham Business (B-1) District shall be the first standard for design review in Zone A.



Site Analysis for Zone A



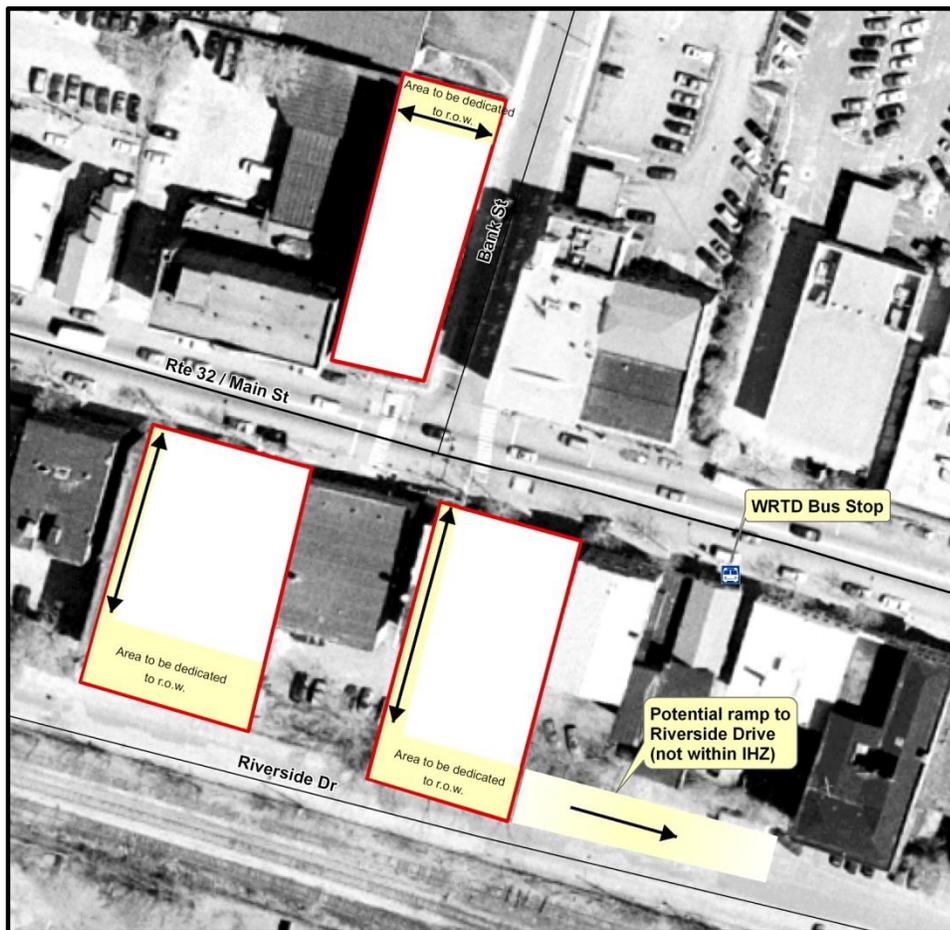
Empty Chapman Lot on Main St.

### 30.10.3.1 ROAD LOCATION, TRANSIT SERVICE, AND TRAFFIC CIRCULATION

Any incentive housing development within Zone A shall dedicate the areas depicted in the traffic circulation diagram as rights-of-way encumbered by an access easement. No areas dedicated to traffic circulation shall be obstructed as part of any incentive housing development.

If any portion of Zone A is developed as an incentive housing development, then the incentive housing development shall dedicate the portion of the right-of-way that is indicated for that lot.

There is an existing Windham Region Transit District local bus stop nearby. The design of any incentive housing development may provide space for a formal bus stop and include amenities such as, but not limited to, a bus shelter, bench, and signage.



**Traffic Circulation for Zone A**

30.10.3.2 LOCATION OF USES AND DENSITY

Mixed-use with multi-family dwellings is permitted throughout Zone A.

Density criteria for properties in Zone A		
Property	MBL	Minimum Incentive Units
<i>Hooker Hotel</i>	<i>13-3/30/9</i>	<i>4 MF units in new construction</i>
<i>YMCA</i>	<i>13-3/61/13</i>	<i>5 MF units in new construction</i>
<i>Chapman</i>	<i>13-3/61/16</i>	<i>5 MF units in new construction</i>

 Mixed Use with Multifamily Dwellings



Location of Uses and Density for Zone A

### 30.10.3.3 BUILDING LOCATION, SIZE AND MINIMUM HEIGHT

The building location of any incentive housing development in Zone A shall be oriented with the front of the building facing Main Street.

All new buildings shall be at least three stories high.

The diagram shows a building layout meeting the dimensional criteria for the underlying zone.



**Building Location for Zone A**

### 30.10.3.4 **BUILDING DESIGN**

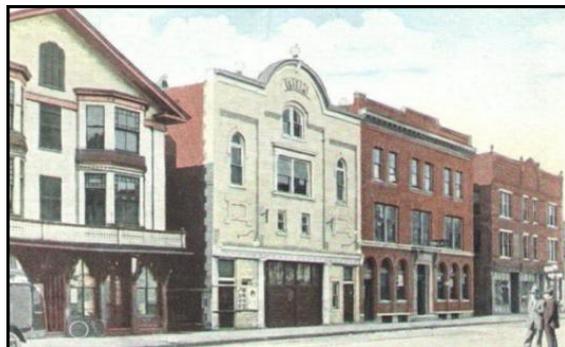
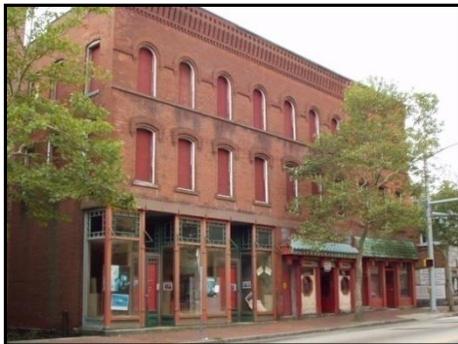
The images on this page show the preferred building styles for Zone A.

Additional design criteria are contained in the Design Guidelines for the Windham Business (B-1) District.

Façade: The façade shall be articulated with historically appropriate details such as decorative brickwork, parapets, and first floor cornices.

Materials: The required façade material in Zone A is real brick from grade to at least (one foot) 1ø above the sign frieze. Brick is also preferred for the balance of the façade. Bricks shall be laid in a pattern consistent with Victorian Era patterning.

Windows and Doorways: Window and door placement shall be symmetrical and balanced. On upper stories, decorative bay, oriel, or arched windows are encouraged. Windows and doors shall be inset a minimum of 4 inches and trim and window sills shall extend a minimum of 1 inch beyond wall material to add visual relief. Windows shall be taller than they are wide.

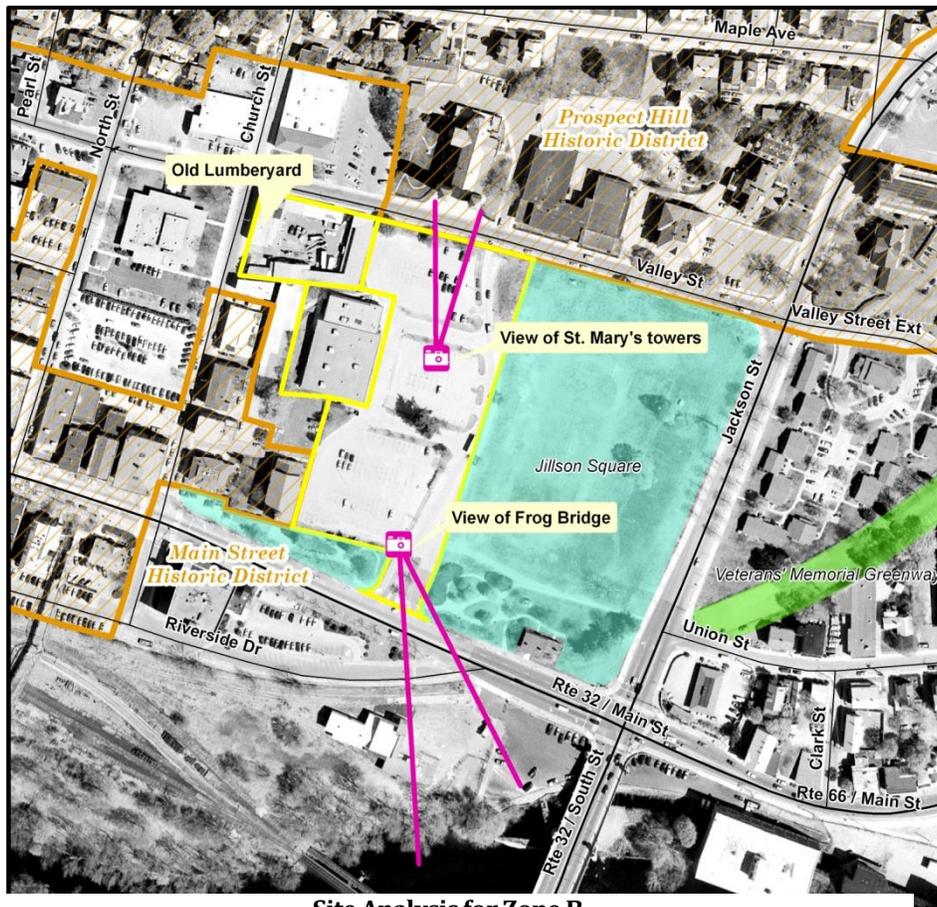


### 30.10.4 ZONE B: RIPE FOR REDEVELOPMENT

Zone B is located next to Jillson Square and Thread City Crossing (aka The Frog Bridge). These highly-visible properties represent a prime development opportunity.

In the past, this area contained many late 1800s buildings that were removed as part of an urban renewal project in the 1970s. The old Willimantic Lumber and Coal Company building was destroyed by fire in 1940.

The Design Guidelines for the Windham Business (B-1) District shall be the first standard for design review in Zone B.



Site Analysis for Zone B



St. Mary's Church

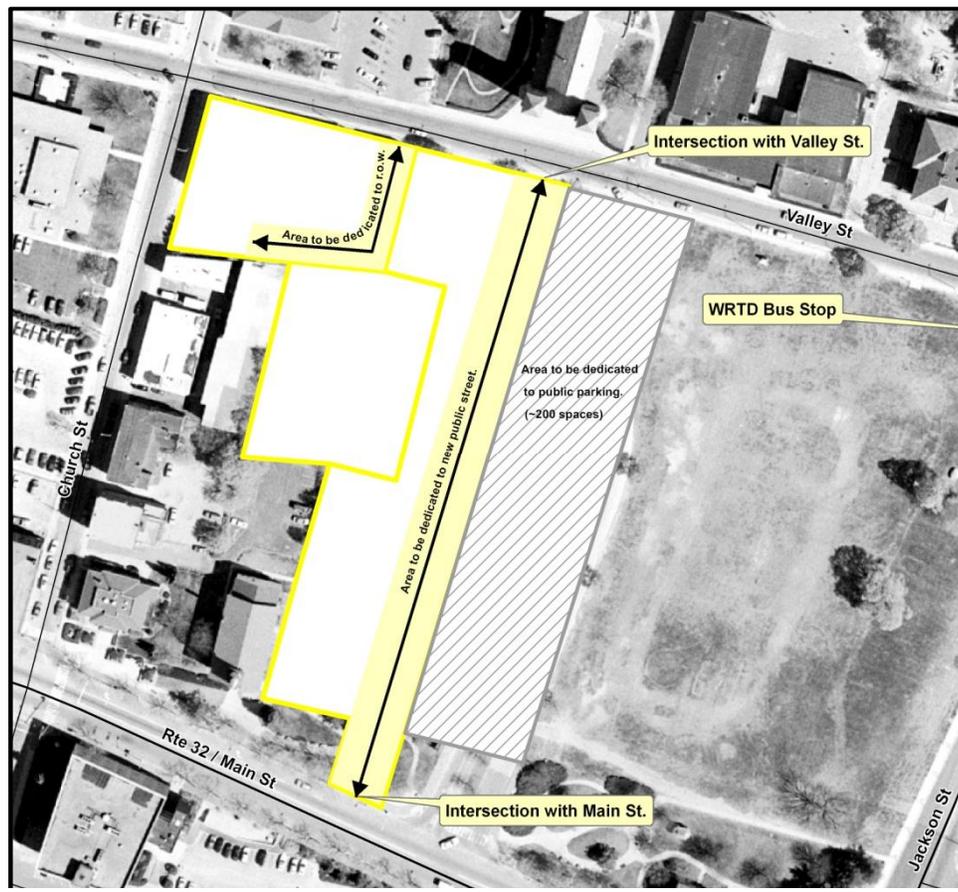
### 30.10.4.1 ROAD LOCATION, TRANSIT SERVICE, AND TRAFFIC CIRCULATION

Any incentive housing development within Zone B shall dedicate the areas depicted in the traffic circulation diagram as rights-of-way encumbered by an access easement. No areas dedicated to traffic circulation shall be obstructed as part of any incentive housing development.

The design of any incentive housing development in Zone B must create a through road connection from Main St. to Valley St. parallel to Church St. that is preferably aligned with the towers of St. Mary's church. The through road must be a public street meeting the town road standards and have a minimum right-of-way of 50'

Due to the need for parking associated with events at Jillson Square, approximately 200 spaces of public parking shall be provided to the east of the through road.

There is an existing Windham Region Transit District local bus stop at the corner of Valley Street and Jackson Street (to the east). The design of any incentive housing development may provide space for a formal bus stop and include amenities such as, but not limited to, a bus shelter, bench, and signage.



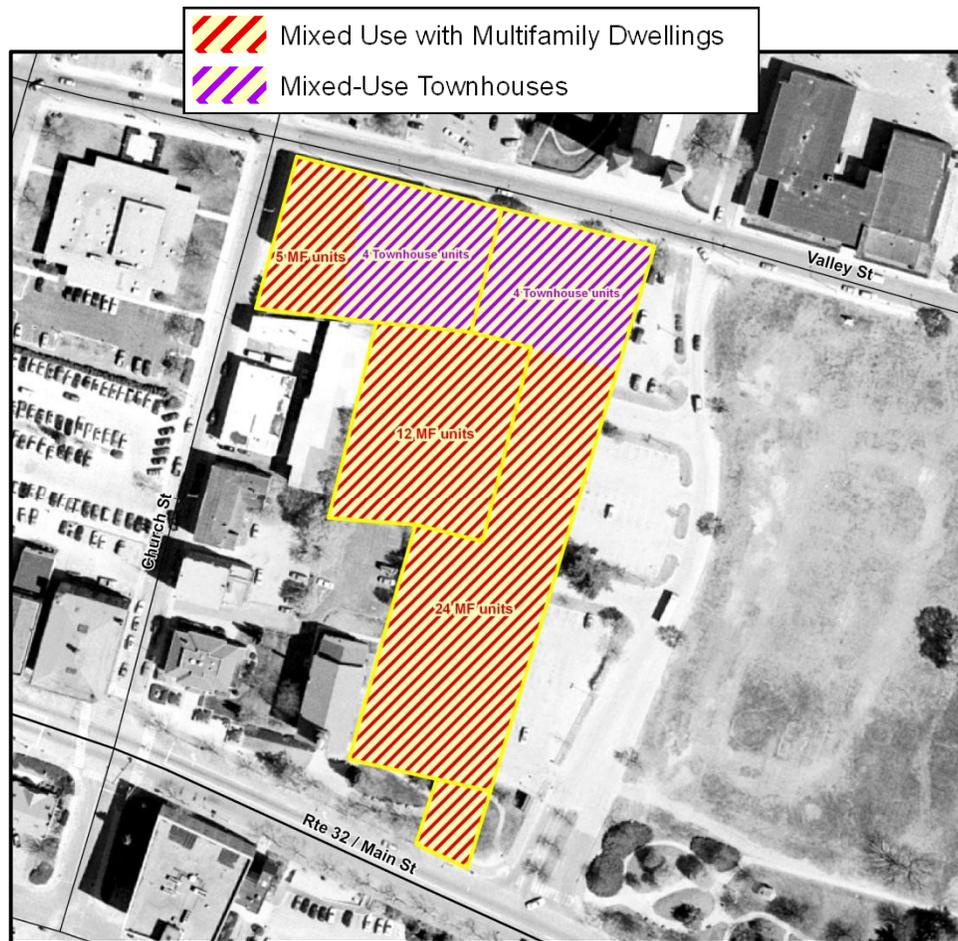
Traffic circulation for Zone B

30.10.4.2 LOCATION OF USES AND DENSITY

Mixed-use with multi-family dwellings is permitted on parcels with frontage on Church Street and the new public street as shown in the diagram.

Mixed-use Townhouses (a.k.a. òLive/Workö units) is permitted on parcels with frontage on Valley Street as shown in the diagram.

Density criteria for properties in Zone B		
Property	MBL	Minimum Allowable Incentive Units
<i>Lumberyard</i>	<i>13-3/89/1</i>	<i>5 MF units <u>and</u> 4 townhouses in new construction</i>
<i>Cinema</i>	<i>13-1/89/17-1</i>	<i>12 MF units in new construction</i>
<i>Town Land</i>	<i>13-1/89/13 &amp; 17</i>	<i>24 MF units <u>and</u> 4 townhouses in new construction</i>



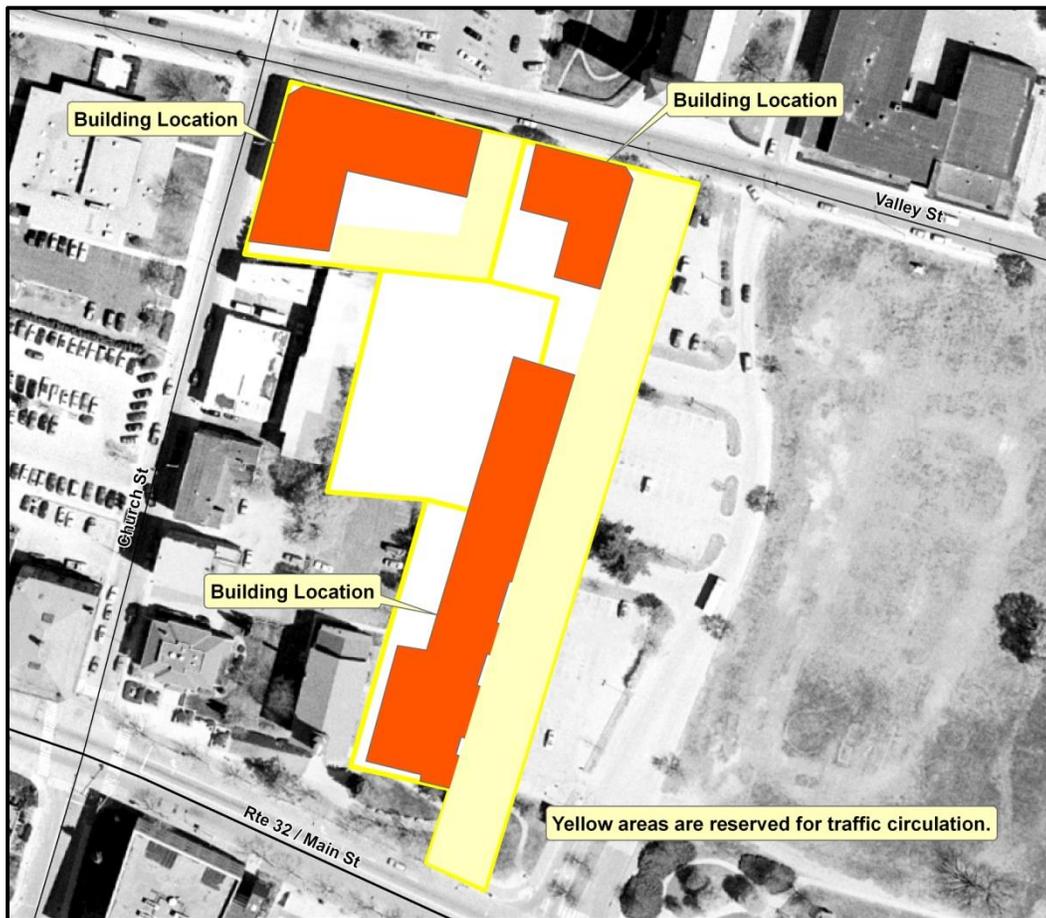
Location of Uses for Zone B

### 30.10.4.3 BUILDING LOCATION, SIZE AND MINIMUM HEIGHT

The building location of any incentive housing development in Zone B shall be oriented with the front of the building facing a new or existing public street.

All new buildings shall be at least two stories high and include towers, peaks, parapets, or other roof line extensions.

The diagram shows a building layout meeting the dimensional criteria for the underlying zone (to the extent practical).



**Building Location for Zone B**

#### 30.10.4.4 **BUILDING DESIGN**

The images on this page show the preferred building styles for Zone B. Architecture consistent with Tudor Revival Half-Timber style may be permitted on the site of the old Willimantic Lumber and Coal. Additional design criteria are contained in the Design Guidelines for the Windham Business (B-1) District.

A proposal for an incentive housing development in Zone B shall meet the following building design standards:

Roof: The building design shall include turrets, towers, or peaks rising above the roofline. Roofs may be Mansard with dormers, gabled with prominent front-facing gables, or have a decorative parapet.

Windows and Doorways: Window and doorway placement shall be symmetrical and balanced. Bay windows, oriel windows, and windows within gables are encouraged. Windows shall be inset a minimum of four inches to add visual relief to the wall. Windows shall be taller than they are wide.

Materials: The preferred building façade material in the Zone B is brick with copper green trim or wood. Alternative materials may be accepted if exterior detailing provides an appropriate level of detail.

Energy-efficiency: Any incentive housing development shall be designed to be energy-efficient. The LEED for Homes Rating System shall be used as a guide in incentive housing development.



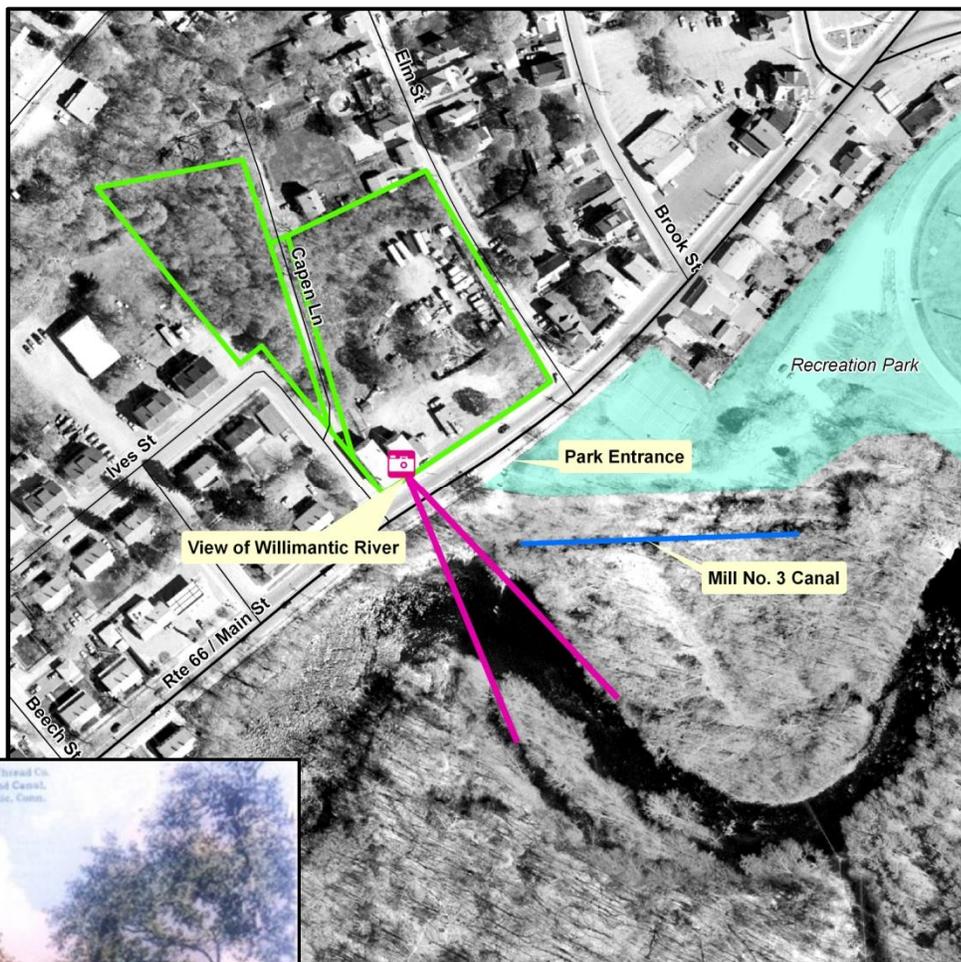
**Old Willimantic Lumber and Coal  
Church St. facade**



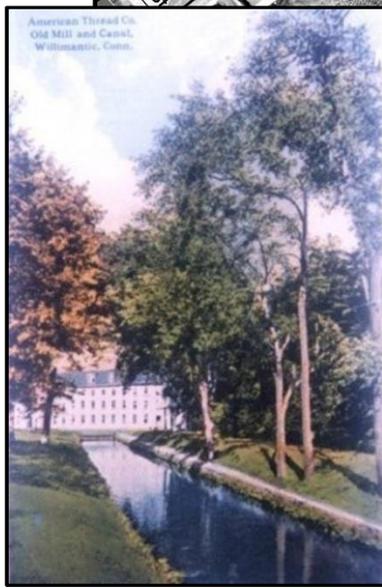
### 30.10.5 ZONE C: RIGHT ON THE RIVER

Zone C is located on the only stretch of Main Street where it is possible to see the Willimantic River. It is also across the street from Recreation Park, a town park including athletic facilities, a wooded riverside area, and a nearby historic mill raceway/canal.

In the past, the site contained late 1800s buildings on Main Street, an ice cream stand, and an auto/junk yard. It is surrounded by residences and small neighborhood businesses. Notably, the duplexes to the west are former mill housing built in the late 19th or early 20th century.



Site Analysis for Zone C



1910 View of Mill No. 3 and Canal

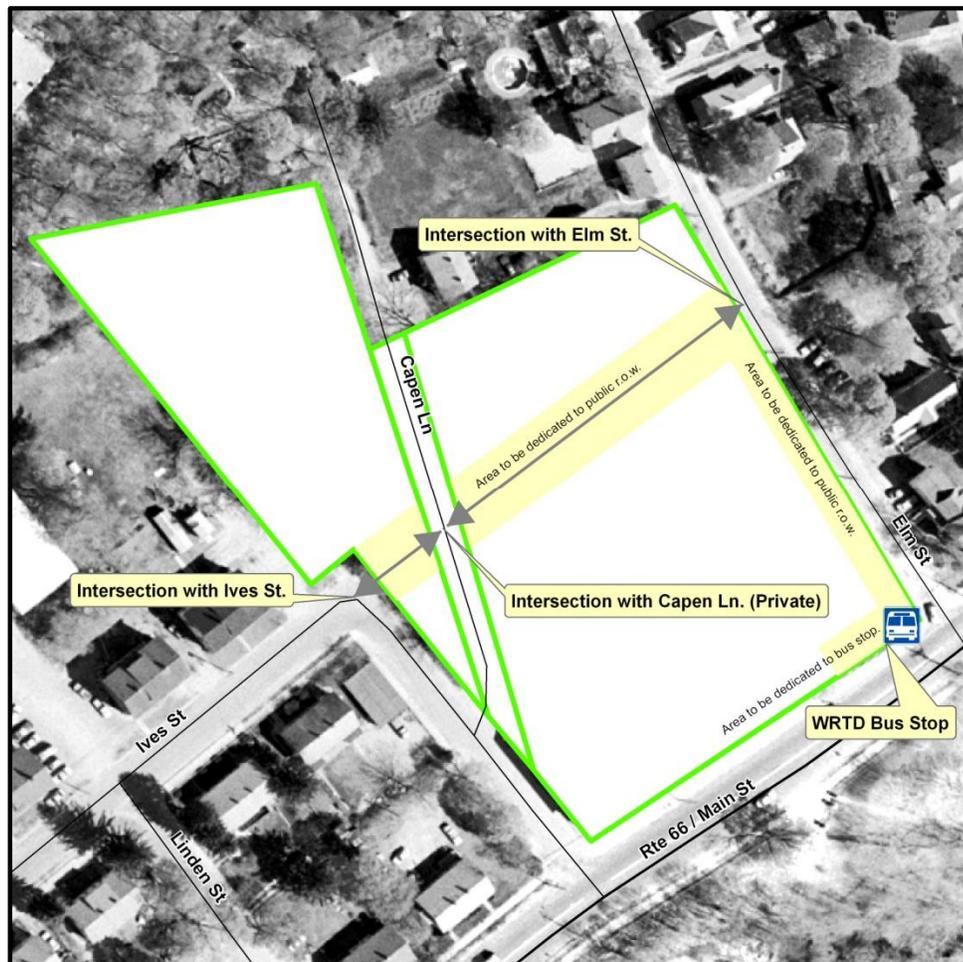
### 30.10.5.1 ROAD LOCATION, TRANSIT SERVICE, AND TRAFFIC CIRCULATION

The design of any incentive housing development in Zone C must create (in whole or in part) a through road connection from Ives St. to Elm St. The through road must be a public street meeting the town road standards and have a minimum right-of-way of 50ø. If any portion of Zone C is developed as an incentive housing zone that includes the area dedicated to the through road, then the incentive housing development shall include construction of that portion of through road. No areas dedicated to traffic circulation shall be obstructed.

The through road connection will cross a private right-of-way of unknown ownership named Capen Lane that shall not be blocked, but it may be crossed by the public through road. Capen Lane shall not be considered as part of the overall traffic circulation unless it is converted to a public way.

Elm St. is currently one-way (southward) because it is too narrow. For any incentive housing development with frontage on Elm St., the property line shall be moved back enough to provide for 50ø of public right of way for Elm St.

There is an existing Windham Region Transit District local bus stop at the corner of Main Street and Elm Street. The design of any incentive housing development shall provide space for a formal bus stop and include amenities such as, but not limited to, a bus shelter, bench, and signage.



**Traffic Circulation for Zone C**

30.10.5.2 LOCATION OF USES AND DENSITY

Mixed-use Townhouses (a.k.a. “Live/Work” units) are permitted on parcels with frontage on Main Street as shown in the diagram.

Townhouses are permitted in all other locations within Zone C as shown in the diagram.

Density criteria for properties in Zone C		
Property	MBL	Minimum Allowable Incentive Units
161-195 Main St., & 38 Elm St.	14-3/121/8, 8-1, 8-2, 8-3, 8-4	18 townhouses (1/3 mixed use) in new construction
46 Capen Lane	14-3/116/4	7 townhouses in new construction



**Location of Uses for Zone C**

### 30.10.5.3 BUILDING LOCATION, SIZE AND MINIMUM HEIGHT

The building location of any incentive housing development in Zone C shall be oriented towards a public road with the front of the building facing a street, to the extent possible.

In order to preserve the character of the neighborhood, no buildings in Zone C shall exceed a ground floor footprint of 2,500 sq. ft.

The diagram shows a building layout meeting the density criteria of Zone C. The nine buildings on 161-195 Main Street and 38 Elm Street are townhouses with the same footprint as the mill housing to the west on Ives Street.

The building layout on 46 Capen Lane shows two townhouse buildings with 8 total units. The building footprints depicted are from an expired site plan that was approved as a special exception in the 1980s.

All buildings shall be at least two stories high.



**Building Location for Zone C**

#### 30.10.5.4 BUILDING DESIGN

The images below show the preferred building styles for Zone C.

A proposal for an incentive housing development in Zone C shall meet the following building design standards:

Roofs: Roofs shall be steeply pitched (10/12, 12/12) with prominent cross gables.

Porches: All building entrances shall have porches (i.e. a covered platform with separate roof at the entrance to the building). Second story porches are also encouraged.

Windows and Doorways: Window and doorway placement shall be symmetrical and balanced. Bay windows and windows within gables are encouraged. Windows shall be inset a minimum of four inches to add visual relief to the wall. Windows shall be taller than they are wide.

Materials: The preferred building façade material in the Zone C is wood clapboards or wood shingles. Alternative materials may be accepted if exterior detailing provides an appropriate level of detail.

Energy-efficiency: Any incentive housing development shall be designed to be energy-efficient. The LEED for Homes Rating System shall be used as a guide in incentive housing development.



### 30.10.6 ZONE D: NEED FOR NEIGHBORHOOD INFILL

Zone D is located on Boston Post Road near the Willimantic River.

It is located in a mixed use neighborhood with numerous single- and multi-family residences as well as large auto junkyard and an auto repair shop.

The building on this parcel had to be demolished after a roof collapsed.

While the site is challenging for residential development due to neighborhood uses, with a careful design, it could be compatible.



**Site Analysis for Zone D**

### 30.10.6.1 ROAD LOCATION, TRANSIT SERVICE, AND TRAFFIC CIRCULATION

Any incentive housing development within Zone D shall dedicate the areas depicted in the traffic circulation diagram as rights-of-way encumbered by an access easement. No areas dedicated to traffic circulation shall be obstructed as part of any incentive housing development.

If any portion of Zone D is developed as an incentive housing development, then the incentive housing development shall dedicate the portion of the right-of-way that is indicated for that lot.

There is an existing Windham Region Transit District local bus stop nearby. The design of any incentive housing development may provide space for a formal bus stop and include amenities such as, but not limited to, a bus shelter, bench, and signage.



**Traffic Circulation for Zone D**

30.10.6.2 LOCATION OF USES AND DENSITY

Mixed-use with multi-family dwellings are permitted along the frontage on Boston Post Road as shown in the diagram.

Townhouses or multi-family dwellings are permitted in the interior of the parcel as shown in the diagram.

Single family dwellings are permitted along the frontage on Lafayette Street as shown in the diagram.

Density criteria for properties in Zone D		
Property	MBL	Minimum Allowable Incentive Units
34 Boston Post Road	15-3/141/7	22 MF units and 2 single family <i>or</i> 10 MF units and 6 townhouses and 2 single family in new construction

	Mixed Use with Multifamily Dwellings
	Multifamily or Townhouses
	Single Family



Location of Uses for Zone D

### 30.10.6.3 BUILDING LOCATION, SIZE, AND MINIMUM HEIGHT

The building location of any incentive housing development in Zone D shall be oriented with the front of the building facing Boston Post Road or Lafayette Street to the extent possible.

All new buildings shall be at least two stories high.

The diagram shows a building layout meeting the density criteria for Zone D and dimensional criteria for the underlying zone.



**Building Location for Zone D**

#### 30.10.6.4 **BUILDING DESIGN**

The images below show the preferred building styles for Zone D.

A proposal for an incentive housing development in Zone D shall meet the following building design standards:

Roofs: Roofs shall be steeply pitched (10/12, 12/12) with prominent cross gables.

Porches: All building entrances shall have porches (i.e. a covered platform with separate roof at the entrance to the building). Second story porches are also encouraged.

Windows and Doorways: Window and doorway placement shall be symmetrical and balanced. Bay windows and windows within gables are encouraged. Windows shall be inset a minimum of four inches to add visual relief to the wall. Windows shall be taller than they are wide.

Materials: The preferred building façade material in the Zone D is wood clapboards or wood shingles. Alternative materials may be accepted if exterior detailing provides an appropriate level of detail.

Energy-efficiency: Any incentive housing development shall be designed to be energy-efficient. The LEED for Homes Rating System shall be used as a guide in incentive housing development.



**30.11 ADMINISTRATION AND ENFORCEMENT REQUIREMENTS:** In addition to the application requirements contained in these Regulations, any application filed under Section 30 shall also include the following requirements.

**30.11.1 ADMINISTRATION AND ENFORCEMENT PLAN REQUIRED:** Each applicant for an incentive housing development will provide, with the application, an affordability plan that will set forth, in written detail, the administration, monitoring and enforcement of the requirements for the dwelling units that will be sold or rented at below market rates. The plan shall include proposed deed restrictions, covenants, lease agreements, common interest ownership documents, bylaws, rules and regulations, sample income calculations, and such other information as the Commission may require to establish compliance with this Section and Sections 8-13m to 8-13x of the Connecticut General Statutes. The documents submitted with the plan shall demonstrate that the sale or lease of incentive housing units will meet, at all times during the term of the plan, these Regulations and all guidelines established by the State of Connecticut's Incentive Housing program.

**30.11.2 DESIGNATION OF ADMINISTERING AGENCY:** The applicant shall provide the name, address and other contact information for the person, agency or company that will be responsible, throughout the duration of any affordable restrictions, for administering the sale or rental of dwelling units that are subject to below market sale or rental. Such person, agency or company shall be known as the Administering Agency. Should such agency change during the term of the plan, the Planning & Zoning Commission shall be notified, in writing, of the name of such administrator and its qualifications. This written notice shall be provided at least sixty (60) days prior to the assumption of duties by the new Administering Agency. The new Administering Agency shall be qualified, and financially capable, to carry out the proper enforcement of the plan. The Administering Agency shall file an annual status report with the Town of Windham, in form and content specified by the Town, certifying under oath the continued compliance of the project with the Incentive Housing Restriction on or before January 31 of each year. If the applicant proposes a third party to act as the Administering Agency, the applicant shall submit with the application evidence that the third party consents and agrees, in writing, to serve as the Administering Agency.

**30.11.3 OVERSIGHT OF INCENTIVE HOUSING UNITS:** The Administering Agency shall be responsible for the administration of incentive housing units, pursuant to the provisions of this Article, and for properly carrying out the terms and conditions of these Regulations and such approvals as are provided herein.

In addition to such other conditions and stipulations as the Planning and Zoning Commission may impose upon any permit or approval, all permits and approvals under this Section shall contain the following conditions:

- A. The owner and/or manager, as appropriate, of the incentive housing property shall annually certify, under oath, to the satisfaction of the Town of Windham, that the incentive housing units have been assigned to eligible households and that any new tenants of incentive housing units meet the established income guidelines. Such certification shall be in compliance with the Incentive Housing Program and shall include any documentation required by Chapter 124b of the Connecticut General Statutes, Section 8-13u, as amended.
- B. The administering agency shall maintain the information and documentation relative to all incentive housing units; the number thereof available for sale or lease at all times, the sales price and monthly rent, and shall maintain such other records and documents as may be required to properly administer the provisions of this Article and assure their compliance.

- C. *(continued from previous page)* No lease term for an incentive housing unit shall exceed two years. Notwithstanding this restriction, a lessee still eligible to rent an incentive housing unit at the end of such lease term may renew for another lease term.
- 30.11.4 **PLAN DOCUMENT CONTENTS:** The plan documents shall provide such provisions ensuring the proper and careful regulation and enforcement of the purposes of the zone, these Regulations and Sections 8-13m to 8-13x of the Connecticut General Statutes. Any plan covenant, restriction, declaration or other encumbrance must be approved by the Town Attorney and any other authority deemed necessary by the Planning & Zoning Commission, and, where directed by the Town Attorney, filed at the applicant's expense on the land records of the Town of Windham. The documents shall include, but not be limited to, the following contents:
- A. Restrictions on eligibility; Notice: To be eligible to purchase or rent an incentive housing unit, a household's annual income must be less than or equal to 80% of the median income for the Town of Windham. Median Income is defined as the area median income as determined annually by the Department of Housing and Urban Development, after adjustments for household size.
  - B. Calculation of Initial Sales Price of Incentive Housing Units: Maximum sales prices shall be set by the administering agency; and shall be amended upon receipt of annual information provided by the Department of Housing and Urban Development. The initial sales price of a unit shall be calculated such that the annual cost of the sum of principal, interest, taxes and insurance (PITI) and common charges, as applicable, shall not exceed thirty percent (30%) of the income of a household whose income is less than or equal to eighty percent (80%) of median income.
  - C. Eligible Households: Incentive housing units may be resold only to eligible households in accordance with the provisions of the Incentive Housing Restriction.
  - D. Intent to Sell: The owner of an incentive housing unit shall notify the Administering Agency of its intent to sell prior to contact with any purchaser.
  - E. Maximum Resale Price: The maximum resale price shall be determined by the Administering Agency in accord with the guidelines established by applicable state statutes.
  - F. Calculation of Permissible Rent: The maximum monthly rent (including estimated utilities) shall be set by the Administering Agency; and shall be amended upon receipt of annual income guidelines published by HUD and/or the State of Connecticut. The rent, including the estimated cost of utilities (heat, hot water and electricity) shall not exceed thirty percent (30%) of the income of a household whose income is less than or equal to eighty percent (80%) of median income for the Town of Windham.
  - G. Broker, sales and lease agreement contents. All broker agreements, purchase and sale agreements, leases and rental agreements of any kind shall include conspicuous notice of the eligibility and alienation limitations imposed by the plan, these Regulations and the statute statutes.
- 30.11.5 **ADMINISTRATION AND ENFORCEMENT:** In addition to all other legal, administrative and equitable remedies available, the requirements of this zone shall be administered in accordance with the Incentive Housing Administration and Enforcement Plan.

## Section 31 - Downtown Business District B-1

(entire section revised 7/14/11)

**31.1 PURPOSE AND INTENT:** The purpose and intent of this District is to encourage and permit a high-density urban environment catering to retail businesses with an emphasis on arts and entertainment, and with a pedestrian orientation.

**31.2. PERMITTED USES:** Land, buildings and other structures shall be used for one or more of the following purposes:

31.2.1. Businesses selling goods at retail and the storage of a reasonable quantity of merchandise inventory.

31.2.2. Restaurants, and other food service establishments, where customers are served only when seated at tables or counters.

31.2.3. Businesses providing personal and professional services including, but not limited to, banking and other financial services, insurance, hair care, legal, medical and dental.

31.2.4. Museums, public and private schools, membership clubs, recreation facilities.

31.2.5. Temporary carnivals or community fairs.

31.2.6. Customary accessory uses.

31.2.7. Municipal uses.

**31.3. OTHER USES:** Notwithstanding any other provisions in these regulations to the contrary, the following uses are permitted exclusively in the B1 and B1A Districts and are not to be considered permitted by right in any other district:

31.3.1. Alcoholic beverages for consumption on the premises under a restaurant permit or dinner theater permit, and subject to Section 73 of these regulations.

31.3.2. Restaurants primarily serving food for takeout.

31.3.3. Out-door seating area, the operating hours shall be based on proximity and use of neighboring properties determined by the Zoning Enforcement Officer; outside amplified sound shall be prohibited from 12:00 AM to 10:00 AM

31.3.4. Art galleries, art studios.

31.3.5. Indoor theaters, entertainment venues, night clubs, and assembly halls.

31.3.6. Off-street parking facilities and parking lots setback a minimum of 15' of any property line abutting Main St.

31.3.7. Dwelling units in any existing building that is listed as contributing to the historic character of the National Registers' Main Street Historic District

a) may be located on the ground floor no closer than 30' from the building facade of the primary street

b) no more than 75% of the total dwelling units in the building shall be a minimum of 450-650 square feet.

31.3.8. Dwelling units located in any existing building that is not listed as contributing to the historic character of the National Registers' Main Street Historic District

a) shall have a mix of unit sizes:

- no more than 60% of the units shall be studio or one bedroom units at 500-650 square feet or greater, ADA compliant units may be a minimum of 450 square feet.
- at least 30% of the units shall be 650 square feet or greater, as studio, one or two bedroom units,
- if more than 10 units in the building, 10% of the units shall be 850 square feet or greater,

b) may be located on the ground floor no closer than 30' from the building facade of the primary street

31.3.9. Customary accessory uses.

**31.4. SPECIAL USES:** Under certain conditions, the Commission will permit the following uses by Special Permit in accordance with Section 62 of these Regulations, unless existing, then Section 61 shall apply.

31.4.1. Hotels.

31.4.2. Dry cleaners or Laundromats except as an accessory use to a building's dwelling units.

31.4.3. Sale of alcoholic beverages with a cafe permit subject to Section 73 of these regulations.

31.4.4. Dwelling units located in any newly constructed building

a) shall have a mix of unit sizes:

- no more than 60% of the units shall be studio or one bedroom units at 500-650 square feet or greater, ADA compliant units may be a minimum of 450 square feet.
- at least 30% of the units shall be 650 square feet or greater, as studio, one or two bedroom units,
- if more than 10 units in building, 10% of the units shall be 850 square feet or greater,

b) may be located on the ground floor no closer than 50' from the building facade of the primary street

c) the building shall be consistent with the historic character as outlined in the Design Guidelines Windham Business B1 District.

d) If an historic building must be demolished, new construction shall be consistent with the Design Guidelines Windham Business B1 District to fit in with other buildings that resemble the architectural period prior to 1920, then dwelling sizes may follow standards outlined in Section 31.3.7 above.

31.4.5. Park owned and operated by a non-profit 501(c)3.

31.4.6. Other business uses of a similar nature provided they are not expressly prohibited in Section 31.5 or any other section of these Regulations and further that such uses are in keeping with the intent of the B-1 Downtown Business District.

**31.5. PROHIBITED USES:** The above permitted uses shall not be construed to include the following uses, and no land, building or other structure shall be used for any of the following purposes:

31.5.1. Gasoline filling stations; vehicular repair, painting, upholstering and washing facilities; sale or leasing of new or used vehicles, junk yards, fuel storage or fuel distribution.

31.5.2. Manufacturing or industrial uses; warehousing; freight and materials; trucking businesses and terminals; building contractors' plants or storage yards; metal or woodworking shops employing more than one persons; stone yard or monument works; veterinary hospitals; convalescent hospitals; commercial kennels and feed grain sales and storage.

31.5.3. Businesses that require permanent on-street space along Main Street.

31.5.4. Restaurant drive-thru.

31.5.5. Churches and other places of worship.

31.5.6. Adult businesses as defined in the Windham Zoning Regulations are prohibited in this District.

**31.6. LOT AREA AND FRONTAGE:** There is no minimum lot size or minimum frontage.

**31.7. SETBACKS:** The following are the required setbacks:

31.7.1. Front setback: no minimum; the maximum setback is 10 feet.

31.7.2. Side and rear setback: 10 feet.

- a) Where there is a permanent right of way no less than 10 feet wide, located between buildings on abutting lots and passing the distance of the buildings along and over the property line, the side and/or rear setback requirements along that property line shall be five (5) feet. In this event, the distance between these buildings shall not be greater than fifteen (15) feet. Said right of way must provide for free and unobstructed access the length of the buildings, and inure to the benefit of both properties. The right of way must be in written and legal form, duly executed and recorded, as a condition of the issuance of any certificate of zoning compliance in connection with the subject buildings and properties.
- b) Where buildings share a common wall along the boundary line of abutting properties, no side or rear yard minimum setback is required along that wall. However, for new construction, or for substantial reconstruction, of a building containing or proposing to contain such a common wall, the setback shall be as set forth above unless there is, for the benefit of the properties sharing the wall, a permanent lateral support agreement establishing the rights and obligations of the parties to maintain and repair the said common wall. Such agreement shall be in written and legal form, duly executed and recorded, as a condition of the issuance of any certificate of zoning compliance in connection with the subject buildings and properties.

**31.8. HEIGHT:** No building or other structure shall exceed a height of five stories, or fifty (50) feet; all buildings shall be a minimum of two stories.

**31.9. COVERAGE AND BULK:** The aggregate lot coverage of all buildings and other structures on any lot shall not exceed ninety (90) percent of the area of the lot. No building footprint can exceed 10,000 sq. ft.

**31.10. STANDARDS:** The development standards of Section 74 of these regulations shall be met; in addition, the development, or renovation, must maintain and enhance the character and historic value of the B-1 Business District as further described in the Design Guidelines of Windham Business (B-1) District .

**31.11. SPECIAL REGULATIONS:**

31.11.1. Changes to the exterior of any building in this District require a Certificate of Zoning Compliance including, but not limited to new business signs, windows, doors, brickwork, and trim.

a) Sign permit. All new or changes to existing signs requires a Certificate of Zoning Compliance. Section 3 of the Design Guidelines of Windham Business (B-1) District explains the requirements of the permitted signs.

b) Building renovations. Any material changes to the exterior, including any signage visible from the outside of the building, shall be subject to review by way of an application for a site development plan. The plan shall propose, for approval, a design of sufficient character that is appropriate and compatible with surrounding buildings and uses within the district. See Section 2 of the Design Guidelines of Windham Business (B-1) District.

31.11.2. All buildings in the B-1 District shall be exempt from the off-street parking and loading facility requirements of Section 71, except that any ancillary parking, which exists and is available to the property, shall be preserved and maintained.

31.11.3. No parking facility, parking lot, loading area or outdoor storage space shall be located between the street line and the building line of the facade facing the principal street upon which the lot fronts. Where a lot fronts on more than one street, the Commission shall determine which street is the principal street. The Commission may waive this requirement upon the demonstration by the applicant that an alternate site development plan in greater harmony with adjacent land uses and the intent of this district is thereby achieved.

## Section 31A - General Downtown Business District B-1A

- 31A.1. PURPOSE AND INTENT:** *(entire section added 7/14/11)* The purpose and intent of this District is to encourage and permit an urban environment similar to the B-1 District but at a lesser density as a transition between surrounding zones.
- 31A.2. PERMITTED USES:** Land, buildings and other structures shall be used for one or more of the following purposes:
- 31A.2.1. Any use permitted in the Downtown Business District B-1 under Sections 31.2 and 31.3.
  - 31A.2.2. Residences on the first floor if existing at the time of the adoption of these regulations.
  - 31A.2.3. Mobile food vendor carts with approval by Zoning Code Officer.
- 31A.3. SPECIAL USES:** Under certain conditions, the Commission will permit the following uses by Special Permit in accordance with Section 62 of these Regulations, unless existing, then Section 61 shall apply.
- 31A.3.1. Restaurant with drive-thru.
  - 31A.3.2. Churches and other places of worship.
  - 31A.3.3. Building supply store.
  - 31A.3.4. Manufacturing or woodworking employing no more than five persons.
  - 31A.3.5. Educational facilities.
  - 31A.3.6. Transportation station or stop.
  - 31A.3.7. Other business uses of a similar nature provided they are not expressly prohibited in Section 31.4 or any other section of these Regulations and further that such uses are in keeping with the intent of the B-1A General Downtown Business District.
- 31A.4. PROHIBITED USES:**
- 31A.4.1. Gasoline filling stations; vehicle repair, painting, upholstering; and washing facilities; sale or leasing of new or used vehicles, junk yards, fuel storage or fuel distribution.
  - 31A.4.2. Manufacturing or Industrial Uses; warehousing; freight and materials; trucking businesses and terminals; building contractors' plants or storage yards; metal or woodworking shops employing more than one persons; stone yard or monument works; veterinary hospitals; convalescent hospitals; commercial kennels and feed grain sales and storage.
  - 31A.4.3. Adult businesses as defined in the Windham Zoning Regulations are prohibited in this District.
- 31A.5. LOT AREA, SHAPE AND FRONTAGE:** Each lot shall have a minimum area of 5,000 square feet and shall have a frontage of 35 feet or more on a street.

**31A.6. SETBACKS:** The following are the required setbacks:

31A.6.1. Front setback: 10 feet.

31A.6.2. Side and rear setback:

a) 10 feet where the property line does not abut a residential district.

Where there is a permanent right of way no less than 10 feet wide, located between buildings on abutting lots and passing the distance of the buildings along and over the property line, the side and/or rear setback requirements along that property line shall be five (5) feet. In this event, the distance between these buildings shall not be greater than fifteen (15) feet. Said right of way must provide for free and unobstructed access the length of the buildings, and inure to the benefit of both properties. The right of way must be in written and legal form, duly executed and recorded, as a condition of the issuance of any certificate of zoning compliance in connection with the subject buildings and properties.

b) 30 feet where the property line abuts a residential district.

**31A.7. HEIGHT:** No building or other structure shall exceed a height of 2 ½ stories or thirty-five (35) feet, whichever is less.

**31A.8. COVERAGE:** The aggregate lot coverage of all buildings, structures and parking lots on any lot shall not exceed ninety (90) percent of the area of the lot.

**31A.9. STANDARDS:** Development standards of Section 74 of these regulations shall be met.

**31A.10. SPECIAL REGULATIONS**

31A.10.1. Parking. Parking lots can overlap lot lines with appropriate easement provisions and maintenance agreements between property owners. Parking is not permitted within a setback abutting a residential district.

31A.10.2. A site development plan as specified in Section 61 of the Regulations shall be submitted for any new development, or use of an existing site for which an addition to the floor area is sought. This requirement shall not apply to any new use of property to be housed within an existing building with sufficient parking on the lot to satisfy the regulations, and where no changes are proposed for the exterior of the site, provided a Certificate of Zoning Compliance is secured prior to use and occupancy.

## Section 32 - General Business District B-2

**32.1 PURPOSE AND INTENT:** *(entire section revised 10/25/12)* The purpose and intent of this District is to encourage and permit a variety of businesses, at a lower density than the Downtown districts, oriented to vehicular transportation and providing pedestrian connectivity.

**32.2 PERMITTED USES:** Land, buildings and other structures shall be used for one or more of the following purposes subject to the approval process in Section 61 of these Regulations:

32.2.1 Businesses selling goods at retail and the indoor storage of a reasonable quantity of merchandise inventory; the maximum footprint is 10,000 square feet per business.

32.2.2 Restaurants, and other food service establishments, where customers are served only when seated at tables or counters.

32.2.3 Restaurants, including the sale of alcoholic beverages for consumption on the premises subject to Section 73 of these regulations; and including incidental entertainment.

32.2.4 Businesses providing personal and professional services including, but not limited to, banking and other financial services, insurance, hair care, dry cleaning, dog grooming, Laundromat, legal, funeral home, medical or dental office, out-patient services, day care.

32.2.5 Mixed used development with permitted business use on the ground floor and residential use on 2nd floor. Dwelling units shall be a minimum of 700 sq. ft. unless ADA compliant which may be a minimum of 500 square feet.

32.2.6 Mobile food carts

32.2.7 Museum, library, civic, lodge or non-profit org

32.2.8 Customary accessory structures and uses subject to the following:

a) outdoor storage shall be identified as such on an approved site plan, shall not be located within any setbacks and shall be screened so as not to be visible from any street or residential property.

b) outdoor merchandise display area shall be identified as such on an approved site plan, shall not be located within any setbacks and is limited in total square feet to 3 times the lineal feet of principal road frontage for that business.

32.2.9 Dwellings legally in existence on the date of the adoption of these regulations.

32.2.10 Municipal and other governmental uses.

**32.3 OTHER PERMITTED USES:** Land, buildings and other structures shall be used for one or more of the following purposes, subject to Site Plan Approval by the Commission.

32.3.1 Drive-thru areas for food service, banking and other services.

32.3.2 Restaurants primarily serving food for take-out.

32.3.3 Restaurant outdoor seating.

32.3.4 Churches and other places of worship

32.3.5 Veterinary hospital.

32.3.6 Indoor recreational uses such as bowling, billiard, pool, fitness.

**32.4 SPECIAL USES:** The Commission will permit the following uses after Site Plan Review and Public Hearing in accordance with Section 62 of these Regulations.

32.4.1 Movie and live performance theaters; nightclubs.

32.4.2 Hotel.

32.4.3 Juice bars serving patrons under the age of twenty-one (21) provided such use shall be separated by a radial distance of 250 feet from each premises from: (1) any sexually oriented adult use as specified under Section 84.4(relocated standards from former 62.4); and, (2) any use selling alcoholic beverages, other than a restaurant or grocery store which sells alcoholic beverages.

**32.5 PROHIBITED USES:** The above permitted uses shall not be construed to include the following uses, and no land, building or other structure shall be used for any of the following purposes:

32.5.1 Manufacturing or industrial uses; warehousing; freight and materials; trucking businesses and terminals; building contractors' plants or storage yards; metal or woodworking shops employing more than one persons; stone yard or monument works; convalescent hospitals; commercial kennels, and feed grain warehouse.

32.5.2 Warehouse or self-storage facility.

32.5.3 Vehicular related businesses including, but not limited to, gasoline filling stations; repair facilities, painting and upholstery; washing; sale or leasing of new or used vehicles, junk yards, fuel storage or fuel distribution.

32.5.4 Adult Uses as defined in Section 4 of the Windham Zoning Regulations are prohibited in this District.

**32.6 LOT AREA, SHAPE AND FRONTAGE:** Each lot shall have a minimum area of 20,000 square feet, and shall have a frontage of 100 feet or more on a public street. If the lot is sharing access with an adjacent lot, the required frontage may be reduced to no less than 50'. The frontage of two (2) or more lots which share a single joint entrance and a single joint exit to a public street may be computed as a single frontage.

**32.7 SETBACKS:** The following are the required setbacks:

32.7.1 Front setback:

- a) 30 feet, except properties abutting Main Street between High St and Mansfield Ave, minimum setback is that of existing building or 10 feet.
- b) Double frontage lots shall have the same setback on each frontage.

32.7.2 Side and rear setback:

- a) 20 feet where the property line does not abut a residential district.
- b) 75 feet where the property line abuts a residential district; no parking area is permitted within 35 feet of a residential district, screening and landscaping is required.

32.7.3 All setbacks abutting Main Street or West Main Street shall be landscaped and include no structures and no parking areas; approved free-standing signage may be placed in the setback.

32.7.4 Reductions in dimensional requirements will be considered by the Commission only in special instances when it will improve overall compatibility of the site to surrounding and/or connecting property and with special attention to one or more of the following criteria: landscaping, building orientation, architecture, linkages to abutting properties and other site amenities.

- a) Side setbacks on a common side lot line may be omitted where two (2) or more lots containing no residential uses share a single joint entrance and single joint exit to a public street.
- b) The side setbacks for parking areas and driveways may be reduced depending on the nature of the adjacent land-uses and the proposed landscaping/screening plan; minimum separation between buildings shall be 20 feet, unless sharing a common wall.
- c) The minimum distance from residential district may be reduced to no less than 50 feet due to existing or proposed evergreen buffer or other circumstances that would provide sufficient screening and landscaping of the setback area shall be required by the Commission.

32.7.5 The Zoning Board of Appeals is authorized to grant a reduction of up to twenty-five(25) percent of the setback requirements by Special Exception as specified under Section 92.

**32.8 HEIGHT:** No building or other structure shall exceed a height of 2 ½ stories or thirty-five (35) feet, whichever is less.

**32.9 LOT COVERAGE:** The lot coverage shall not exceed eighty (80) percent of the area of the lot.

32.9.1 Higher lot coverage will be considered under certain circumstances:

- a) The Commission may permit lot coverage up to eighty-five (85) percent. This increased coverage shall be permitted only in special instances where special attention has been given to access management through linkages to abutting properties, special provisions for non-motorized transportation or site sensitivity; or
- b) The Commission may permit lot coverage up to ninety (90) percent, not including the area of public access management roadways. This increased coverage shall be permitted in unique circumstances where a public roadway will be provided to link abutting properties to promote public safety and that may limit lot development design.

**32.10 STANDARDS:** Development standards of Section 74 of these regulations shall be met.

## Section 32A - General Business District B-2 A

**32A.1 PURPOSE AND INTENT:** *(entire section added 10/25/12)* The purpose and intent of this District is to encourage and permit a variety of businesses, at a lower density and larger footprint than the B-2 district.

**32A.2 PERMITTED USES:** Land, buildings and other structures shall be used for one or more of the following purposes subject to the approval process in Section 61 of these Regulations:

32A.2.1 Any use permitted in the General Business District B-2.

32A.2.2 Businesses selling goods at retail and the indoor storage of a reasonable quantity of merchandise inventory; maximum footprint is 20,000 sq.ft. per business.

**32A.3 OTHER PERMITTED USES:** Land, buildings and other structures shall be used for one or more of the following purposes, subject to Site Plan Approval by the Commission.

32A.3.1 Any other permitted in the General Business District B-2.

**32A.4 SPECIAL USES:** The Commission will permit the following uses by Special Permit in accordance with Section 62 of these Regulations.

32A.4.1 Any special use permitted in the General Business District B-2.

32A.4.2 A 25% expansion of an existing retail businesses with a footprint greater than 20,000.

32A.4.3 Gasoline filling stations.

32A.4.4 Adult Uses that are defined under Section 4.2. These include adult arcade, adult bookstore, adult cabaret, adult motion picture Theater, adult theater, and massage parlors.

**32A.5 PROHIBITED USES:**

32A.5.1 With the exception of gasoline filing stations, any prohibited use in the General Business District B-2.

**32A.6 LOT AREA, SHAPE AND FRONTAGE:** Each lot shall have a minimum area of 30,000 square feet, and shall have a frontage of 100 feet or more on a public street. If the lot is sharing access with an adjacent lot, the required frontage may be reduced to no less than 50'. The frontage of two (2) or more lots which share a single joint entrance and a single joint exit to a public street may be computed as a single frontage.

**32A.7 SETBACKS:** The following are the required setbacks:

32A.7.1 Front setback: 30 feet. Double frontage lots shall have 30 feet setback on each frontage.

32A.7.2 Side and rear setback:

- a) 20 feet where the property line does not abut a residential district.
- b) 75 feet where the property line abuts a residential district; no parking area is permitted within 35 feet of a residential district, screening and landscaping is required.

32A.7.3 All setbacks abutting West Main Street shall be landscaped and include no structures and no parking areas; approved free-standing signage may be placed in the setback.

32A.7.4 Reductions in dimensional requirements will be considered by the Commission only in special instances when it will improve overall compatibility of the site to surrounding and/or connecting property and with special attention to one or more of the following criteria: landscaping, building orientation, architecture, linkages to abutting properties and other site amenities.

- a) Side setbacks on a common side lot line may be omitted where two (2) or more lots containing no residential uses share a single joint entrance and single joint exit to a public street.
- b) The side setbacks for parking areas and driveways may be reduced depending on the nature of the adjacent land-uses and the proposed landscaping/screening plan; minimum separation between buildings shall be 20 feet, unless sharing a common wall.
- c) The minimum distance from residential district may be reduced to no less than 50 feet due to existing or proposed evergreen buffer or other circumstances that would provide sufficient screening and landscaping of the setback area shall be required by the Commission.

32A.7.5 The Zoning Board of Appeals is authorized to grant a reduction of up to twenty-five (25) percent of the setback requirements by Special Exception as specified under Section 92.

**32A.8 HEIGHT:** No building or other structure shall exceed a height of 2 ½ stories or thirty-five (35) feet, whichever is less.

**32A.9 LOT COVERAGE:** The lot coverage shall not exceed seventy (70) percent of the area of the lot.

32A.9.1 Higher lot coverage will be considered under certain circumstances:

- a) The Commission may permit lot coverage up to seventy-five (75) percent. This increased coverage shall be permitted only in special instances where special attention has been given to access management through linkages to abutting properties, special provisions for non-motorized transportation or site sensitivity; or
- b) The Commission may permit lot coverage up to eighty (80) percent, not including the area of public access management roadways. This increased coverage shall be permitted in unique circumstances where a public roadway will be provided to link abutting properties to promote public safety and that may limit lot development design.

**32A.1 STANDARDS:** Development standards of Section 74 of these regulations shall be met.

## Section 33 - Business District B-3

- 33.1 PURPOSE AND INTENT: The purpose and intent of this District is to encourage and permit neighborhood businesses with some low-density residential development in an urban environment. *(added 06/01/97)* The following regulations shall apply to the use of land, buildings and other structures, and the location and bulk of buildings and other structures in any Business District B-3.
- 33.2 PERMITTED USES: Land, buildings and other structures shall be used for one or more of the following purposes:
- 33.2.1 Retail stores for antiques, art supplies, bakery products, books, clothing, dressmaking, drugs, dry goods, flowers, furniture and interior decorating, garden and farm supplies and equipment, gifts, groceries, fruits, vegetables and meats, hardware, household appliances, jewelry, music, notions, shoes and shoe repairing, stationary, tailoring and toilet articles.
  - 33.2.2 Barber shops and beauty parlors.
  - 33.2.3 Business and professional offices, financial institutions and medical and dental clinics.
  - 33.2.4 Self-service cleaning establishments or cleaning agency, including clothes pressing and cleaning with non-flammable liquids; laundry agency or self-service laundry not using steam.
  - 33.2.5 Package stores for the sale of alcoholic liquors, beer, ale or wine.
  - 33.2.6 Customary accessory uses and structures on the premises of the principal use. *(added 06/01/97)*
  - 33.2.7 Uses permitted in the R-5 District subject to the same requirements. *(added 06/01/97)*
  - 33.2.8 Governmental uses of the Town of Windham, State of Connecticut, or United States Government. *(added 06/01/97)*
  - 33.2.9 Special Uses: Under certain conditions, the Commission will permit the following uses by Special Permit in accordance with Section 62 of these Regulations, unless existing, then Section 61 shall apply. *(amended 11/22/02)*
    - a. Restaurants and other food service establishments where customers are served only when seated at tables or counters and at least three-quarters of the customer seats are located within the enclosed building. Such uses may include a food take-out service incidental to the primary permitted use but shall not include establishments where customers are served in motor vehicles or served primarily at food take-out counters.
    - b. Undertakerø establishments.

- 33.3 PROHIBITED USES: The above permitted uses shall not be construed to include the following uses, and no land, building or other structure shall be used for any of the following purposes:
- 33.3.1 The manufacture, processing or assembly of goods except when clearly accessory and incidental to a permitted use on the premises, when located within an enclosed building and when occupying on all floors not more than one third of the floor area of the premises containing and occupied by the permitted use.
  - 33.3.2 Establishments for motor vehicle washing; an establishment for the sale of new or used automobiles, trucks, trailers, or farm equipment. *(added 06/01/97)*
  - 33.3.3 Bottling plants; warehousing (except storage of retail merchandise and supplies in accordance with Paragraph 33.2.6) *(added 06/01/97)*; wholesale businesses; freight and materials trucking businesses and terminals; motor vehicle or other junk yards; lumber and building materials supply yards; building contractors' plants or storage yards; metal or woodworking shops; veterinary hospitals; convalescent hospitals; theaters and assembly halls; tanks for commercial storage and distribution of fuel; hotels and motels; printing and publishing establishments; bowling alleys and billiard or pool halls.
  - 33.3.4 The manufacture of ammonia, bleach, chlorine, animal black, bone black, lamp black, fertilizer, paint, oil, varnish, turpentine, shellac, enamel, starch, glucose, dextrin or acid; the distribution of coal, petroleum, refuse, grain, wood or bones; petroleum refining; refining or recovery of products from animal refuse or offal; grease, lard, fat or tallow rendering or refining; grain drying or food manufacture from refuse or marsh; incineration, reduction, storage or dumping of slaughterhouse refuse, rancid fats, dead animals or offal; manufacture and storage of fireworks and explosives except small arms ammunition; tanning, curing, cleaning or storage of raw hides or skins; stock yard; commercial slaughtering; the killing or dressing of poultry; blast furnaces except cupolas as converters used in foundries; and coke ovens. *(added 06/01/97)*
- 33.4 LOT AREA, SHAPE AND FRONTAGE: Each lot shall have a minimum area of 9,000 square feet, shall be of such shape that a buildable square as specified under Section 3.3.5 *(amended 06/01/97)* will fit on the lot, and shall have a frontage of seventy-five (75) feet or more on a street. Each lot to be used for a combined dwelling and business use shall have an area, shape and frontage as required for the dwelling plus an area equal to four times the floor area occupied by the business use.
- 33.5 SETBACKS: No building or other structure shall extend within twenty (20) feet of any street line, rear property line or Residence District boundary line or within ten (10) feet of any side property line, except as follows:
- 33.5.1 Permitted signs, as specified in Section 72, may extend within lesser distances of a property or street line.
  - 33.5.2 Marquees, canopies, eaves, open fire escapes, ground story unenclosed porches and similar projections without projecting walls may project not more than two feet into the area required for setback from a property or street line.

- 33.5.3 The Zoning Board of Appeals is authorized to grant a reduction of up to fifty (50) percent of the setback requirements by Special Exception as specified under Section 92. *(added 06/01/97)*
- 33.6 HEIGHT: No building or other structure shall exceed a height of three stories or forty (40) feet, whichever is less.
- 33.7 COVERAGE AND BULK: The aggregate lot coverage of all buildings and other structures on any lot shall not exceed twenty-five (25) percent of the area of the lot. The total floor area of all buildings and other structures on any lot, excluding basements, shall not exceed fifty (50) percent of the area of the lot.
- 33.8 MINIMUM FLOOR AREA FOR DWELLING: Each one story dwelling shall have a minimum floor area of 750 square feet; each split level dwelling or dwelling with two or more floors shall have a total minimum floor area of 1,000 square feet.
- 33.9 A SITE DEVELOPMENT PLAN as specified in Section 61 of the Regulations shall be submitted for any new development, or use of an existing site for which an addition to the floor area is sought exceeding *(added 06/01/97)* ten (10) percent of the gross floor area of the site or 1,550 square feet whichever is greater, or the provision of more than ten (10) off-street parking spaces. This requirement shall not apply to any new use of property to be housed within an existing building with sufficient parking on the lot to satisfy the regulations, and where no changes are proposed for the exterior of the site or the historic appearance of the building where applicable, provided a Certificate of Zoning Compliance is secured prior to use and occupancy. *(amended 05/28/95)*

## Section 34 - General Commercial District C-1

- 34.1 PURPOSE AND INTENT: The purpose and intent of this District is to encourage and permit general commercial development in a rural area which is harmonious with residential surroundings, and to allow more intensive development where public utilities and infra-structural support exist. *(added 06/01/97)*The following Regulations shall apply to the use of land, buildings and other structures and the location and bulk of buildings and other structures in any General Commercial District C-1.
- 34.2 PERMITTED USES: Land, buildings and other structures shall be used for one or more of the following purposes:
- 34.2.1 Any use permitted in the Residence R-1 District, subject to any conditions and the securing of any Special Exception/Permit *(added 06/01/97)*as specified.
- 34.2.2 Stores and other buildings and structures where goods are sold or service is rendered primarily at retail.
- 34.2.3 Business and professional offices, financial institutions and medical and dental clinics.
- 34.2.4 Indoor theaters and assembly halls, specifically excluding adult uses. *(amended 06/01/97)*
- 34.2.5 Hotels and motels.
- 34.2.6 Restaurants and other food service establishments.
- 34.2.7 Self-storage. *(amended 03/21/02)*
- 34.2.8 *(entire Section added 06/01/97)* Accessory structures and uses on the same lot as the principal use as defined, including but not limited to the following:
- a) Off-street parking and loading facilities.
  - b) Signs as specified under these Regulations
  - c) Satellite dish antennas subject to height, and setback requirements and provided they are not located in the front yard unless placed at least fifty (50) feet from the street line.
  - d) Uses incidental to permitted hotels or motels such as clubs, gift shops, restaurants, etc.
  - e) For retail stores, outdoor display of merchandise, where permitted, shall be setback from street right-of-way lines not less than one half (1/2) the distance of the required building setback.
  - f) Drive up/through facilities in accordance with Section 74.11.
  - g) For church, chapel, temple, synagogue or other recognized place of worship:
    1. Parish house or residence for the clergymen of the congregation.
    2. Religious education building.
    3. Convent, monastery or lay teacher's quarters.
    4. Dining halls. *(continued next page)*

*(Continued from Section 34.2.8)*

- h) For golf and country clubs:
  - 1. Dwelling for caretaker.
  - 2. Maintenance equipment storage shed.
  - 3. Pro shop.
  - 4. Lounge and dining area.

34.2.9 SPECIAL USES: Under certain conditions, the Commission will permit the following uses by Special Permit in accordance with Section 62 of these Regulations, unless existing, then Section 61 shall apply. *(amended 11/22/02)*

- a. Bottling plant; warehousing; wholesale businesses; freight and materials trucking businesses and terminals; lumber and building materials supply yards; sawmills; building contractors' plants and storage yards; stone yard or monument works; veterinary hospitals; outdoor theaters; commercial storage and distribution of fuel; bowling alleys; public utility maintenance facilities; commercial kennels; commercial radio and television antenna.
- b. Where public sewers are available, self-service cleaning establishments or cleaning agency, including clothes pressing and cleaning with non-inflammable liquids; laundry agency or self-service laundry not using steam; funeral home; and wholesale printing establishments. *(amended 06/01/97)*
- c. Manufacture, processing or assembly of goods. *(added 06/01/97)*
- d. Sexually oriented adult uses, (relocated to Section 84.4 Oct. 25, 2012) which are defined under Section 4.2. These include adult arcade, adult bookstore, adult cabaret, adult motion picture Theater, adult theater, and massage parlors. *(added 06/01/97)*
- e. Juice bars serving patrons under the age of twenty-one (21) provided such use shall be separated by a radial distance of 250 feet from each premises from: (1) any adult use as specified under Section 84.4(relocated standards from former 62.6.4); and, (2) any use selling alcoholic beverages, other than a restaurant or grocery store which sells alcoholic beverages. *(revised 09/27/12)*

34.2.10 Railroad rights-of-way including customary accessory services.

34.3 LOT AREA, SHAPE AND FRONTAGE: The standard lot requirement for lots having both public water and sewer connections shall have an area of 40,000 square feet, with a shape that a buildable square as specified in Section 3.3.5 will fit on the lot and shall have a frontage of 125 feet or more on a suitably improved street. Where public water and/or public sewers are not available for connection, lots shall be designed in accordance with those specified for the R-1 District under Section 21.3. *(added 06/01/97)*

34.4 SETBACKS: No building or other structure shall extend within forty (40) feet of any street line or within twenty (20) feet of any property line, and for uses permitted under Paragraph 34.2.2 through 34.2.11, within fifty (50) feet of any Residence District boundary line, except as follows:

*(continued next page)*

- 34.4.1 Permitted signs, as specified in Section 72, may extend within lesser distances of a property or street line.
- 34.4.2 Marquees, canopies, eaves, open fire escapes, ground story unenclosed porches and similar projections without projecting walls may project not more than two feet into the area required for setback from a property or street line.
- 34.4.3 The Zoning Board of Appeals is authorized to grant a reduction of up to fifty (50) percent of the setback requirements by Special Exception as specified under Section 92. *(added 06/01/97)*
- 34.5 HEIGHT: No building or other structure shall exceed a height of three stories or forty (40) feet, whichever is less.
- 34.6 COVERAGE AND BULK: The aggregate lot coverage of all buildings and other structures on any lot shall not exceed twenty-five (25) percent of the area of the lot. The total floor area of all buildings and other structures on any lot, excluding basements, shall not exceed fifty (50) percent of the area of the lot.
- 34.7 MINIMUM FLOOR AREA FOR DWELLING: Each one-story dwelling shall have a minimum floor area of 750 square feet on the main floor. *(amended 01/01/86)*
- 34.8 A SITE DEVELOPMENT PLAN as specified in Section 61 of the Regulations shall be submitted for any new development or use of an existing site for which an addition to the floor area is sought exceeding ten (10) percent of the gross floor area of the site or 5,000 square feet whichever is greater, or the provision of more than ten (10) off-street parking spaces. This requirement shall not apply to any new use of property to be housed within an existing building with sufficient parking on the lot to satisfy the regulations, and where no changes are proposed for the exterior of the site or the historic appearance of the building where applicable, provided that a Certificate of Zoning Compliance is secured prior to use and occupancy. *(amended 05/28/95)*

## Section 35 - Commercial District C-2

- 35.1** PURPOSE AND INTENT: *(entire section revised 10/25/12)* The purpose and intent of this District is to encourage and permit general commercial development, at a lower density than other districts, oriented to vehicular transportation.
- 35.2** PERMITTED USES: Land, buildings and other structures shall be used for one or more of the following purposes subject to the approval process in Section 61 of these Regulations:
- 35.2.1 Businesses selling goods at retail and the indoor storage of a reasonable quantity of merchandise inventory; the maximum footprint is 20,000 sq. ft. per retail business.
  - 35.2.2 Businesses providing personal and professional services including, but not limited to, banking and other financial services, insurance, hair care, dry cleaning, Laundromat, legal, medical or dental office, out-patient services, and day care.
  - 35.2.3 Veterinary hospital, dog grooming, animal day care and boarding, animal training facility, and kennel.
  - 35.2.4 Mobile food cart.
  - 35.2.5 Indoor and outdoor recreational areas, bowling alley, billiard and pool halls, other commercial recreation halls.
  - 35.2.6 Club, civic, lodge or non-profit organization.
  - 35.2.7 Contractor office; contractor garage, workshop and equipment storage shall be screened from any public street or residential area.
  - 35.2.8 Churches and other places of worship.
  - 35.2.9 Customary accessory structures and uses subject to the following:
    - a) outdoor storage shall be identified as such on an approved site plan, shall not be located within any setbacks and shall be screened so as not to be visible from any street or residential property.
    - b) outdoor merchandise display area shall be identified as such on an approved site plan, shall not be located within any setbacks and is limited in total square feet to 3 times the lineal feet of principal road frontage for that business.
  - 35.2.10 Dwellings legally in existence on the date of the adoption of these regulations.
  - 35.2.11 Municipal and other governmental uses.
- 35.3** OTHER PERMITTED USES: Land, buildings and other structures shall be used for one or more of the following purposes, subject to Site Plan Approval by the Commission.
- 35.3.1 Restaurants, and other food service establishments, where customers are served only when seated at tables or counters including the sale of alcoholic beverages for consumption on the premises subject to Section 73 of these regulations.
  - 35.3.2 Drive-thru areas for food service, banking and other services.
  - 35.3.3 Restaurants primarily serving food for take-out.
  - 35.3.4 Restaurant outdoor seating.
- 35.4** SPECIAL USES: The Commission will permit the following uses by Special Permit in accordance with Section 62 of these Regulations.

*(continued next page)*

35.4.1 Businesses selling goods at retail and the indoor storage of a reasonable quantity of merchandise inventory with a maximum footprint of 30,000 sq. ft. per business.

35.4.2 Movie and live performance theaters; nightclubs.

35.4.3 Vehicular related businesses including fueling stations, service, repair, washing, painting and upholstering; sales, rental, leasing including an outdoor vehicular display area.

35.4.4 Warehouse; self-storage facilities and facilities with outdoor storage as the primary use screened so as not to be visible from any street or residential property.

35.4.5 Manufacture, processing or assembly of products; printing and publishing.

35.4.6 Automotive recycling facility, subject to the following:

- a) automobiles and automotive parts in any impoundment area, or outdoor storage area shall be screened so as not to be visible from any street or abutting property,
- b) any crushing operations and related activity shall be done in such a way as to minimize noise, shall only occur between the hours of 8am and 5pm, and shall be in an area setback a minimum of 150' from all property lines,
- c) and may have additional conditions imposed per Section 62.

35.4.7 Public utility substations.

35.4.8 Railroad rights-of-way.

**35.5 PROHIBITED USES:** The above permitted uses shall not be construed to include the following uses, and no land, building or other structure shall be used for any of the following purposes:

35.5.1 Adult Uses as defined in Section 4 of the Windham Zoning Regulations are prohibited in this District.

**35.6 LOT AREA, SHAPE AND FRONTAGE:** Each lot served by public water and sewer shall have a minimum area of 10,000 sq. ft. and shall have a frontage of 75 feet or more on a public street; each lot not served by public water and sewer shall have a minimum area of 40,000 sq. ft., and shall have a frontage of 100 feet or more on a public street. If the lot is sharing access with an adjacent lot, the required frontage may be reduced to no less than 50'. The frontage of two (2) or more lots which share a single joint entrance and a single joint exit to a public street may be computed as a single frontage.

**35.7 SETBACKS:** The following are the required setbacks:

35.7.1 Front setback: 30 feet. Double frontage lots shall have 30 feet setback on each frontage.

35.7.2 Side and rear setback:

- a) 20 feet where the property line does not abut a residential district.
- b) 75 feet where the property line abuts a residential district; no parking area is permitted within 35 feet of a residential district, screening and landscaping is required.

35.7.3 All setbacks abutting a State road shall be landscaped and include no structures and no parking areas; approved free-standing signage may be placed in the setback.

35.7.4 Reductions in dimensional requirements will be considered by the Commission only in special instances when it will improve overall compatibility of the site to surrounding and/or connecting property and with special attention to one or more of the following criteria: landscaping, building orientation, architecture, linkages to abutting properties and other site amenities.

- a) Side setbacks on a common side lot line may be omitted where two (2) or more lots containing no residential uses share a single joint entrance and single joint exit to a public street.
- b) The side setbacks for parking areas and driveways may be reduced depending on the nature of the adjacent land-uses and the proposed landscaping/screening plan; minimum separation between buildings shall be 20 feet, unless sharing a common wall.

35.7.5 The minimum distance from residential district may be reduced to no less than 50 feet due to existing or proposed evergreen buffer or other circumstances that would provide sufficient screening and landscaping of the setback area shall be required by the Commission.

35.7.6 The Zoning Board of Appeals is authorized to grant a reduction of up to twenty-five (25) percent of the setback requirements by Special Exception as specified under Section 92.

**35.8 HEIGHT:** No building or other structure shall exceed a height of 2 ½ stories or thirty-five (35) feet, whichever is less.

**35.9 LOT COVERAGE:** The lot coverage shall not exceed seventy (70) percent of the area of the lot.

35.9.1 Higher lot coverage will be considered under certain circumstances:

- a) The Commission may permit lot coverage up to eighty (80) percent. This increased coverage shall be permitted only in special instances where special attention has been given to access management through linkages to abutting properties, special provisions for non-motorized transportation or site sensitivity; or
- b) The Commission may permit lot coverage up to eighty-five (85) percent, not including the area of public access management roadways. This increased coverage shall be permitted in unique circumstances where a public roadway will be provided to link abutting properties to promote public safety and that may limit lot development design.

**35.10 STANDARDS:** Development standards of Section 74 of these regulations shall be met.

## Section 35 A - General Commercial/Airport C-2A

**35A.1 PURPOSE AND INTENT:** *(entire section added 10/25/12)* The purpose and intent of this District is to encourage and permit a variety of businesses, at a lower density and larger footprint than the C2.

**35A.2 PERMITTED USES:** Land, buildings and other structures shall be used for one or more of the following purposes subject to the approval process in Section 61 of these Regulations:

35A.2.1 Any use permitted in the General Commercial District C-2.

35A.2.2 Airport related uses including, but not limited to, maintenance, storage, airfreight transfer and forwarding, aircraft research and testing.

**35A.3 OTHER PERMITTED USES:** Land, buildings and other structures shall be used for one or more of the following purposes, subject to Site Plan Approval by the Commission.

35A.3.1 Any other permitted in the General Commercial District C-2.

**35A.4 SPECIAL USES:** The Commission will permit the following uses by Special Permit in accordance with Section 62 of these Regulations.

35A.4.1 Any special use permitted in the General Commercial District C-2.

35A.4.2 Businesses selling goods at retail and the indoor storage of a reasonable quantity of merchandise inventory, and a footprint greater than 30,000 sq. ft. per business.

**35A.5 PROHIBITED USES:** The above permitted uses shall not be construed to include the following uses, and no land, building or other structure shall be used for any of the following purposes:

35A.5.1 Adult Uses as defined in Section 4 of the Windham Zoning Regulations are prohibited in this District.

**35A.6 LOT AREA, SHAPE, FRONTAGE, SETBACKS, HEIGHT, AND LOT COVERAGE:** All dimensional requirements of the C-2 District shall apply to the C-2A.

**35A.7 STANDARDS:** Development standards of Section 74 of these regulations shall be met.

## Section 36 - Health Care District B-4

- 36.1 PURPOSE AND INTENT: The purpose and intent of this District is to encourage and permit a variety of medical related services and businesses at a higher density than other business districts. The following regulations shall apply to the use of land, buildings and other structures, and the location and bulk of buildings and other structures. *(entire Section added 2/17/2011)*
- 36.2 PERMITTED USES: Land, buildings and other structures shall be used for one or more of the following purposes:
- 36.2.1 Hospital
  - 36.2.2 Nursing home
  - 36.2.3 Offices providing medical services
  - 36.2.4 Offices providing dental services
  - 36.2.5 Supporting retail businesses such as pharmacy, florist and gift shop
  - 36.2.6 Medical supply
  - 36.2.7 Accessory uses to a hospital or nursing home, such as heating plant, laundry, ambulance service, offices, classrooms, meeting rooms and other customary health care support services.
  - 36.2.8 Accessory uses to a hospital or nursing home to provide staff services such as cafeteria, recreation facility, or on-call housing.
  - 36.2.9 Health care teaching facility
  - 36.2.10 Emergency Shelter/Mission
  - 36.2.11 Halfway House
  - 36.2.12 Child or Adult Day Care
  - 36.2.13 Municipal Uses
- 36.3 SPECIAL USES: Under certain conditions, the Commission will permit the following uses by Special Permit in accordance with Section 62 of these Regulations, unless existing, then Section 61 shall apply.
- 36.3.1 Hotels
  - 36.3.2 Other professional services
  - 36.3.3 Conference facility
- 36.4 PROHIBITED USES: All other uses are prohibited
- 36.5 LOT AREA AND FRONTAGE: Each lot shall have a minimum area of 25,000 square feet, shall have a frontage of 50 feet or more on a public or private street.
- 36.6 SETBACKS: No building or other structure shall extend within fifteen (15) feet of any public or private street line, within ten (10) feet of any side or rear property line within this district, or thirty (30) feet of any RPO or Residential District boundary line, except as follows: *(continued next page)*

- 36.6.1 Marquees, canopies, eaves, open fire escapes, ground story unenclosed porches and similar projections without projecting walls may project not more than two feet into the area required for setback from a property or street line.
- 36.6.2 The Zoning Board of Appeals is authorized to grant a reduction of up to twenty-five (25) percent of the setback requirements by Special Exception as specified under Section 92.
- 36.7 HEIGHT: No building or other structure shall exceed the height of 3 stories or forty (40) feet if located 100' or less from Valley Street's right of way, 200' or less from Mansfield or Quarry Street's right of way or another district; or 6 stories or eight-four (84) feet if located in excess of 100' of Valley Street's right of way, 200' of Mansfield or Quarry Street's right of way or another district.
- 36.8 COVERAGE : The aggregate lot coverage of all buildings and other structures, excluding surface parking and parking structures, on any lot shall not exceed forty (40) percent of the area of the lot.
- 36.9 STANDARDS: Performance Standards of Section 74 of these regulations shall be met.
- 36.10 SPECIAL REGULATIONS
- 36.10.1 A site development plan as specified in Section 61 of the Regulations shall be submitted for any new development, or use of an existing site for which an addition to the floor area is sought. This requirement shall not apply to any new use of property to be housed within an existing building with sufficient parking on the lot to satisfy the regulations, and where no changes are proposed for the exterior of the site, provided a Certificate of Zoning Compliance is secured prior to use and occupancy.
- 36.10.2 Existing Private Streets. Existing private streets are exempt from Standards for Streets as set out in 61.2.2c1 of these regulations and Section 7 of the Windham Subdivision Regulations. The minimum travel width for all existing private streets shall be 20', the developer shall provide a statement from a Civil Engineer licensed to practice in the State of Connecticut that the existing private street substantially meets construction standards suitable for the intended volume of traffic. The street line and right-of-way shall be a minimum of 12.5' from the center line of all existing and previously approved private streets.
- 36.10.3 Parking. Shared parking is encourage. Parking lots can overlap lot lines with appropriate easement provisions and maintenance agreements between property owners. Parking is not permitted within a setback abutting a residential use. The perimeter and interior islands of parking lots shall be landscaped.
- 36.10.4 Buffers. Land abutting RPO and residential districts shall have effective screening using evergreen trees in combination with earth berms, privacy fencing and shrubs, consistent with other materials used in the development. Buffer will be maintained in a condition that assures their continued effectiveness.

### 36.10.5 Service Areas

- a. Locate all service areas at the side or rear of the principal building.
- b. Separate the service area and its vehicular access from internal walkways, parking areas or other pedestrian areas by landscaped islands, grade changes or other devices.
- c. Screen the service area to minimize visibility from public and private streets, main entrances, abutters, and public areas. Use building materials that complements the main building and landscaping to create a visual screen.

36.10.6 Stormwater Systems. Design the stormwater system as an integral and attractive component of the landscape; use an open stormwater system whenever possible to increase groundwater recharge and avoid impacts to natural stream flows and be designed consistent with the Connecticut Department of Environmental Protection, entitled, 2004 Connecticut Stormwater Quality Manual, as the same may be amended from time to time. Any detention or retention basins shall be designed and landscaped with appropriate plant material.

## Section 39 - North Windham Retail - East C-4

**39.1. PURPOSE AND INTENT:** The purpose and intent of this District is to encourage and permit general retail/commercial development with flexibility allowing the zone to be responsive to market trends, and help the Town to realize optimum economic returns.  
*(section added July 28, 2011)*

**39.2. PERMITTED USES:** Land, buildings and other structures shall be used for one or more of the following purposes subject to the approval process in Section 61 of these Regulations *(Rev. 9/27/12)*:

39.2.1. Retail sales and directly related inventory, and accessory uses.

39.2.2. Restaurants, including the sale of alcoholic beverages for consumption on the premises subject to Section 73 of these regulations; and including incidental entertainment;

39.2.3. Financial services, institutions and agencies, professional and business offices

39.2.4. Mobile food vendors with approval by Zoning Code Officer.

39.2.5. Hotel, multi-story

39.2.6. Mixed used development with commercial use on the 1st floor and residential use on 2nd floor.

39.2.7. Those facilities legally in existence on the date of the adoption of these regulations, including existing residences.

**39.3. SPECIAL USES:** The Commission will permit the following uses by Special Permit in accordance with Section 62 of these Regulations *(Rev. 9/27/12)*:

39.3.1. Contracting businesses, including but not limited to plumbing, heating, electrical mechanical, and general contracting, located consistent with the requirements for a service area.

39.3.2. Movie Theaters and other indoor and outdoor recreational and athletic facilities

**39.4. PROHIBITED USES**

39.4.1. Gasoline filling stations; vehicular repair, painting, upholstering and washing facilities; sale or leasing of new or used vehicles, junk yards, fuel storage or fuel distribution.

39.4.2. Mini-warehouses/self-storage facilities; warehouse and distribution centers; wholesale sales.

39.4.3. Manufacturing, processing, packaging and assembly of components or goods.

39.4.4. Stand-alone convenience stores.

39.4.5. Motels that are single story, mortuaries, funeral and internment services.

39.4.6. Nightclubs, taverns, social clubs and similar uses where the primary purpose of the business is the serving of alcoholic beverages.

39.4.7. Residences/residential uses on the ground floor.

39.4.8. Churches and other places of worship.

39.4.9. Adult Use businesses as defined in the Windham Zoning Regulations.

**39.5. LOT AREA, SHAPE AND FRONTAGE:** Each lot shall have a minimum area of 20,000 square feet and shall have a frontage of 100 feet or more on a public or private street. If the lot is sharing access with an adjacent lot, the required frontage may be reduced to no less than 50 feet. The frontage of two (2) or more lots which share a single joint entrance and a single joint exit to a public street may be computed as a single frontage.

**39.6. SETBACKS:** The following are the required setbacks:

39.6.1. Front setback: 20 feet

39.6.2. Side and rear setback:

- a) 20 feet where the property line does not abut a residential district.
- b) 75 feet where the property line abuts a residential district

39.6.3. Reductions in dimensional requirements will be considered by the Commission only in special instances when it will improve overall compatibility of the site to surrounding and/or connecting property and with special attention to one or more of the following criteria: landscaping, building orientation, architecture, linkages to abutting properties and other site amenities.

- a) Side setbacks on a common side lot line may be omitted where two (2) or more lots containing no residential uses share a single joint entrance and single joint exit to a public street.
- b) The side setbacks for parking areas and driveways may be reduced depending on the nature of the adjacent land-uses and the proposed landscaping/screening plan; minimum separation between buildings shall be 20 feet, unless sharing a common wall.
- c) The minimum distance from residential district may be reduced to no less than 35 feet due to existing or proposed evergreen buffer or other circumstances. Screening and landscaping of the setback area shall be required by the Commission. The Commission shall require screening and landscaping of the setback area.

**39.7. HEIGHT:** No building or other structure shall exceed a height of 2 ½ stories or thirty-five (35) feet, whichever is less.

**39.8. COVERAGE:** The lot coverage shall not exceed seventy (70) percent of the area of the lot. (Rev. 9/27/12)

39.8.1. Higher lot coverage will be considered under certain circumstances (Rev. 9/27/12):

- a) The Commission may permit lot coverage up to eighty (80) percent. This increased coverage shall be permitted only in special instances where special attention has been given to access management through linkages to abutting properties, special provisions for non-motorized transportation or site sensitivity; or
- b) The Commission may permit lot coverage up to eighty-five (85) percent, not including the area of public access management roadways. This increased coverage shall be permitted in unique circumstances where a public roadway will be provided to link abutting properties to promote public safety and that may limit lot development design.

**39.9. STANDARDS:** Development standards of Section 74 of these regulations shall be met.

**39.10. SPECIAL REGULATIONS**

39.10.1. Pre-Application Discussion.

Applicants are encouraged to initiate a pre-application conference with the Commission to discuss the conceptual aspects of the proposed development and to prepare and present a conceptual plan for informal consideration by the Commission. Neither the pre-application conference, the informal review of the concept plan, nor the Commission's suggestions shall be deemed to constitute approval or denial of any portion of the application.

39.10.2. A site development plan as specified in Section 61 of the Regulations shall be submitted for any new development, or use of an existing site for which an addition to the floor area is sought. This requirement shall not apply to any new use of property to be housed within an existing building with sufficient parking on the lot to satisfy the regulations, and where no changes are proposed for the exterior of the site, provided a Certificate of Zoning Compliance is secured prior to use and occupancy.

39.10.3. Connection to the East Coast Greenway trail. Site plans for all property abutting the trail must incorporate a conceptual pathway connection to the trail to facilitate future connections.

39.10.4. Parking.

- a) Requirements of Section 71 of these regulations must be met.
- b) On-street parking abutting the frontage may be included in meeting the required number of parking spaces.
- c) Shared parking is encourage.
- d) Parking lots can overlap lot lines with appropriate easement provisions and maintenance agreements between property owners.

## ARTICLE IV

### SECTION 41 - MANUFACTURING DISTRICT M-1

*(entire section revised effective 7/16/14)*

**41.1 PURPOSE AND INTENT:** The purpose and intent of this District is to permit manufacturing in harmony with surrounding commercial and residential development.

**41.2 PERMITTED USES:** Land, buildings and other structures shall be used for one or more of the following purposes subject to the approval process in Section 61 of these Regulations:

41.2.1 Professional offices, business and corporate offices.

41.2.2 Manufacturing, compounding, processing packaging and assembling materials and products; metal fabrication, machine and blacksmith shops.

41.2.3 Warehouse and self-storage facilities.

41.2.4 Municipal and other governmental uses.

41.2.5 Customary accessory structures and uses including those associated with uses listed in 41.3 and 41.4.

41.2.6 Mobile Home Parks legally in existence on the date of the adoption of these regulations.

41.2.7 Dwellings legally in existence on the date of the adoption of these regulations.

**41.3 OTHER PERMITTED USES:** Land, buildings and other structures shall be used for one or more of the following purposes, subject to Site Plan Approval by the Commission.

41.3.1 Health and sports clubs, golf driving ranges.

41.3.2 Golf courses including accessory uses for restaurants, banquet facilities and golf-related retail.

41.3.3 Facilities with outdoor storage as the primary use.

41.3.4 Wholesale businesses.

41.3.5 Plumbing, heating, electrical, mechanical and general contracting establishments and storage yards.

41.3.6 Retail sales of products manufactured on site.

**41.4 SPECIAL USES:** The Commission shall permit the following uses by Special Permit in accordance with Section 62 of these Regulations.

41.4.1 Airfreight transport, aircraft research and testing.

41.4.2 Printing, publishing, graphic arts processes and sign painting.

41.4.3 Motor vehicle repair.

41.4.4 Veterinary hospital and boarding kennels.

41.4.5 Club, civic, lodge or non-profit organization

41.4.6 Wholesale/commercial laundries, dry cleaners, cleaning or dyeing works and carpet and rug cleaning.

**41.5 PROHIBITED USES:** The above permitted uses shall not be construed to include the following uses, and no land, building or other structure shall be used for any of the following purposes:

41.5.1 Adult Uses as defined in Section 4 of the Windham Zoning Regulations are prohibited in this District.

41.5.2 Earth excavation as defined in Section 75 of these Regulations; except earth excavations legally in existence of the date of the adoption of this regulation.

**41.6 LOT AREA, SHAPE AND FRONTAGE:** Each lot shall have a minimum area of 40,000 sq. ft. and shall have a frontage of 75 feet or more on a public or private street.

**41.7 SETBACKS:** The following are the required setbacks:

41.7.1 Front setback: 50 feet. Parking is not permitted within 25 feet of the front property line.

41.7.2 Side and rear setback:

a) 25 feet where the property does not abut property zoned residential or containing a residential use; parking is not permitted within 10 feet of the property line.

b) 100 feet where the property abuts property zoned residential or containing a residential use. Parking is not permitted within 50 feet of property zoned residential or containing a residential use.

41.7.3 The Zoning Board of Appeals is authorized to grant a reduction of up to twenty-five (25) percent of the setback requirements by Special Exception as specified under Section 92.

**41.8 BUFFERS:** Visual buffers are required in areas abutting a state road and when abutting a conflicting use. Buffers shall use evergreen trees in combination with earth berms, privacy fencing and shrubs. The type of buffer selected shall be based on the site conditions, distances to property lines, intensity of the proposed use and the degree of conflict with abutting use:

41.8.1 Front setback areas abutting a State road shall have a year-round opaque visual barrier for 75% of the length of the frontage.

41.8.2 Property lines abutting a business, commercial or residential zone, or a residential use, shall have a visual buffer area of such width, height, and character to provide a year-round opaque visual barrier to parking and storage areas, buildings and activities on the site.

41.8.3 Buffers shall be maintained in a condition that assures their continued effectiveness.

**41.9 HEIGHT:** No building or other structure shall exceed a height of 40 feet; additional height may be permitted by Special Permit.

**41.10 LOT COVERAGE:** The lot coverage shall not exceed 70 percent of the area of the lot.

**41.11 AQUIFER PROTECTION:** Development within the Aquifer Protection Zone shall meet the requirements of Section 54 of these regulations.

SECTION 42 - BUSINESS PARK and LIGHT MANUFACTURING DISTRICT M-2

*(entire section revised effective 7/16/14)*

**42.1 PURPOSE AND INTENT:** The purpose and intent of this District is to permit a business park with light manufacturing and to encourage the use of rail lines.

**42.2 PERMITTED USES:** Land, buildings and other structures shall be used for one or more of the following purposes subject to the approval process in Section 61 of these Regulations:

42.2.1 Permitted uses within the M-1 District.

42.2.2 Veterinary hospital.

42.2.3 Plumbing, heating, electrical, mechanical and general contracting offices and storage yards.

42.2.4 Wholesale businesses.

42.2.5 Commercial nurseries and greenhouses.

42.2.6 Customary accessory structures and uses including those associated with uses listed in 42.3.

**42.3 SPECIAL USES:** The Commission will permit the following uses by Special Permit in accordance with Section 62 of these Regulations.

42.3.1 Motor vehicle repair.

42.3.2 Airfreight transport, aircraft research and testing.

42.3.3 Printing, publishing, graphic arts processes, sign painting.

42.3.4 Cutting, sawing and storage of lumber.

42.3.5 Boarding kennels.

42.3.6 Earth excavation per Section 75 of the Windham Zoning Regulations.

42.3.7 Research laboratories.

42.3.8 Public Utility substations and maintenance facilities.

**42.4 PROHIBITED USES:** The above permitted uses shall not be construed to include the following uses, and no land, building or other structure shall be used for any of the following purposes:

42.4.1 Adult Uses as defined in Section 4 of the Windham Zoning Regulations are prohibited in this District.

**42.5 LOT AREA, SHAPE AND FRONTAGE:** Each lot shall have a minimum area of 40,000 sq. ft. and shall have a frontage of 100 feet or more on a public or private street.

**42.6 SETBACKS:** The following are the required setbacks:

42.6.1 Front setback. 50 feet. Parking is not permitted within 25 feet of the front property line.

42.6.2 Side and rear setback:

*(continued next page)*

*(continued from Sec. 42.6.2)*

- a) 25 feet where the property does not abut property zoned residential or containing a residential use; parking is not permitted within 10 feet of the property line.
- b) 100 feet where the property abuts property zoned residential or containing a residential use. Parking is not permitted within 50 feet of property zoned residential or containing a residential use.

42.6.3 The Zoning Board of Appeals is authorized to grant a reduction of up to twenty-five (25) percent of the setback requirements by Special Exception as specified under Section 92.

**42.7 BUFFERS:** Visual buffers are required in areas abutting a state road and when abutting a conflicting use. Buffers shall use evergreen trees in combination with earth berms, privacy fencing and shrubs. The type of buffer selected shall be based on the site conditions, distances to property lines, intensity of the proposed use and the degree of conflict with abutting use:

42.7.1 Front setback areas abutting a State road shall have a year-round opaque visual barrier for at least 75% of the length of the frontage.

42.7.2 Property lines abutting a business, commercial or residential zone, or a residential use, shall have a visual buffer area of such width, height, and character to provide a year-round opaque visual barrier to parking and storage areas, buildings and activities on the site.

42.7.3 Buffers shall be maintained in a condition that assures their continued effectiveness.

**42.8 HEIGHT:** No building or other structure shall exceed a height of 2 ½ stories or forty feet, whichever is less; additional height may per permitted by Special Permit.

**42.9 LOT COVERAGE:** The lot coverage shall not exceed 70 percent of the area of the lot.

**42.10 AQUIFER PROTECTION:** Development within the Aquifer Protection Zone shall meet the requirements of Section 54 of these regulations.

## Section 43 - NEIGHBORHOOD MANUFACTURING M-3

(entire section revised effective 7/16/14)

**43.1 PURPOSE AND INTENT:** The purpose and intent of this District is to permit light manufacturing within existing structures that would be compatible with nearby residential development.

**43.2 PERMITTED USES:** Existing buildings shall be used for one or more of the following purposes subject to the approval process in Section 61 of these Regulations:

43.2.1 Professional offices, business and corporate offices.

43.2.2 Packaging and assembling materials and products.

43.2.3 Research laboratories

43.2.4 Recreation facilities

43.2.5 Museums

43.2.6 Manufacturing of products; wholesale businesses subject to the following

a) delivery/pickup limited to between 8am to 8pm

b) noise limited to standards of Section 74.1.3

43.2.7 Municipal and other governmental uses.

43.2.8 Customary accessory structures and uses.

43.2.9 Dwellings legally in existence on the date of the adoption of these regulations.

**43.3 SPECIAL USES:** The Commission will permit the following uses by Special Permit in accordance with Section 62 of these Regulations.

43.3.1 Restaurants less than 2000 sq ft and limited to the hours of 6am to 8pm; the sale of alcoholic beverages is not permitted.

43.3.2 Artist studios including live/work units.

43.3.3 New buildings, or additions to existing building in excess of 10% increase in gross floor area, to be used for a Permitted Use listed in 43.2

**43.4 PROHIBITED USES:** The above permitted uses shall not be construed to include the following uses, and no land, building or other structure shall be used for any of the following purposes:

43.4.1 Adult Uses as defined in Section 4 of the Windham Zoning Regulations are prohibited in this District.

**43.5 LOT AREA, SHAPE AND FRONTAGE:** Each lot shall have a minimum area of 10,000 sq. ft. and shall have a frontage of 50 feet or more on a public street.

**43.6 SETBACKS:** The following are the required setbacks for additions to existing buildings or for new construction:

43.6.1 Front setback: 25 feet. Parking is not permitted within 10 feet of the front property line.

43.6.2 Side and rear setback:

*(continued next page)*

*(continued from Sec. 43.6.2)*

- a) 20 feet where the property line does not abut property zoned residential or containing a residential use.
- b) 75 feet where the property line abuts property zoned residential or containing a residential use. Parking is not permitted within 35 feet of property zoned residential or containing a residential use.

43.6.3 The Zoning Board of Appeals is authorized to grant a reduction of up to twenty-five (25) percent of the setback requirements by Special Exception as specified under Section 92.

**43.7 BUFFERS:** The following are required for additions to existing buildings or for new construction, and strongly recommended for changes in use.

43.7.1 Visual and sound buffers are in areas abutting a conflicting use. Buffers shall use evergreen trees in combination with earth berms, privacy fencing and shrubs. The type of buffer selected shall be based on the site conditions, distances to property lines, intensity of the proposed use and the degree of conflict with abutting use:

- a) Property lines abutting a residential zone, or a residential use, shall have a visual buffer area of such width, height, and character to provide a year-round opaque visual barrier to parking and storage areas, buildings and activities on the site. To the extent possible, buffers shall also be in place to contain sound on site.
- b) Buffers shall be maintained in a condition that assures their continued effectiveness.

**43.8 HEIGHT:** No building or other structure shall exceed a height of 2 ½ stories or thirty-five (35) feet, whichever is less.

**43.9 SIGNAGE:** Signage shall be as for home occupations, or as approved by the Commission.

**43.10 LOT COVERAGE:** The lot coverage shall not exceed 80 percent of the area of the lot.

## Section 44 - MANUFACTURING/INDUSTRIAL DISTRICT M-4

*(entire section revised effective 7/16/14)*

**44.1 PURPOSE AND INTENT:** The purpose and intent of this District is to permit manufacturing and industrial development.

**44.2 PERMITTED USES:** Land, buildings and other structures shall be used for one or more of the following purposes subject to the approval process in Section 61 of these Regulations:

44.2.1 Permitted uses within the M-1 and M-2 Districts.

44.2.2 Customary accessory structures and uses including those associated with uses listed in 44.3 and 44.4.

**44.3 OTHER PERMITTED USES:** Land, buildings and other structures shall be used for one or more of the following purposes, subject to Site Plan Approval by the Commission.

44.3.1 Crematorium.

44.3.2 Cutting, sawing and storage of lumber.

44.3.3 Generation and sale of electricity by solar, wind, hydro or fuel cell.

44.3.4 Public Utility substations and maintenance facilities.

**44.4 SPECIAL USES:** The Commission will permit the following uses by Special Permit in accordance with Section 62 of these Regulations.

44.4.1 Asphalt and concrete manufacture, treatment and storage.

44.4.2 Automotive recycling facility; salvage yard.

44.4.3 Earth excavation per Section 75 of these Regulations.

44.4.4 Bulk storage of fuel oil or petroleum.

44.4.5 Truck and freight terminals.

44.4.6 Pharmaceuticals, beauty preparations, perfumes and similar products.

44.4.7 Garbage and refuse processing; solid waste, recycling, transfer station.

44.4.8 Research laboratories.

**44.5 PROHIBITED USES:** The above permitted uses shall not be construed to include the following uses, and no land, building or other structure shall be used for any of the following purposes:

44.5.1 Adult Uses as defined in Section 4 of the Windham Zoning Regulations are prohibited in this District.

**44.6 LOT AREA, SHAPE AND FRONTAGE:** Each lot minimum area of 40,000 sq. ft., and shall have a frontage of 100 feet or more on a public street.

**44.7 SETBACKS:** The following are the required setbacks:

44.7.1 Front setback: 50 feet. Parking is not permitted within 25 feet of the front property line.

44.7.2 Side and rear setback:

*(continued next page)*

*(continued from Sec. 44.7.2)*

- a) 25 feet where the property does not abut property zoned residential or containing a residential use; parking is not permitted within 10 feet of the property line.
- b) 100 feet where the property abuts property zoned residential or containing a residential use. Parking is not permitted within 50 feet of property zoned residential or containing a residential use.

**44.8** The Zoning Board of Appeals is authorized to grant a reduction of up to twenty-five (25) percent of the setback requirements by Special Exception as specified under Section 92.

**44.9 BUFFERS :** Visual buffers are required in areas abutting a state road and when abutting a conflicting use. Buffers shall use evergreen trees in combination with earth berms, privacy fencing and shrubs. The type of buffer selected shall be based on the site conditions, distances to property lines, intensity of the proposed use and the degree of conflict with abutting use:

44.9.1 Front setback areas abutting a State road shall have a year-round opaque visual barrier for at least 75% of the length of the frontage.

44.9.2 Property lines abutting a business, commercial or residential zone, or a residential use, shall have a visual buffer area of such width, height, and character to provide a year-round opaque visual barrier to parking and storage areas, buildings and activities on the site.

**44.10** Buffers shall be maintained in a condition that assures their continued effectiveness.

**44.11 HEIGHT:** No building or other structure shall exceed a height of 50 feet; additional height may be permitted by Special Permit.

**44.12 LOT COVERAGE:** The lot coverage shall not exceed 70 percent of the area of the lot.

**44.13 AQUIFER PROTECTION:** Development within the Aquifer Protection Zone shall meet the requirements of Section 54 of these regulations.

## ARTICLE V

### Section 51 - Planned Development Districts - PDD

- 51.1 PURPOSE: A planned development may be established by the Planning & Zoning Commission in accordance with the procedures herein after specified and when found necessary and appropriate for the following purposes (*revised June 23, 2011*):
- 51.1.1 To allow tracts of land to be developed, redeveloped and improved as integrated and harmonious design units of stable character, consistent with the character of the Town and the long range improvements of the neighborhood and consistent with any Comprehensive Plan of Development adopted by the Windham Planning & Zoning Commission, when such tracts are of sufficient size to accommodate such design units and when another existing zoning district could not be appropriately established to accomplish such purposes; and/or,
- 51.1.2 To allow the use of land, buildings and other structures for purposes that would be beneficial to and consistent with the character of the Town and the long range improvement of the neighborhood and consistent with any Comprehensive Plan of Development adopted by the Windham Planning & Zoning Commission, when such uses are located on tracts of sufficient size to accommodate integrated and harmonious design of buildings, structures, and facilities in connection with the use and when another existing zoning district could not be appropriately established to accomplish such purpose.
- 51.2 PETITION: A petition for establishment of a Planned Development shall be submitted in writing to the Planning & Zoning Commission, shall be signed by the owner or owners of all lots within the proposed district, and shall be accompanied by the following:
- 51.2.1 Statement: A written statement specifying in detail the particular provisions of these Regulations which are proposed to be applicable or inapplicable and the special or additional provisions which are proposed to be applicable to the use of land, buildings and other structures, the location and bulk of buildings and other structures, and the area, shape and frontage of lots within the District. Ten (10) copies shall be submitted.
- 51.2.2 Development Plans: A development plan for the proposed development, including site plans, architectural plans, and other drawings as relevant, in sufficient detail to show the precise boundaries of the proposed district and character and location of the existing and proposed contours, uses, buildings, and other structures, signs, outdoor illumination, streets, driveways, off-street parking and loading spaces,
- 51.2.3 outside storage areas, water courses, storm drainage, sewage disposal facilities, water supply facilities and landscaping. Six (6) copies shall be submitted to each Commission.
- 51.2.3 Fee: A petition fee shall accompany the application.
- 51.3 PROCEDURE AND FINDINGS: After receipt of complete petitions for a Planned Development District, the Planning & Zoning Commission may meet with the petitioner and may request additional information. The Planning & Zoning Commission may adopt the Planned Development District, thereby amending these Regulations í (*continued next page*)

*(Section 51.3 continued from previous page)* ... and the Zoning Map, upon due notice and public hearing as required for amendment of these Regulations and only after such Commission makes the following findings in addition to other findings necessary for amendment of these Regulations:

- 51.3.1 The Planned Development District and the standards and development plan applicable therein will accomplish the purposes set forth in Paragraph 51.1;
- 51.3.2 The Planned Development District and the standards and development plan applicable therein will be consistent with any Comprehensive Plan of Development adopted by the Windham Planning & Zoning Commission and will be in accord with the comprehensive plan of zoning;
- 51.3.3 Another existing zoning district could not be appropriately established to accomplish such purposes; and,
- 51.3.4 The Planned Development District encompasses a tract of land of not less than five (5) acres, unless there is an existing building of at least 50,000 square feet; then the tract of land must encompass at least one (1) acre, and the building(s) must be improved and utilized as part of the Planned Development District.*(amended 11-29-01)*

If the Planned Development District is adopted by the Planning & Zoning Commission, notice of such adoption shall be given as required for amendment of these Regulations, and the Planned Development District, appropriately numbered, shall be shown on the Zoning Map. Before or after adoption of the Planned Development District and prior to approval of any application for a Certificate of Zoning Compliance by the Zoning Enforcement Officer, the Commission may require the petitioner to submit detailed specifications for particular aspects of the proposed development in order that such specifications may be reviewed and may be approved by the Planning & Zoning Commission after finding that they are consistent with the standards and Development Plan and are made a part of the conditions under which an application for a Certificate of Zoning Compliance is approved.

- 51.4 ADDITIONAL LIMITATIONS: Adoption of a Planned Development District by the Planning & Zoning Commission shall constitute authorization to establish the uses, buildings, structures and site development in accordance with the standards and Development Plan adopted by the Commission for the District and in accordance with detailed specifications approved by the Commission. The Development authorized by the district shall be completed within five (5) years from the effective date of the district, except that the Commission may extend the time for completion for one year periods after public hearing for good cause demonstrated to the satisfaction of the Commission; otherwise the Commission shall be deemed authorized by the owner of land within the district to amend these Regulations and the Zoning Map, deleting the Planned Development District and establishing for such land the previous or another zoning district.

## Section 52 - Special Flood Hazard Area - SFH

52.1 GENERAL: The following Regulations shall apply to the use of land, buildings, and other structures, and the location and bulk of buildings and other structures in any Special Flood Hazard Area.

52.1.1 Accessory Structure: means an unfinished structure of less than 401 square feet, the use of which shall be subordinate to the principal structure on the parcel.  
(added 05/28/95)

52.2 PURPOSE: It is the purpose of this Regulation to promote the health, safety and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designated:

- To protect human life and health;
- To minimize expenditure of public money for costly flood control projects;
- To minimize the need for rescue and relief efforts associated with flooding and general undertaken at the expense of the general public;
- To minimize prolonged business interruptions;
- To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of Special Flood Hazard;
- To insure that potential home buyers are notified that property is in an area of Special Flood Hazard;
- To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard in such manner as to minimize future flood blight areas; and,
- To ensure that those who occupy the areas of Special Flood Hazard assume responsibility for their actions.

52.3 METHODS OF REDUCING FLOOD LOSSES: In order to accomplish its purposes, this ordinance includes methods and provisions to:

- Restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion, or which increase flood heights or velocities;
- Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- Control the alteration of natural flood plains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters;
- Control filling, grading, dredging and other development which may increase erosion or flood damage; and,
- Prevent or regulate land use activities and the construction of flood barriers which will unnaturally divert floodwaters of which may increase flood hazards to other lands.

52.4 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD: The areas of Special Flood Hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study for the Town of Windham Connecticut" dated November 6, 1998, and any revisions thereto, í *(continued next page)*

*(continued from 52.4)* ... with accompanying Flood Insurance Rate Maps and Flood Boundary-Floodway Maps are hereby adopted by reference and declared to be a part of this ordinance. The Flood Insurance studies are on file at the Office of the Windham Planning Department and Town Clerk's Office. *(amended 12/11/98)*

52.5 DEFINITIONS: For the purpose of this Section and any related section, certain words and phrases shall, whenever used, have the meanings defined as follows:

52.5.1 Area of Special Flood Hazard: The land in the flood plain within a community subject to a one- percent or greater chance of flooding in any given year. The areas of Special Flood Hazard contain all A Zones *(amended 12/11/98)*, as designated on the Flood Insurance Rate Map, and contain all lands within the Special Flood Hazard Area.

52.5.2 Base Flood: The base flood is the flood having a one- percent chance of being equaled or exceeding in any given year. *(amended 05/28/95)*

52.5.3 Development: Any man made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials located within the area of Special Flood Hazard. *(amended 05/28/95)*

52.5.4 Flood Insurance Rate Map (FIRM): The official map on which the Federal Insurance Administration has provided flood profiles, as well as the Flood Boundary-Floodway Map and the water surface elevation of the base flood.

52.5.5 Flood Boundary and Floodway Map: The official map on which the Federal Emergency Management Agency has delineated the boundaries of the floodway. *(amended 05/28/95)*

52.5.6 Floodway: The channel of a river or other water course and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

52.5.7 Special Flood Hazard Area (SFH): The zoning district within the Town of Windham whose area and boundaries correspond to the areas of Special Flood Hazard. The SFH Area shall be an overlay district and shall modify the existing underlying zoning in accordance with this and related sections. *(amended 05/28/95)*

52.5.8 Structure: For the purposes of this section, structure shall have the same definition as given in Section 4 and any revisions, and shall also include mobile/manufactured homes or recreational vehicles as defined *(amended 05/28/95)* and gas or liquid storage tanks.

52.5.9 Substantial Damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred. *(amended 05/28/95)*

52.5.10 Substantial Improvement: *(See Note below)* Any combination of repairs, reconstruction, alteration or improvements to a structure taking place over a five year period, in which the cumulative cost equals or exceeds fifty (50) percent of the market value of the structure. The market value of the structure should be: (1) the appraised value of the structure using the cost approach í *(continued next page)*

(continued from 52.5.10)... to value method, prior to the start of the initial repair or improvement; or, (2) in the case of damage, the value of the structure prior to the damage occurring. (added 05/28/95)

*NOTE: This specifies the method to be used to determine the market value, based on the value of the depreciated replacement cost of the structure using current rates for materials, equipment and labor. It generally results in the highest market value for the property.*

- a. Lowest Floor means the lowest floor of the lowest enclosed area (including basement or cellar). (added 05/28/95)
- b. Mean Sea Level means for the purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations on a community's Flood Insurance Rate Map are referenced. (added 05/28/95)
- c. New Construction means structures for which the "start of construction" commenced on or after the effective date of the initial FIRM dated November 6, 1998 (amended 12/11/98), and includes any subsequent improvements to such structures. (added 05/28/95)
- d. Start of Construction includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, or any work beyond the stage of excavation. For a substantial improvement, the actual start of construction means the first alteration of the building, whether or not that alteration affects the external dimensions of the building. (added 05/28/95)

52.5.11 Violation means the failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required is presumed to be in violation until such time as that documentation is provided. (added 05/28/95)

52.6 MANAGEMENT OF THE SPECIAL FLOOD HAZARD AREA: A Certificate of Zoning Compliance, as hereinafter provided, shall be required in conformance with the provisions of this Regulation prior to the commencement of any activities within the Special Flood Hazard Area as follows: (added 05/28/95)

- a. Compliance: No structure or land shall hereafter be located, extended, converted, structurally altered, clear cut, or re-graded without full compliance with the terms of this Regulation and other applicable regulations.
- b. Abrogation and Greater Restrictions: This Regulation is not intended to repeal, abrogate or impair any existing easements, covenants, or deed restrictions. However, where this Regulation and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail
- c. Interpretation: In the interpretation and application of this Regulation, all provisions shall be:  
*(continued next page)*

*(continued from 52.6 c)...*

- 1) considered as minimum requirements;
- 2) liberally construed in favor of the Town; and, 3) deemed neither to limit nor repeal any other powers granted under State Statutes. (added 05/28/95)

52.7 PROCEDURE: Prior to the commencement of any development in designed Flood Hazard Area for all A Zones, an application for site plan review as specified under Section 61 shall be submitted to the Commission for its review unless such development is performed for or by the Town, State, or Federal government. Upon receipt of the application, the Commission shall review the proposal and determine whether the plan for the proposed activity is in compliance with these Regulations.

- a. If the proposal involves a minor land disturbing activity, accessory structure, or minor addition, which is clearly consistent with the approval criteria contained in this Regulation, the Commission may authorize the issuance of a Certificate of Zoning Compliance.
- b. Where more substantial development or disturbance is proposed (i.e. disturbance of one acre or more, removal or addition of more than 1,000 cubic yards, but not more than 5,000 cubic yards of material), the Commission may require more detailed information on the likely impacts of the proposed development on flood flow and the effect on abutting properties within the Flood Hazard Area. *(revised 6/23/11)*
- c. Where the proposed development may result in a substantial change in conditions (i.e. disturbance of more than five acres, the removal or addition of more than 5,000 cubic yards of material), the Commission shall process the application as a Special Permit in accordance with Section 62. *(revised 6/23/11)*
- d. Where such substantial development occurs in riverine situations, the Commission shall notify adjacent communities and the State coordinating office prior to any alteration or relocation of a watercourse. Copies of such notification shall be submitted to the Federal Insurance Administrator. (added 05/28/95)

52.7.1 Application Requirements: Applications shall include a site plan showing property lines, existing and proposed contours, existing and proposed structures and floor elevations, where applicable, base flood information, appropriate engineering certifications, appropriate construction plans and other data necessary to accurately review the proposal with respect to approval criteria. Specific base flood elevation data shall be provided for proposals greater than fifty (50) lots or five acres, whichever is the lesser, for that portion within the Flood Plain District.

Please note that any necessary permits from those government agencies from which approval is required by Federal or State Law shall be obtained prior to construction. (added 05/28/95)

52.7.2 Flood Hazard Area/Base Flood Information: Where base flood elevation data or floodway data have not been provided, the Commission shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source in order to administer the provisions of this Section. (added 05/28/95)

52.7.3 Approval Criteria: In reviewing and authorizing any development in an A Zone designated Flood Hazard Area, the Commission shall determine that the public health, welfare and general safety have been í *(continued next page)*

*(Section 52.7.3 continued)* í protected and that the following specific criteria have been met to the Commission's satisfaction:

- a. That all appropriate approval criteria has been satisfied.
- b. That all new construction and substantial improvements, including prefabricated or manufactured buildings or structures shall have the lowest floor, including the basement, elevated to or above the base flood level (100 year flood level).
- c. Non-residential structures located in all A-Zones may be flood-proofed in lieu of being elevated provided that together with all attendant utilities and sanitary facilities, the areas of the structure below the required elevation are water tight with walls substantially impermeable to the passage of water, and structural components are used which have the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall review and/or develop structural design specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with acceptable standards of practice for meeting the provisions of this Section. Such certification shall be provided to the Commission.
- d. New construction or substantial improvements of elevated buildings that include fully enclosed areas formed by foundation and other exterior walls below the base flood elevation shall be designed to preclude finished living space. Further, such construction or substantial improvement shall be designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls. Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria:
  1. Provide a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
  2. The bottom of all openings shall be no higher than one foot above grade; and,
  3. Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.
- e. All development proposals, including utilities and drainage, shall be located and designed to be consistent with the need to minimize flood damage. More specifically (see following page):
  1. All public utilities and facilities such as sewer gas, electrical and water systems shall be located and constructed to minimize or eliminate flood damage.
  2. New or replacement water supply systems and/or sanitary sewer systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.
  3. On-site waste disposal systems shall be located to avoid impairment of their essential function or contamination of other properties during flooding.

*(continued next page)*

4. *(continued from 52.7.3 e)* Adequate drainage shall be provided to reduce exposure to flood hazards, and access to proposed developments shall not be impaired due to flood hazards.
5. Electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- f. An engineering certification shall be submitted with the application demonstrating that the flood carrying capacity is maintained within any altered or relocated portion of any watercourse.
- g. Any new construction, including prefabricated buildings and manufactured homes, and substantial improvements shall be designed and anchored to prevent flotation, collapse or lateral movement and constructed with flood-resistant materials and methods. The placement of manufactured homes or manufactured home parks and subdivisions shall be prohibited within any Special Flood Hazard Area of an  $\text{A}\phi$  or  $\text{B}\phi$  zone. New construction and substantial improvements shall be constructed using methods and practices that minimize flood damage. *(added 05/28/95)*

52.8 Due to the velocity of flood waters within the floodway which carry debris, potential projectiles, and erosion potential, the following provisions shall apply:

- a. Any development or activity within a floodway must be capable of conveying the base flood without increasing the water surface elevation more than one foot at any point.
- b. Encroachments, including fill, new construction, substantial improvements and any other development is prohibited unless certification (with supporting technical data) is provided by a registered professional engineer demonstrating that such encroachments will not result in an increase in flood levels during occurrence of the base flood discharge. *(added 05/28/95)*

52.8.1 If the proposal involves development within an  $\text{A}\phi$  Zone *(amended 12/11/98)*, and a floodway has not been identified, no new construction, substantial improvements to existing structures, or other development (including fill) shall be permitted unless it is demonstrated by the applicant that the cumulative effort of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point in the Town. *(added 05/28/95)*

52.8.2 The Town may request floodway data of an applicant for watercourses without FEMA-published floodways. When such data is provided by an applicant or when ever such data is available from any other source (in response to the Town's request or not), the Town shall adopt a regulatory floodway based on the principle that the floodway must be able to convey the waters of the base flood without increasing the water surface elevation more than one foot at any point along the water course. *(added 05/28/95)*

52.9 AS BUILT PLANS REQUIRED: Prior to issuance of any Certificates of Use and Compliance for any approved development activities in designated Flood Hazard Area, the Planning and Engineering Departments shall determine that approved plans and evaluation requirements have been satisfied. To verify compliance, ... *(continued next page)*

(52.9 continued) As built plans for the first floor and/or basement elevations, and final ground elevations shall be prepared and certified by a Registered Professional Engineer or Land Surveyor. As built plans shall be submitted for authorized primary structures, major additions, and major land disturbing activities or any other development activity where plan certification is necessary. Where flood-proofing measures have been utilized or watercourses altered appropriate documents shall be prepared by a Registered Professional Engineer, or Surveyor certifying the as built or as constructed plans. (added 05/28/95)

#### 52.9.1 Subdivisions

- a. All subdivision proposals shall be consistent with the need to minimize flood damage;
- b. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;
- c. All subdivision proposals shall provide adequate drainage to reduce exposure to flood hazards; and,
- d. Base flood elevation data shall be provided for all subdivision proposals and other proposed development (including manufactured home parks and subdivisions) which are located in Zone A.

#### 52.9.2 Variances

- a. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- b. Variances shall be processed in accordance with Section 92 of these Regulations and in accordance with State Law; further, variiances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief. In the instance of an historical building, a determination shall be made that the variance is the minimum necessary to maintain the historic character and design of the building.
- c. Variances may only be issued for the following (see following page):
  1. A showing of good and sufficient cause.
  2. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on, or victimization of the public, nor shall it be in conflict with existing local laws or ordinances.
- d. Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation to which the structure is to be built, and stating that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest flood elevation.
- e. The Planning/Zoning Department shall maintain the records of all appeal actions and report any variiances to the Federal Emergency Management Agency upon request. (added 05/28/95)

## SECTION 53 - Reserved Land District - RL

- 53.1 GENERAL: To ensure the planned and orderly use and development of public lands intended for open space, recreational and other specified extensive public uses, the Reserved Land District is established.
- 53.2 PERMITTED USES: Land and buildings shall be used for one or more of the following purposes after the issuance of a Special Exception by the Commission:
- 53.2.1 Parks and playgrounds.
  - 53.2.2 Golf courses.
  - 53.2.3 Municipal Uses (*effective 7/16/14*)
  - 53.2.4 Cemeteries.
  - 53.2.5 Non-profit outdoor recreational facilities.
  - 53.2.6 Community centers.
  - 53.2.7 Sewage treatment facilities, water supply wells.
  - 53.2.8 Public utility transmission lines.
- 53.3 SPECIAL REGULATIONS
- 53.3.1 All development within the Reserved Land District shall be consistent with the maximum protection and enhancement of the natural resources and open space character of the site.
  - 53.3.2 Parking and other service facilities shall be the minimum necessary to serve the uses intended and shall be of such location, design and scale to minimize their impact on the district in general.
- 53.4 SETBACKS: No building or other structure, parking lot or storage area shall extend within twenty (20) feet of any street or property line. The Commission may require an equal or greater setback for any recreational or other use, which in the opinion of the Commission may unduly disturb adjacent residential or other uses.
- 53.5 HEIGHT: No building or other structure shall exceed a height of two and one half- (2 ½) stories or thirty-five (35) feet whichever is less.
- 53.6 COVERAGE: The ground floor area of all structures and paved areas used for vehicular parking and access shall not exceed fifteen (15) percent of the area of the lot.

## Section 54 - Aquifer Protection Zone - APZ

- 54.1 GENERAL: To protect the public health, safety and welfare through the preservation of the Town's major sources of quality ground water resources as identified on a map entitled "WATER FEATURES", which is a map enclosed in the Windham Town Plan of Development adopted 1994. (*amended 2002*)
- 54.2 PERMITTED USES: Land and buildings shall be used for one or more of the following purposes:
- 54.2.1 Any use permitted in the underlying residence, industrial, business or other zone except those uses specifically prohibited in Section 54.3.
- 54.3 PROHIBITED USES: The following uses shall be prohibited in the Aquifer Protection Zone:
- 54.3.1 Road salt storage and loading facilities.
- 54.3.2 Solid waste and septage disposal sites.
- 54.3.3 Any commercial or industrial use, which improperly uses or stores hazardous materials as identified by Section 3001 of the Resource Conservation and Recovery Act of 1976.
- 54.4 SPECIAL REGULATIONS:
- 54.4.1 Where it can be determined through on-site investigation, meeting the standards of the United States Geological Survey, that a parcel of land within the Aquifer Protection Zone is not within a direct recharge area, the restrictions in 54.3 shall not apply.
- 54.4.2 Requirements for lot area, shape and frontage, setbacks, height, coverage and bulk and minimum floor area and other conditions shall be those required in the underlying zone designation.

## SECTION 55 - ArtSpace Windham Planned Development District

(revised 6/23/11)

- 55.1 GENERAL: The following are regulations which are intended to permit the adaptive reuse, improvement and vertical expansion of the existing vacant factory building known as Mill No. 1, Building 8, situated on Parcel 1A of the Windham Mills Complex, so as to create a multi-family residential community comprised of units of living/studio space designed for occupancy by (but not restricted to) members of the arts and technology communities, together with additional uses ancillary and incidental thereto. The site plans entitled *ArtSpace Windham*, submitted to the Planning & Zoning Commission with these regulations, are hereby made a part of this Article V-A. Any changes to the plan shall require review and approval in accordance with Section 61 for Final Site Development.
- 55.2 PERMITTED USES: Land, buildings and other structures shall be used for one or more of the following purposes:
- 55.2.1 Multi-family, residential dwellings which may include studios for use by the residents in connection with the arts and/or computer technology.
  - 55.2.2 Art galleries and studios for artists.
  - 55.2.3 Customary accessory uses to the above permitted uses, including but not limited to laundry and drying facilities, refuse collection, lounges, rental offices, and day care facilities.
  - 55.2.4 Stores and other facilities where retail goods are sold or services are rendered.
  - 55.2.5 Storage of reasonable quantity of retail merchandise and supplies necessary for the operation of a retail establishment located within the PDD ArtSpace Windham District.
  - 55.2.6 Businesses and professional offices.
  - 55.2.7 Museums, recreation facilities, charitable institutions and public utility substations.
  - 55.2.8 Off-street parking facilities.
  - 55.2.9 Tanks for storage and distribution of fuel as an accessory use for on site development.
  - 55.2.10 Wireless communications antennae, subject to the provisions of Article I Section 5 of these Zoning Regulations.
  - 55.2.11 Operation and maintenance of hydroelectric generating facilities at the dams in and adjacent to the property located within the PDD ArtSpace Windham District.
- 55.3 PROHIBITED USES: The above permitted uses shall not be construed to include the following uses, and no land, building or other structure shall be used for any of the following purposes:
- 55.3.1 Gasoline filling stations; automobile repair garages including automobile, trailer and farm equipment repairing, painting and upholstering except when clearly accessory and subsidiary to a permitted use on the same premises; establishment for motor vehicle washing; establishments for the sale of new or used automobiles, trucks, trailers or farm equipment.
  - 55.3.2 The manufacture of ammonia, bleach, chlorine, animal black, bone black, lamp black, fertilizer, paint, oil, varnish, turpentine, shellac, ...*(continued next page)*

(55.3.2 continued) í enamel, starch, glucose, dextrin or acid; the distillation of coal, petroleum, refuse, grain, wood or bones; petroleum refining; refining or recovering of products from fish, animal refuse or offal; grease, lard, fat or tallow rendering or refining; grain drying or food manufacture from refuse or mash; incineration, reduction, storage or dumping of slaughterhouse refuse, rancid fats, dead animals or offal; manufacture and storage of fireworks and explosives except small arms ammunition; tanning, curing, cleaning or storage of raw hides or skins; stock yard; commercial slaughtering; the killing or dressing of poultry; blast furnaces except cupolas as converters used in foundries; and coke ovens.

55.4 LOT AREA, SHAPE AND FRONTAGE: Each lot shall have a minimum area of one (1) acre and shall have a frontage of 50 feet or more on a street.

55.5 HEIGHT:

55.5.1 No building or other structure shall exceed a height of eighty-five (85) feet unless approved as a Special Exception.

55.5.2 Allowable height limits may be increased after the issuance of a Special Exception by the Planning & Zoning Commission in accordance with Section 62.

55.6 COVERAGE AND BULK: The aggregate lot coverage of all buildings on the lot shall not exceed ninety (90) percent of the area of the lot. The total floor area of all buildings and other structures on the lot, excluding basements, shall not exceed three times the area of the lot.

55.7 SPECIAL REGULATIONS:

55.7.1 Parking lot landscaping: Parking lots serving more than ten (10) cars shall be suitably landscaped.

55.7.2 Parking Exemption: All buildings in the PDD ArtSpace Windham District shall be exempt from the off-street parking and loading facility requirements of Section 71, provided the Planning & Zoning Commission is satisfied that there is adequate parking, either on-site or off-site, for the intended use of the property.

55.7.3 Standards for Multi-Family Residential Development:

- a) Rubbish disposal: Each multi-family building shall be provided with facilities of sufficient size to accommodate all trash and waste stored on the premises.
- b) Floor area of accessory uses: Permitted floor area for allowable non-residential uses shall not exceed thirty (30) percent of the floor area for residential uses as defined herein.
- c) Walkways: Adequate pedestrian walkways shall be provided for all multi-family dwellings to provide safe and convenient access.
- d) Dwelling unit size: The minimum floor areas shall be as follows:

<u>UNIT TYPE</u>	<u>MIN. NET FLOOR AREA</u>
Efficiency/Studio	450 square feet
One bedroom	700 square feet
Two bedroom	950 square feet
Three bedroom	1100 square feet

## Section 56 - Cedarwoods Planned Development District

- 56.1 GENERAL: The following regulations are intended to provide an opportunity to establish a supportive living complex containing a supportive housing community consisting of individuals at risk for homelessness and or low to moderate incomes. The complex will include treatment, counseling and supportive services for the residents, which may include opportunities for on-site social service counseling, consulting and life-skills training. (Added 6-21-07)
- 56.2 PERMITTED USES: Land, buildings and other structures shall be used for one or more of the following purposes:
- 56.2.1 those uses permitted in Section 24.2 of the R-4 Residence District.
- 56.2.2 Supportive Living Complex of no more than 74 units
- 56.3 USES PERMITTED BY SPECIAL PERMIT: Supportive Living Complex in excess of 74 units not to exceed a density of five (5) units per gross acre
- 56.3.1 ACCESSORY STRUCTURES AND USES PERMITTED: Permitted accessory uses include, but are not limited to, the following:
- a. Customary accessory uses to the above permitted uses, including but not limited to laundry and drying facilities, refuse collection, lounges and rental offices.
  - b. On-site social service and psychological counseling, consulting and life skills training for dwelling unit occupants.
  - c. Public utility and security substations.
  - d. Off-street parking facilities.
  - e. Tanks for storage and distribution of fuel as an accessory use for on site development.
  - f. Communications antennae, subject to the provisions of Article I Section 5 of these Zoning Regulations.
  - g. Private greenhouse, vegetable, fruit or flower garden and shed for the storage or maintenance of recreation and yard equipment used on the premises.
  - h. Barbecue pits, flagpoles, trellises, statuary, arbors and gazebos.
  - i. Appropriate recreational facilities and recreational uses as approved by the Commission.
  - j. Fences, retaining walls and hedges subject to Section 3.3.3.
  - k. Permitted signs as specified in these Regulations.
  - l. Roadside bus shelters.
- 56.4 LOT AREA, SHAPE AND FRONTAGE: Each lot shall have a minimum area of five (5) acres and shall have a frontage of 50 feet or more on a street or on a paved private road or access-way that intersects a street.

56.5 HEIGHT:

56.5.1 No building or other structure shall exceed a height of sixty (60) feet unless approved as a Special Exception.

56.5.2 Allowable height limits may be increased after the issuance of a Special Exception by the Planning & Zoning Commission in accordance with Section 62. (*revised June 23, 2011*)

56.6 COVERAGE AND BULK: The aggregate lot coverage of all buildings on the lot shall not exceed fifty (50) percent of the total area of the lot. The total floor area of all buildings and other structures shall not exceed forty (40) percent of the area of the lot. The rear setback shall be 20 feet, the side yards 50 feet, and the front yard 15 feet.

56.7 OTHER GENERAL PROVISIONS:

56.7.1 All provisions of the Town's Subdivision Regulations and Public Improvement Specifications shall apply for the development of any and all streets, interior drives, water and sewer systems, unless waived by the Commission.

56.7.2 Parking requirements: All buildings in the Cedarwoods Planned Development District shall be required to provide at least one off-street parking space per living unit, and sufficient parking for full-time staff as determined by the Commission, and a loading facility as set forth in Section 71. Durable porous surfaces may be used to reduce drainage problems, consistent with Connecticut Stormwater Quality Manual.

56.7.3 Open Space and Recreation: A minimum of sixty six (66) percent of the land shall be devoted to recreation or open space uses so located as to enhance or help preserve the appearance of the development, protect important natural features and provide appropriate recreation for the residents. The location and content of all open space and recreation facilities shall be subject to the approval of the Commission. Such open space land shall include the northeast corner of land located at 87 & 87R Roanoak Ave. The open space area may include utilities and essential environmental control features such as drainage structures, or detention facilities.

56.7.4 Buffers: The Commission may require the provision of adequate buffers between all dwellings, parking and loading facilities, recreational facilities and uses on adjacent lots. Such buffered areas may be provided through existing vegetation, new landscaping, earth mounds or appropriate opaque fencing. The material used and its location shall be approved by the Commission under Section 74.9.

56.7.5. Rubbish Disposal: Each building shall be provided with an enclosed waste pen of sufficient size to accommodate all trash and recyclable waste stored on the premises. The waste pen and all utility areas shall be properly screened and buffered from all buildings and property lines.

56.7.6 Floor Area of Accessory Uses: Permitted floor area for allowable accessory uses shall not exceed fifty (50) percent of the floor area for residential uses as defined herein.

56.8 DEFINITIONS

- a. For purposes hereof, a "Supportive Living Complex" shall mean: an integral building or group of buildings, and grounds, containing units of which no less than thirty (30%) are supportive living units, combined for the purpose of advancing and housing individuals and treating them or counseling them to adapt or continue to live congruently with the community, independently, safely and with gainful employment. Said use may include spaces offices for emotional and financial counseling, medical and psychological treatment, security, administration, and for accessory uses. Space must be provided for tenant services.
- b. A "unit" means a living or supportive living area containing no less than 500 square feet *including* space for no more than one bedroom, one full bathroom and a kitchen area.

56.9 FINAL SITE Final site plans shall require review and approval in accordance with Section 61 for Final Site Development Plans

56.10 Upon the consent of the Commission, the Zoning Enforcement Officer, Town Planner or Town Engineer may permit minor changes in an approved final site development plan which may include technical aspects of drainage, slight alterations of location of buildings, sidewalks and roads due to unforeseen topographic or geologic features, minor alteration of finished grades, slight rearrangement of light standards, etc.

## Section 57 - Frog Bridge District Planned Development District

- 57.1 GENERAL: (Entire Section added 9/27/07) The following are regulations which are intended to permit the adaptive reuse and improvement of the existing warehouse building known as 560 Main Street, formerly owned by American Thread Company, so as to create a multi-family residential community comprised of units of living/studio space designed for occupancy by singles, retired individuals and couples, empty nesters and others wanting in-town apartments with easy access to downtown. The purpose of the District is to provide in-town housing consistent with State and Federal Fair Housing Laws, encouraging pedestrian traffic and reducing the need for automobiles and the associated traffic. The site plans entitled 560 Main Street submitted to the Planning & Zoning Commission with these regulations are hereby made a part of this District. The Final Site Development plan shall require review and approval in accordance with Section 61 for Final Site Development. *(Revised June 23, 2011)*
- 57.2 PERMITTED USES: Land, buildings and other structures for one or more of the following purposes:
- 57.2.1 Multi-family, residential dwellings, which may include studios, one-bedroom and two-bedroom units, including units at the basement level. There shall be no three-bedroom units.
  - 57.2.2 Exercise facilities for residents.
  - 57.2.3 customary accessory uses to the above permitted uses, including but not limited to laundry and drying facilities, refuse collection, lounges, rental offices, day care facilities and on-site storage for use by tenants.
  - 57.2.4 Stores and other facilities where retail goods are sold or services are rendered, including but not limited to suitably sized restaurants, banks and markets, on the main floor of the building or on a pad site, which will provide accessory amenities to the residential component of the District.
  - 57.2.5 Storage of reasonable quantity of retail merchandise and supplies necessary for the operation of such stores and other establishments located within the PDD Frog Bridge District, as provided in Section 57.2.4.
  - 57.2.6 Businesses and professional offices on the first floor above the basement (main floor of the building) and offices for on-site management.
  - 57.2.7 Museum, recreation facilities, charitable institutions and public utility substations.
  - 57.2.8 Off-street parking facilities.
  - 57.2.9 Tanks for storage and distribution of fuel as an accessory use for on site development.
  - 57.2.10 Wireless communications antennae, subject to the provisions of Article I Section 5 of these Zoning Regulations.
  - 57.2.11 Operation and maintenance of hydroelectric generating facilities at the dams in and adjacent to the property located within PDD Frog Bridge District.

- 57.3 PROHIBITED USES: The above permitted uses shall not be construed to include the following uses, and no land, building or other structure shall be used for any of the following purposes:
- 57.3.1 Gasoline filling stations; automobile repair garages including automobile, trailer and farm equipment repairing, painting and upholstering except when clearly accessory and subsidiary to a permitted use on the same premises; establishment for motor vehicle washing; establishments for the sale of new or used automobiles, trucks trailers or farm equipment.
  - 57.3.2 The manufacture of ammonia, bleach, chlorine, animal black, bone black, lamp black, fertilizer, paint, oil, varnish turpentine, shellac, enamel, starch, glucose, dextrin or acid; the distillation of coal, petroleum, refuse, grain, wood or bones; petroleum refining; refining or recovering of products from fish, animal refuse or offal; grease, lard, fat or tallow rendering or refining, grain drying or food manufacture from refuse or mash; incineration, reduction, storage or dumping of slaughterhouse refuse, rancid fats, dead animals or offal; manufacture and storage of fireworks and explosives except small arms ammunition; tanning, curing, cleaning or storage of raw hides or skins; stock yard; commercial slaughtering; the killing or dressing of poultry; blast furnaces except cupolas as converters used in foundries: and coke ovens.
- 57.4 LOT AREA, SHAPE AND FRONTAGE: Each lot shall have a minimum area of one (1) acre and shall have a frontage of 50 feet or more on a street.
- 57.5. HEIGHT:
- 57.5.1 No building or other structure shall exceed the existing height of the current building at 560 Main Street, of seventy (70') feet, unless approved by the Zoning Board of Appeals.
  - 57.5.2 Allowable height limits may be increased with approval of the Zoning Board of Appeals in accordance with Section 92.
- 57.6 COVERAGE AND BULK: The aggregate lot coverage of all buildings on the lot shall not exceed ninety (90%) percent of the area of the lot. The total floor area of all buildings and other structures on the lot, excluding basements, unless there is to be habitable space in the basement, shall not exceed three times the area of the lot.
- 57.7 SPECIAL REGULATIONS:
- 57.7.1 Parking lot: Parking lots serving more than ten (10) cars shall provide for safe ingress and egress and be appropriately landscaped.
  - 57.7.2 Parking Requirements: All buildings in the PPD Frog Bridge District shall be subject to the off-street parking and loading facility requirements of Section 71, provided they have available one parking space for every bedroom (studios being considered a one-bedroom apartment). Such parking may be on site or within five hundred feet of the property by easement, license or otherwise. For the purposes of this Section, Municipal Parking shall be considered as available parking.

57.7.3 Standards for Multi-Family Residential Development:

- a) Rubbish disposal: Each multi-family building shall be provided with facilities of sufficient size to accommodate all trash and waste stored on the premises.
- b) Floor area of accessory uses: Permitted floor area for allowable non-residential uses shall not exceed twenty (20%) percent of the floor area for residential uses as defined herein.
- c) Walkways: Adequate pedestrian walkways shall be provided for all multi-family dwellings to provide safe and convenient access. Walkways shall be provided on the site plan to allow for river views by pedestrians.
- d) Dwelling unit size: The minimum floor areas shall be as follows:

<u>UNIT TYPE</u>	<u>MIN. NET FLOOR AREA</u>
Efficiency/Studio	600 square feet
One Bedroom	900 square feet
Two Bedroom	1,300 square feet

There shall be no three-bedroom units.

## Section 58 ó Windham Mills Planned Development District

- 58.1 GENERAL: The following are regulations which are intended to permit the adaptive reuse and improvement of the existing Windham Mills Business Center property 322 Main Street, formerly owned by the American Thread Company. The intention of these regulations is to create a mixed use community with a residential multifamily component. The residential component, not to exceed 40% of the existing floor area of the entire property, is designed for occupancy by singles, retired individuals and couples, empty nesters and others wanting apartments with easy access to Downtown, encouraging pedestrian traffic and the need for automobiles and associated traffic. An opportunity will be provided for artists and other craftsman who may wish to reside in work/live units. The addition of residential units is intended to support existing business and the University. The site plans entitled, "Windham Mills Parcel 2A, 322 Main Street," submitted to the Planning & Zoning Commission is hereby made part of this District. (added Oct. 25, 2012)
- 58.2 PERMITTED USES: Land, buildings and other structures for one or more of the following purposes:
- 58.2.1 Manufacturing, processing or assembling of goods
  - 58.2.2 Warehousing and wholesale businesses
  - 58.2.3 Research Laboratories
  - 58.2.4 Town of Windham State of Connecticut and United States Government offices and uses
  - 58.2.5 Museums, recreation facilities, parks and public utility substations
  - 58.2.6 Professional office uses, medical and dental clinics
  - 58.2.7 Professional counseling services
  - 58.2.8 Financial services
  - 58.2.9 Educational uses
  - 58.2.10 Retail sales
  - 58.2.11 Personal service uses
  - 58.2.12 Exercise facilities
  - 58.2.13 Adult and child day care centers
  - 58.2.14 Artist studios
  - 58.2.15 Restaurants including establishments serving alcoholic beverages and incidental entertainment, theatre, assembly or auditorium uses with live entertainment
  - 58.2.16 Hotels and conference centers
  - 58.2.17 Contracting businesses, including but not limited to plumbing, heating, electrical mechanical, and general contracting, located consistent with the requirements for a service area.
  - 58.2.18 Parking structures

- 58.2.19 Accessory structures and accessory uses to principal uses on the premises
- 58.2.20 Other commercial or industrial uses of a similar nature provided they are not specifically prohibited and are in keeping with the spirit and intent of the district
- 58.2.21 Residential uses in the Windham Mills Planned Development District provided no more than 40% of the gross floor area may be devoted to residential use. Multi-family residential dwellings may include studio, one bedroom and two bedroom units. There shall be no three bedroom units.
- 58.2.22 Customary accessory uses to the residential uses including but not limited to laundry and drying facilities, refuse collection, lounges, rental offices, indoor or covered parking and on-site storage for residences.
- 58.2.23 Home occupations in accordance with Section 80 of the Zoning Regulations
- 58.2.24 Pedestrian walkways and trails
- 52.2.25 Live/work dwelling units

58.3 LOT AREA, SHAPE AND FRONTAGE: Each lot shall have a minimum area of one (1) acre and shall have a frontage of 50 feet or more on a street.

58.4 HEIGHT: No building or other structure shall exceed the existing height of the current building at 322 Main Street, of seventy (85') feet, unless approved by the Zoning Board of Appeals. Allowable height limits may be increased with approval of the Zoning Board of Appeals in accordance with Section 92.

58.5 COVERAGE AND BULK: **The aggregate lot coverage of all buildings on the lot shall not exceed ninety (90%) percent of the area of the lot.**

58.6 STANDARDS FOR MULTI-FAMILY RESIDENTIAL DEVELOPMENT: The following standards are required for multifamily development:

- 58.6.1 Multi-family residential uses shall only be permitted in Buildings 2 West, 2A, 4 & 5 within the existing Windham Mills Business Center.
- 58.6.2 Rubbish disposal: Each multi-family building shall be provided with facilities of sufficient size to accommodate all trash and waste stored on the premises.
- 58.6.3 Dwelling unit size: The minimum floor areas shall be as follows:

<u>UNIT TYPE</u>	<u>NET FLOOR AREA</u>
Studio	600 square feet
One Bedroom	900 square feet
Two Bedroom	1,300 square feet

## ARTICLE VI

### Section 61 Site Plan Standards and Process

**61.1 PURPOSE:** To better assess the impact of the proposed development on the site and the neighborhood and to determine their compliance with the requirements of these Regulations and the intent of these Regulations, a site plan shall be required. The site plan shall be submitted to the Office of the Town Planner for review and comment; the site plan may be referred to other departments for their review and comment. *(Entire section revised 9/27/12)*

The proposal shall be reviewed by the Planning & Zoning Commission for their approval as per these Regulations, and under the following situations:

- a) Where such plan is for the development of an undeveloped site;
- b) Where a plan is proposed for the expansion of an existing footprint in excess of 10% or 1,500 square feet, or more than fifteen parking spaces will be added to the site; or,
- c) Where a new use is proposed which changes the character of use or the area or may have some unusual characteristics (i.e. traffic generation) or some other potentially negative attribute.

#### **61.2 APPLICATION**

Prior to submission of a formal site plan application, the proponent is encouraged to meet with Town Staff and/or with the Commission to discuss the proposal. Neither the proponent nor the Staff/Commission shall be in any way bound by any statement made in such informal discussions, as the purpose is to minimize delay, expense, and inconvenience to the public, the proponent, and the Commission upon the future receipt, if any, of a formal application for site plan.

Site plan applications shall be made on a form prescribed by the Town. For site plan applications requiring Commission approval, complete applications shall be made one week prior to a regular meeting; the date of receipt shall be the day of the next regularly scheduled meeting. A complete application shall include all the plans and information necessary as outlined in Section 61.3. A minimum of twelve copies of the supporting information shall be submitted with an application. Applications that do not contain information listed in Section 61.3 at the time of the filing will be considered incomplete, unless the requirement for such information has been waived by the Commission or its Agent as specified in the regulations.

#### **61.3 SITE PLAN INFORMATION**

Except as provided below, site plans shall be based upon and include a Class A-2 survey prepared by a land surveyor licensed to practice in the State of Connecticut.

All plans shall be on a sheet(s) not to exceed 25" x 37" drawn by a professional engineer, architect or landscape architect, as appropriate, registered in the State of Connecticut.

*(continued next page)*

*(continued from Section 61.3 a)*

- a) Submission: Each sheet of the survey and plans shall contain the embossed seal and original signature of each professional, and shall show:
1. All revision dates and necessary definitions and legends, and the true scale of the survey, in which one inch (1") shall be equal to no more than forty feet (40').
  2. The direction of true north.
  3. The Assessor's map, block and lot numbers for the subject property and all the names and addresses of the owners of record according to the Assessor's Office of all properties adjacent to (exclusive of the proponent's property), or across any street from, the subject property, or properties within a radius of 200 feet of the perimeter of the site to be developed.
  4. A description of any existing deed restrictions, covenants, easements, rights-of-way, or similar encumbrances which run with the land, the volume and page of the Windham Land Records where the same are recorded, and the date upon which they will expire, if any.
  5. All necessary approval signature blocks.
- b) Existing Site Plans: The following information shall be shown on a plan:
1. The actual shape and dimensions of the lot to be used; provided, however, that if the lot is substantially larger than the area to be developed, the Commission or its authorized agent may allow the applicant to submit a zoning plan showing the lot as an insert on the map at a scale in which one inch (1") shall be equal to no more than one hundred feet (100').
  2. The exact size and location on the lot of existing buildings, structures, driveways and off-street parking and loading areas, and type and location of all utilities including wells and septic.
  3. The location of all required setbacks and of all easements.
  4. The location and name of all Town or State streets, roads, or highways that pass through or adjoin the lot or, if no such street, road, or highway passes through or adjoins the lot, the entire route of vehicular access to the lot from such a street, road, or highway.
  5. Principal features on the site and within 200' of the site including stone walls, sites listed on the National Register of Historic sites, soil classifications as determined by the Soil Conservation Service, inland-wetlands and water courses as regulated by the Town of Windham Inland Wetlands Commission, species and diameter for all trees with trunk caliper of 12" or more at BH, densely wooded areas and open spaces.
  6. Existing contours, at an interval not to exceed ten (10) feet and spot elevations to convey an accurate picture of current topographic conditions. Where necessary, the Commission or its Agent may require the presentation of contours at an interval of two feet or less.
  7. Boundaries of the Special Flood Hazard Area; Channel Encroachment Lines; Base Flood Elevation, as determined by the best available information.

*(continued next page)*

c) *(continued from Section 61.3)* Proposed Development Plans: The following information on the proposed development is required; the plans shall show how the Standards for development per Section 74 of these Regulations shall be met:

1. A demarcation line denoting the limit of construction activity.
2. Contours and spot elevations at two-foot or fewer intervals for all areas proposed to be re-graded.
3. Where a proposal will disturb more than one-half (1/2) acre, an erosion and sedimentation control plan in accordance with these Regulations.
4. Location and dimensions of buildings and other proposed uses, tabulations of land coverage for buildings and other uses, identification of required yard and setbacks, proposed floor elevation for all buildings. Dimensional plans of floors and elevations of all proposed or existing structures, and specifications to indicate the size, kind, and quality of the proposed construction.
5. Location, dimensions, and construction details of all public and private streets and access drives, pedestrian walkways and paths, and all parking and loading facilities and approaches including the number and dimensions of parking spaces; and snow storage areas for all hard surfaces.
6. Landscaping plan including identification of areas to remain natural and undisturbed, areas to be professionally landscaped including the types, size and number of trees, shrubs and grassed areas.
7. Location, type and height of proposed fences, screens and buffer areas.
8. Location and construction details of proposed water, sewer, and gas mains, electrical transmission lines and other utilities necessary to service the development. Anticipated flows through utilities, where appropriate, shall be provided.
9. Location and construction details of proposed service areas including access ways, buffering and screening.
10. Location, dimensions and construction details of proposed storm drainage.
11. Lighting plan that shows the location, intensity, size, and design of all proposed exterior lights, and shall be in compliance with Section 77 of these Regulations.
12. Signage plan that shows the location, size, height, design details and content of all proposed signs, including street signs, and shall be in compliance with Section 72 of these Regulations.
13. Preliminary plan and elevation drawings of proposed, or expanded or improved existing structures, including generalized interior layout, indicating size, orientation, uses, and design of structures and the materials used. All detail shall be shown at a scale not to exceed 1/8" = 1'-0".
14. Locations and description of all covenants, easements and any provisions for construction and maintenance of any public improvements.

*(continued next page)*

*(continued from Section 61.3)*

d) Phasing. If the proposal includes a phasing of the development over time, the following information is required:

1. The area to be included in each phase, the uses to be proposed for each phase, and the time of completion of each phase.
2. If approval is being sought for only a portion of the applicant's land, an indication of the anticipated or likely nature of development in the remaining portion of the site shall be provided including uses, densities, circulation and possible phasing.
3. Where the applicant intends to subdivide the property, it should be so indicated on the site plan and final approval of such subdivision plan from the Commission may be made a condition of final approval of the site plan.
4. Where the effect on the existing conditions of the site and its surroundings will result in a major change in conditions, the Commission may require a public hearing to consider the impact on the public and may request the applicant to present additional information.

61.3.2 Site plans need not be based upon an A-2 survey if the proposed activity (i) does not involve the construction or alteration of a principal building, full foundation or frost wall, and (ii) is not located within five (5) feet of any required minimum setback. However, an applicant who does not submit an A-2 survey is acting at his or her own risk; the site plan shall contain the following note:

õAll information, technical or otherwise, presented on these plans and in the application, was presented by the applicant as accurate, and neither the Town nor any of its agents, agencies, employees or officials have independently verified this information. Neither the Town, its agents, agencies, employees or officials have, nor may be imputed or charged with, any responsibility or liability for any inaccuracy, nor suffer any liability for damages, claims, inconvenience or losses, whatsoever, which may result from any inaccuracyõ

61.3.3 Where these Regulations do not require a site plan to accompany an application to the Zoning Agent or the Commission for a permit or certificate, the Zoning Agent or Commission, as the case may be, may require the applicant to prepare and submit a site plan to assist in the review of the application. Notwithstanding, should the Zoning Agent or Commission require a site plan in these circumstances, the Zoning Agent or Commission may require such information, or may waive, without notice or writing, the presentation of any information, set forth for site plans in Section 61.

#### **61.4 ADDITIONAL APPLICATION REQUIREMENTS**

61.4.1 The Commission or its designated agent may require the applicant to submit additional information if it finds that such information is necessary or would be helpful in determining whether the proposed building, structure, or use conforms to these Regulations. Such additional information may include, but is not limited to, the following:

*(continued next page)*

*(continued from Section 61.4)*

- a) A key map at a scale of one inch (1") equal to not more than one thousand feet (1,000') to assist in locating the property.
- b) The location of all test pits, test borings, and percolation test holes, together with copies of any data gathered with respect to such pits, borings, holes and tests.
- c) Where any hazardous materials or wastes to be produced, used, stored, or disposed of on the lot a statement that they are/will be managed according to State and Federal laws and regulations. .
- d) The location of natural features including, but not limited to, rock outcroppings, slopes in excess of fifteen percent (15%), soil types, forested areas, and vegetation types.
- e) A report from a CT State Forester on the health and condition of a specific tree or trees.
- f) The location and a description of all proposed surface or subsurface drainage improvements, facilities, or structures.
- g) The locations and numbers of all existing monuments, iron pins, reference marks, and proposed monuments or iron pins.
- h) Existing topographic contour lines of the premises and proposed final contour lines resulting from intended excavation, removal or filling, shown on a map drawn to scale of not more than forty (40) feet to the inch, and with contour intervals no greater than five (5) feet. Where feasible, contour lines must be shown for all areas within the site and on any adjacent properties within (50) feet of the site of the proposed excavation, removal or filling.

#### **61.5 WAIVER OF CERTAIN REQUIREMENTS FOR APPLICATIONS**

The Commission or its designated agent may waive any of the requirements for a zoning site plan if the applicant requests such a waiver in writing, specifying the subsections proposed to be waived and the reasons for such waiver(s), and the Commission or its designated agent determines that the information is not needed to determine whether the proposed use or structure conforms with the requirements of these Regulations.

#### **61.6 REVIEW OF APPLICATIONS BY THE ZONING AGENT**

In situations in which these Regulations do not require the approval of a site plan by the Commission, the Zoning Agent shall approve the site plan if the proposed use, as depicted on the site plan, complies with all applicable provisions of these Regulations, or shall deny the site plan if it does not comply. The Zoning Agent shall not employ the standards set forth in Section 61.8 in reviewing a site plan; those standards are to be employed solely by the Commission when the regulations require review of a site plan by the Commission.

### **61.7 APPROVAL OF APPLICATIONS BY THE COMMISSION**

In situations in which these Regulations require the approval of a site plan by the Commission, the Commission may:

- deny an incomplete application, or
- approve the site plan if the proposal, as depicted on the site plan, complies with all applicable provisions of these Regulations, or
- deny the site plan if it does not comply, or
- modify and approve, or approve with conditions, a proposed site plan if it determines that such modifications or conditions would cause the proposed building, use or structure to better comply with the provisions of these Regulations and in consideration of the items set forth in Section 61.8.

The Commission may seek assurance of completion of any public improvements as permitted by Connecticut General Statutes applicable at the time of approval.

### **61.8 SITE PLAN REVIEW CONSIDERATIONS FOR COMMISSION REVIEW**

In reviewing a Site Plan Application, the Commission shall take into consideration the health, safety and welfare of the public in general and the immediate area, in particular, and may prescribe reasonable conditions and safeguards to insure the accomplishment of the following general objectives.

Public Safety: All buildings, structures, uses, equipment, or material are readily accessible for fire and police protection.

Public Health: That all utility systems are suitably located, adequately designed, and properly installed to serve the proposed uses, and to protect the environment from adverse air, water, and land pollution.

Traffic and Pedestrian Access: All proposed traffic and pedestrian access ways do not create traffic hazards and are: adequate, but not excessive in number; adequate in width, grade, alignment, and visibility; adequate in distance from street corners, places of public assembly and other access ways; and adequate in design for other similar safety considerations.

Circulation and Parking: Adequate parking and loading spaces are provided to prevent congestion; that all parking spaces and maneuvering areas are suitably identified; that entrances and exits are suitably identified and designed with sufficient turning radii; that the interior circulation system is adequately designed to provide safe and convenient access to all structures, uses, and/or parking spaces; that parking areas are provided with suitable bumper guards, guard rails, islands, crosswalks, speed bumps and similar safety devices when deemed necessary by the Commission to adequately protect life and property; and that provision is made for safe pedestrian movement within and adjacent to the property by the installation of sidewalks.

Environmental Features: That the development of the site will preserve sensitive environmental land features, such as steep slopes, wetlands, and large rock outcroppings and will attempt to preserve public scenic views or significant features.

*(continued on next page)*

*(Section 61.8 continued)* í That the excavation, filling, grading and removal of earth materials and the removal of existing vegetation is limited to the extent necessary to reasonably accommodate the needs of the proposed or existing uses while avoiding substantial and unnecessary changes to the landscape.

Water Quality and Quantity: The design of stormwater drainage systems minimizes soil erosion and maximizes absorption of pollutants by the soil. Runoff from impervious areas shall be attenuated to reduce peak flow volume and sediment loads to pre-development levels. Practices as outlined in the 2004 Stormwater Quality Manual of the Connecticut DEP (as updated), shall be followed.

Soil Erosion and Sediment Control: The design of soil erosion and sediment control plans are such as to reduce the danger from storm water run-off, minimize non-point sediment pollution from land being developed and conserve and protect the land, water, air and other environmental resources of the Town and is consistent with the Connecticut Erosion & Sedimentation control Guidelines as updated.

Landscaping and Screening: The general landscaping of the site complies with the purpose and intent of the Performance Standards outlined in Section 74 of these regulations; that existing trees are preserved to the maximum extent possible; and that parking, storage, refuse and service areas are suitably screened during all seasons from the view of adjacent residential areas and public rights-of-way.

Lighting: Lighting of the site is adequate at ground level for the protection and safety of the public in regard to pedestrian and vehicular circulation. Glare from the installation of outdoor lights and illuminated signs are properly shielded from the view of adjacent property and public rights-of-way, and the general lighting of the site complies with the purpose and intent of Section 77 of these regulations.

Utilities: That the placement of electric, telephone, or other utility lines and equipment are underground where possible and so located and coordinated with other utilities to avoid adverse impact on groundwater.

Compatibility: The location and size of any proposed use, building or structure, as well as the nature and intensity of operations involved or conducted in connection therewith, will be in general harmony with the surrounding uses and will not be hazardous or otherwise detrimental to the appropriate and orderly development or use of any adjacent land, building, or structure. The Commission may consider the proper functional, visual, and spatial relationships of all structures, buildings, landscaped elements, and paved areas.

Natural and Historical Resources. The site plan minimizes any damage or destruction to locally significant natural or historical resources.

## **61.9** AFTER APPROVAL OF SITE PLANS

### **61.9.1** Filing Requirements.

- a) If approved by the Zoning Agent, the site plan shall be filed with the Zoning Office.

*(continued on next page)*

- b) If approved by the Commission, the applicant shall submit six copies of the approved Site Plan, showing any required revisions. Any conditions of approval shall be so noted.

61.9.2 Conformance to Approved Plans. Site development shall proceed in accordance with plans approved by the Commission or its Agent. Any deviations proposed by an applicant to an approved Site Plan shall be submitted to the Zoning Enforcement Officer for review and approval by the staff or by the Commission, as required. Any deviations made prior to such review and approval shall constitute a violation of the permit.

61.9.3 Suspension. Any authorized Site Plan shall be subject to suspension through a Cease and Desist Order if any condition or safeguard imposed by the Commission upon buildings, structures, land or uses for said permit is not strictly adhered to by the applicant(s), user(s) and/or owner(s).

61.9.4 Amendments. The Zoning Agent shall determine whether a proposed deviation from an approved Site Plans requires a Minor or a Major Amendment.

- a) Major amendments to approved Site Plans shall be considered for approval by the Commission. Major amendments are those that may result in additional impact to the appearance and/or intensity of use of a site.

The request for a Major Amendment to a Site Plan shall not subject the entire application to review by the Commission, only that portion necessary to allow the Commission to rule on the specific issue requiring relief.

- b) Minor amendments to approved Site Plans may be approved by the Zoning Agent if such deviations are the result of site conditions or a change in circumstances, and provided such deviation shall have no additional impact and complies with all appropriate zoning standards.

61.9.5 Certificate of occupancy. Prior to a certificate of occupancy being issued by the Building Official, the Zoning Agent shall issue a certificate of zoning compliance indicating that the site improvements have been completed in accordance with the approved site plan. The Commission or its agent may require an "As-Built" certified plot plan and any other information which may be necessary to make a determination as to compliance with these regulations.

61.9.6 Abandonment/Renewal. If the building(s), structure(s), use(s) or work for which the site plan was approved is not commenced within two (2) years after the date of approval, or authorized work is suspended or abandoned for a period of 6 months after the time of commencing the work, the site plan shall become null and void, unless a request for an extension is sought and granted.

## SECTION 62 ó Special Permit/Special Exception Process

**62.1 PURPOSE:** The purpose of the special exception/permit regulations is to provide a comprehensive review of the proposed plan for the layout of the building(s), structure(s) or use(s) in relationship to the topographical, geological and other natural features of the land, and of the impact of the use(s) upon the environment, health, safety, welfare, and convenience of the members of the community. It is intended to insure that the design and layout of the site and the proposed use(s) will constitute suitable and appropriate development in character with the neighborhood and will not result in an unreasonable decrease in property values or a detriment to the present and potential use of the area in which it is to be located. Special exception/permit procedures are also intended to assure that proposed buildings, structures and uses will provide for the maintenance of air, surface-water, and groundwater quality and will not be detrimental to existing sources of potable water or other natural or historic resources. *(entire section revised 9/27/12)*

The term 'special permit' shall be used in this Section of the Regulations in place of the term 'special exception/permit' unless reference is made to the granting of a Special Exception by the Zoning Board of Appeals in accordance with Section 92.

In addition to any other civil or criminal remedies or penalties available to the Commission or the Town under any regulation, charter, law, statute or ordinance, the Commission may deny an application for a Special Permit (or any modification, change or amendment thereto), or, in lieu of denial, provide for conditions, when the Commission finds, after the public hearing, that the property subject to the application, any improvement thereon, or any use thereof, is in substantial violation of one or more of the provisions of these regulations. Should the Commission decide to impose conditions hereunder when issuing a permit, the conditions may include those conditions prescribed generally under these regulations and one or more of the following:

1. That the applicant take affirmative and complete measures to cause the property to come into compliance, prior to the issuance of a certificate of zoning compliance for some of all the activities allowed under the special permit to commence, and in doing so may provide for incremental compliance under a time schedule which, if not strictly met, will result in an expiration of the special permit;
2. That the applicant supply a bond, letter of credit, or other security, to ensure the due and proper execution or the measures set forth in subparagraph 1 hereof, and their strict completion, in an amount which may be up to 150% of the costs estimated to cause compliance. The estimate shall be based upon the cost estimate of the Town staff, or, at the election of the Commission, by way of an independent qualified cost estimators, at the sole expense of the applicant;
3. That the applicant permit access to the property to the Commission and/or its agents to inspect and confirm the compliance, and, to permit its contractors, agents, employees and other officials to access the property and to use the security money so as to conduct work and otherwise cause compliance. In addition, the Commission may make provision that when any Town official, employee, contractor or agent does any work on or inspects said property, or both, the applicant shall provide, at the applicant's sole cost and expense,

*(continued on next page)*

*(continued from Section 62.1(3))*... a general liability insurance policy in customary terms and amount naming the Town, its agents, contractors and officials, as additional insured. The failure to timely provide such insurance shall allow the Town to use the security money to purchase the said insurance. In furtherance of such a condition, the Commission may require that the insurance policy be provided at the time of the posting of the security with the Town, and that the applicant provide a license or easement to the Town, together with releases of general liability in such form and content as are approved by the Commission and/or its agents.

4. Nothing herein shall in any way limit or waive any of the Town's rights to enforce the regulations allowed by law nor in any forum or proceeding, nor limit or waive any of the remedies the Town may seek for an existing or future violation, including fines and penalties; nor may any denial or condition imposed herein be used as any defense or plea in abatement in any court or administrative proceeding in which the Town seeks to enforce its regulations as aforesaid. Nothing herein, nor any condition imposed upon a permit, shall require the Commission or the Town to perform any work, nor, if in performing it, to complete it nor to perform it to any standard of quality whatsoever.

## **62.2 WHEN REQUIRED**

A Special Permit shall be required for all uses specifically listed in these Regulations, or any material change to a previous approved special permit use, building or its site. When the use of land or a building or structure existed prior to the adoption of these regulations which is only allowed hereafter upon approval as a Special Permit, such existing use shall be considered a permitted use, provided the provisions of this section shall apply to all proposed changes to such existing use.

Where two or more Special Permit uses apply to the same premises, the minimum requirements shall be the minimum requirements for each use as specified in these regulations, or in case of two or more Special Permit uses in the same building, whichever requirements shall be more restrictive.

## **62.3 APPLICATION PROCEDURES**

Prior to the submission of a formal application, any proponent of a use permitted only by Special Permit may request the opportunity to place such proposal on the agenda of a meeting of the Commission for the purpose of presenting preliminary plans or concepts and receiving preliminary comments, observations, questions, or identifying areas of concern. Neither the proponent nor the Commission shall be in any way bound by any statement made in such informal discussions, as the purpose is to minimize delay, expense, and inconvenience to the public, the proponent, and the Commission upon the future receipt, if any, of a formal application for Special Permit. Following any informal discussion, the Commission may suggest that the proposal, or certain aspects thereof, be referred to other municipal, State, or Federal agencies for review and comment, or may suggest that additional information is, or will be required prior to action on a formal application for Special Permit

- 62.3.1 Need for site plan approval Any special permit approved by the Commission shall require a site plan application to be submitted and approved in accordance with the provisions of Section 61. The applicant may í *(continued next page)*

*(continued from 62.3.1)* í submit the site plan concurrent with the special permit application; or, the applicant may submit a conceptual site plan with the special permit application.

- 62.3.2 Applications: Applications for special permits shall be filed with the Commission on a form provided by the Commission one week prior to a regular meeting; the date of receipt shall be the day of the next regularly scheduled meeting. If the applicant is not the owner of the property on which the activity is proposed, the relationship of the applicant to the owner shall be described on the application form. The application shall contain a written statement by the owner of the property or his/her authorized agent giving consent for the Commission and its agent(s) to inspect the property, upon reasonable prior notice to the landowner, for purposes of determining compliance with the applicable regulations. Twelve (12) copies of each application shall be submitted, accompanied by twelve (12) copies of a special permit site plan, which shall be based upon and include a Boundary Survey to Class A-2 horizontal accuracy, stamped and sealed by a Connecticut-licensed surveyor, showing all revision dates and necessary definitions and legends, at a scale of one inch (1") equal to no more than forty feet (40'), and also showing:
- a) The items specified for a zoning site plan under Section 61.3 of these Regulations.
  - b) A key map at a scale of one inch (1") equal to not more than one thousand feet (1,000') to assist in locating the property.
  - c) The location of all test pits, test borings, and percolation test holes, together with copies of any data gathered with respect to such pits, borings, holes and tests.
  - d) The nature and amount of all hazardous materials or wastes to be produced, used, stored, or disposed of on the lot, and the manner in which such production, use, storage, or disposal will be carried out.
  - e) The location of all slopes in excess of fifteen (15) percent, soil types, rock outcroppings, and forested areas on the lot.
  - f) The location and a description of all measures to be used to prevent soil erosion and sedimentation.
  - g) The location and a description of all proposed surface and subsurface drainage improvements, facilities and structures.
  - h) The location and a description of all existing and proposed exterior lighting and signs.
  - i) The volume and nature of any material to be used as fill and of any material to be excavated.
  - j) Each application for a special permit shall also be accompanied by twelve (12) copies of the schedule for all construction or other development activities, including, but not limited to, erection of or other work on any buildings or structures, grading, removal of vegetation, landscaping, and drainage improvements.

## **62.4** WAIVER OF CERTAIN REQUIREMENTS FOR SPECIAL PERMITS

62.4.1 The Commission may waive any of the requirements for special permit site plans under Section 62.3 of these Regulations if, and only if, the Commission determines that the requirements sought to be waived are not reasonably necessary to a proper disposition of the application. Any request for a waiver under this section shall be submitted to the Commission, in writing, at the time of and together with the submission of the application. Such request for a waiver shall specify the requirements the applicant seeks to have waived and the reasons why the applicant believes those requirements should be waived. The Commission shall render a decision on any timely filed request for waiver within 35 days after the day of receipt of the application to which it pertains. Applications that include requested waivers, when approved shall presume the granting of the waivers unless specifically declared not to be waived.

## **62.5** ADDITIONAL REQUIREMENTS FOR APPLICATIONS

62.5.1 The Commission may require the applicant to submit additional information if the Commission finds that such information is necessary or would be helpful in determining whether the proposed buildings, structures or uses conform to these Regulations. Such information may include, but is not limited to, the following:

- a) Chemical analyses of existing surface water and groundwater.
- b) Hydrological analyses of runoff and peak flows, both before and after development.
- c) Analyses of local air quality, both before and after development.
- d) Depths to seasonal high groundwater levels and bedrock.
- e) Analyses of wildlife habitats on and near the site and the impact of the proposed use on such habitats.
- f) A description of vegetation types, including any rare or endangered species, on the lot to be used under the application.
- g) A list of all other federal, state or municipal permits or licenses the applicant will need to implement the uses applied for and the status of any applications for such permits or licenses.
- h) Architectural or engineered drawings of any proposed buildings or structures.
- i) Existing and proposed (finished grade) contours at intervals of no less than two (2) feet.
- j) A description of proposed lighting fixtures, including illumination levels.
- k) A traffic report indicating existing traffic conditions at normal and peak travel times for, at a minimum, all streets abutting or passing through the property affected by the application, and also indicating the projected impact of the proposed use on such traffic conditions.

**62.6** STANDARDS FOR SPECIAL PERMITS All buildings, structures and uses for which a special permit is required under these Regulations must meet the applicable standards set forth throughout these Regulations, including, but not limited to, the considerations set forth in Section 61.8. In addition, the following standards shall apply to special permit uses:

- Relation of Buildings to Environment The size and intensity, as well as the design, of the proposed project or development shall be related harmoniously to the terrain and to the use, scale, and Siting of existing buildings in the vicinity of the site. The use shall not create a nuisance to neighboring properties, whether by noise, air, or water pollution; offensive odors, dust, smoke, vibrations, or lighting; or other effects.
- Neighboring Properties The proposed uses shall not unreasonably adversely affect the enjoyment, usefulness and value of properties in the general vicinity thereof, or cause undue concentration of population or structures.

**62.7** CONDITIONS The Commission may place on any special permit such conditions that are necessary to assure that any proposed building, structure, or use (i) will conform to the standards and limitations set forth in these Regulations, including, but not limited to, the Health and Environmental Standards; (ii) will protect the rights of individuals and the health, safety, welfare, and convenience of local residents and the community; (iii) will protect local property values; and (iv) will meet the specific standards set forth in Section 84 (relocated standards from former 62.6) and other applicable sections of these Regulations. The conditions may relate to, without limitation, the architectural and spatial design and layout of buildings, structures and uses; provisions for lighting, parking, loading, surface and subsurface drainage, sanitary facilities, waste disposal, vehicle and pedestrian circulation, landscaping, screening, and protection of the environment and of natural and historic resources; construction or other development schedules; and hours of operation of the proposed building, structure, or use. The Commission may also condition the issuance of any special permit on the posting of a bond or other security, in an amount and with surety satisfactory to the Commission, to secure the performance of all conditions and the completion of all improvements required under such special permit. *(revised 09/27/12)*

**62.8** SPECIAL PERMIT PROCEDURES

62.8.1 Public Hearing. Within sixty-five (65) days after the date of receipt of an application for a special permit, the Commission shall commence a public hearing on the application. For the purposes of this Section, the date of receipt of an application shall be deemed to be the day of the next regularly scheduled meeting of the Commission immediately following the day of submission of the application to the Commission or its authorized agent, or thirty-five (35) days after such submission, whichever is sooner. The applicant may agree to an extension of time for the Commission to commence a public hearing, provided such extension is within the limits established by state law. The hearing may be continued one or more times, but it must be concluded no later than thirty-five (35) days after the date of commencement unless the applicant agrees to an extension of time within the limits established by state law.

62.8.2 Notice of Public Hearing. The Commission shall hold a hearing on all applications for a Special Permit, and shall follow the procedures outlined in Connecticut General Statutes 8-7d.

- a) In addition to the published notice, each applicant for a Special Permit shall provide notice of such hearing to the public using the following methods:
  - i. The applicant shall erect or cause to have erected a sign(s) on the property affected by the proposed Special Permit at least 10 days prior to the public hearing on such Special Permit. If more than one street abuts the property, a sign shall be erected next to, and shall be clearly visible from, each abutting street. At least one sign shall be required for every 200 feet of lot frontage, and each sign must be clearly visible from the abutting street. The signs shall be acquired from the Office of the Planner for a specified fee. Each sign shall be securely fastened or staked, be clearly visible from the streets abutting the applicant's property and be maintained as such until three days following the public hearing. For purposes of this section only, street shall include unaccepted streets for which the Town has no maintenance responsibility and shall include any streets shown on a subdivision plan approved by the Commission on which the bond for required public improvements has been posted and on file in the Town Clerk's office.
  - ii. A report from the Zoning Enforcement Officer attesting to whether the above described sign was erected and maintained as required shall be made part of the record at the public hearing. Failure of an applicant to comply with this requirement may be grounds for automatic denial of the Special Permit, with consideration being given to cases where weather conditions or acts of vandalism have destroyed a properly posted sign.
  - iii. Each application for a Special Permit shall include a list, prepared by the applicant, of the names and mailing addresses of the owners of all of the properties abutting the applicant's property as shown in the most recent records on file in the Town Tax Assessor's Office (or the actual owner of record if otherwise known to the applicant). Abutting property owners shall include owners located directly across the street line as well as contiguous property owners. The applicant shall mail notification of said pending application to at least one owner of each such property ten (10) to fifteen (15) days before the date set for the public hearing, by transmitting the text of the public hearing notice as provided by the Commission. Evidence of such mailing, in the form of United States Post Office Certificates of Mailing, shall be submitted to the Planning Office along with the above said list of property owners, not less than five (5) calendar days prior to the hearing date. Failure to comply with any of the procedures required herein shall be deemed valid basis for denial of a Special Permit request.

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- iv. *(Section 62.8.2 a – continued)* A property which does not abut a street must comply with section iii only.

62.8.3 Decision: Within sixty-five (65) days after the completion of the public hearing, the Commission shall either: (i) approve the special permit and the special permit site plan as submitted; (ii) approve the special permit and special permit plan site with conditions or modifications, as provided under these Regulations; or (iii) deny the special permit and special permit site plan. The applicant may agree to an extension of time for the Commission to render its decision, provided such extension is within the limits established by state law. The Commission shall state the reasons for its decision on its records. Notice of the decision shall be published in the form of a legal advertisement in a newspaper having a substantial circulation in the town of Windham, and also sent by certified mail to the applicant, within fifteen (15) days after the decision has been rendered.

## **62.9** AFTER APPROVAL OF SPECIAL PERMIT

### 62.9.1 Filing Requirements

- a) The applicant shall submit six copies of the approved Site Plan, showing any required revisions. Any conditions of approval shall be so noted.
- b) The applicant shall file a Notice of Action with the Windham Town Clerk per the requirements of Connecticut Statute Section 8-3c.

62.9.2 Conformance to Approved Plans Site development shall proceed in accordance with plans approved by the Commission or its Agent. Any deviations proposed by an applicant to an approved Site Plan shall be submitted to the Zoning Enforcement Officer for review and approval by the staff or by the Commission, as required. Any deviations made prior to such review and approval shall constitute a violation of the permit.

62.9.3 Suspension Any authorized Special Permit and Site Plan shall be subject to suspension through a Cease and Desist Order if any condition or safeguard imposed by the Commission upon buildings, structures, land or uses for said permit is not strictly adhered to by the applicant(s), user(s) and/or owner(s).

62.9.4 Amendments Under these Regulations, a site plan is a separate approval even if approved in one vote as part of a special permit application. Therefore, modifications to a site plan shall not require a modification to a special permit unless, in the discretion of the Commission, the modifications are of such a significant character that a public hearing should be held. In those cases, the Commission shall treat the application as a modification to a special permit and the applicant shall submit an application for a special permit. In the event a filed application for a site plan modification shall be treated by the Commission as a special permit modification, the Commission may deny the site plan application for this reason, or the applicant may withdraw and re-file the application as a special permit application.

62.9.5 Certificate of occupancy Prior to a certificate of occupancy being issued by the Building Official, the Zoning Agent shall issue a certificate of zoning compliance indicating that the site improvements have been completed in accordance with the approved site plan. The Commission or its agent may require an "As-Built" certified plot plan and any other information which may be necessary to make a determination as to compliance with these regulations.

62.9.6 Abandonment If the building(s), structure(s), use(s) or work for which the site plan was approved is not commenced within two (2) years after the date of approval, or authorized work is suspended or abandoned for a period of 6 months after the time of commencing the work, the site plan shall become null and void.

**62.10** REAPPLICATION No special permit shall be granted to any applicant for a building, structure or use if a previous application by the applicant, or by a different applicant on behalf of the same party in interest, for substantially the same building, structure or use on the same property has previously been denied by the Commission on its merits within one (1) year prior to the submission of the new application to the Commission.

## ARTICLE VII

### Section 71 - Off-Street Parking And Loading

**71.1. PURPOSE AND INTENT:** *(entire section revised 7/14/11)* The purpose and intent of these parking regulations are to provide sufficient parking facilities to meet actual demand off the street and on the same lot as the building they serve for all existing and proposed uses and to:

- Allow flexibility in addressing vehicle parking, loading and access issues;
- Present a menu of strategies to solve parking issues rather than parking space requirements;
- Maintain and enhance a safe and efficient transportation system that is consistent with environmental goals and clean air;
- Ensure that off-street parking, loading and access demands associated with new development will be met without adversely affecting other nearby land uses and surrounding neighborhoods;
- Provide landscaping in parking areas to improve lot appearance and safety, intercept and manage stormwater runoff and optimize natural infiltration of rainwater;
- Support and promote safe and convenient pedestrian and bicycle movement in parking lots.

For any approved permitted use, parking spaces and loading area shall be provided based on the requirements in this Section of these Regulations.

Any change or expansion in the permitted use shall require approval of compliance with these regulations.

Required off-street parking and loading areas shall be permanently maintained and available for use as approved as long as the approved permitted use exists.

**71.2. DEFINITIONS:**

Aisle: The driving portion of the parking area. The aisle provides access to each parking space.

Angled: Any parking space that is not parallel to the curb or aisle.

Bikeway: Any road, street, path, or way, which in some manner is specifically designated for bicycle travel, regardless of whether such facilities are designed for the exclusive use of bicycles or are to be shared with other transportation modes.

BMPs (Best Management Practices): structural, vegetative, or managerial practices designed to treat, prevent, or reduce degradation of water quality due to stormwater runoff and snow-melt.

Gross Floor Area: The total floor area of a building.

Impervious Surface: A ground surface such as cement, asphalt, or packed clay or rock through which water cannot penetrate.

## Land Uses:

Assembly Hall: Places where people gather at one time, for example places of worship, theaters, funeral homes, assembly halls and stadiums.

Industrial/Manufacturing/Warehouse: Structure or complex of structures used for manufacturing, assembling, fabricating, warehousing, and related activities.

Personal Services: Establishments primarily engaged in providing services to a person, including, but not limited to, such uses as banks, barbershops, beauty salons, shoe repair shops, dry cleaners, insurance, automobile repair, and pet groomer.

Recreation Facilities, Indoor: Uses such as bowling alleys, billiard parlors, and skating rinks.

Recreation Facilities, Outdoor: Uses such as golf courses, amusement parks, miniature golf courses, and water slide parks.

Retail, Free Standing: Single retail sales facility that is situated independently on a building lot and for which associated parking serves exclusively that facility. Merchandise could be general in nature (such as a department or grocery store) or specialty (such as those only selling one facet of merchandise including but not limited to, home improvement, farming, furniture and appliances).

Retail, Shopping Center: An area that is comprised of three or more commercial establishments, the purpose of which is primarily retail sales, that has a combined gross floor area of 20,000 square feet or more, that is owned or managed as a unit.

Mixed Use: A development that provides multiple compatible uses in close proximity to one another. And/or a land use pattern that seeks to increase concentrations of population and employment in well-defined areas with a mix of diverse and compatible land uses generally a mix of residential and commercial uses.

Off-Street Parking: Parking spaces provided outside of the right-of-way of a street or highway.

On-Street Parking: Parking spaces provided within the right-of-way of a street or highway.

Parking Area: That portion set aside, marked, posted, or intended for parking, including total of circulation areas, loading and unloading areas, parking spaces and aisles, landscaped areas, bikeways, and walkways.

Parking Stall or Space: A space in which a single car is parked.

Parking Supply: The actual number of spaces provided and legally available for that use.

Pervious Surface: Ground surface, natural or manufactured, that allows precipitation to pass through to the soil below.

Shared Parking: Parking spaces shared among different structures or uses, or among mixed uses, and can include properties with different owners.

Sight Distance: The distance visible to a driver from his/her position to other objects or vehicles, when at a point of turning or when stopping a vehicle.

Walkway: Any path or way, which in some manner is specifically designated exclusively for pedestrian travel.

### 71.3. REQUIRED NUMBER OF PARKING SPACES

Off-street parking shall be provided and maintained in connection with the use, substantial change in use, construction, conversion, or increase in intensity of use of buildings or structures, such spaces to be provided in the following amounts per 1000 square foot (sq. ft) of Gross Floor Area (GFA):

<b>Land Use</b>	<b>Maximum</b>	<b>Minimum</b>
Assembly Halls	1 space per 3 seats	1 space per 5 seats
Day Care Centers	1 space per 4 children at max. capacity	1 space per 8 children at max. capacity
Hotels, Motels & B&Bs	1.2 space per guest room or suite	1 spaces per guest room or suite
Industrial /Manufacturing/ Warehouse -single shift	1.2 spaces per employee	.75 space per employee
Museums and Libraries	2	1
Nursing Home	3	2
Office Building, General	5	2
Office Building, Medical	9	2
Personal Services	3	2
Recreation Facilities, Indoor	5	5
Recreation Facilities, Outdoor	As determined by the Commission	As determined by the Commission
Residence, Single Family	none	2 exclusive to any garage space
Residence, Multi-Family	2.5 per dwelling unit	1 per dwelling unit
Residence with Home Occupation	4 per dwelling unit plus 1.5 per non-resident employee	2 per dwelling unit plus 1 per non-resident employee
Retail, Free Standing >20,000 sq. ft. for general merchandise	4	2
Retail, Free Standing >20,000 sq. ft. for specialty merchandise	3	1
Retail, Free Standing<20,000 sq. ft.	5	1
Retail, Shopping Center	6	3
Restaurant, Drive-Thru and/or with seating and take-out	10	2
Restaurant, Sit-Down	19	6
School: Elem, Middle and High	1 space per 3 seats in the auditorium	1 space per 5 seats in the auditorium
Social Clubs and Organizations	4	3
Gymnasiums, Physical Fitness Centers, Health Spas, Martial Arts Centers and Dance Studios	4	2

71.3.1. A portion of the required number of parking spaces shall be designated as Handicapped Parking in accordance with the guidelines specified in the Connecticut Supplement of the State Building Code.

71.3.2. Restrictions:

- a) For uses not listed in this section, the minimum and maximum number of parking spaces required shall be comparable to the most similar use as determined by the Commission.
- b) Where two or more different principal or accessory uses are located on the same premises the parking requirements for the different uses shall be computed separately and cumulatively.
- c) When computation of required parking spaces results in a fraction of a car space the required number of spaces shall be increased to the next whole number of spaces.
- d) No area shall be credited as a parking space which is in any part credited or used as a loading space or travel way.
- e) The minimum required parking spaces shall not be used for the sale, storage, or display of goods or for shopping cart storage.

#### **71.4. WAIVERS AND EXCEPTIONS**

71.4.1. Intent. It is the intent of these regulations that all structures and land uses be provided with a sufficient amount of off-street vehicle parking, while allowing for some flexibility of site design to accommodate the unique characteristics of individual properties. This section of the regulations is intended to set standards for conditions under which a waiver or exception from the general parking requirements may be allowed.

The Commission may require the submission of a parking demand analysis as part of any request for a waiver or exception from the general parking requirements.

71.4.2. Waivers. Except for buildings or parts of buildings used or occupied for residential use, all or part of the off-street parking requirements may be waived by the Commission where the proposed site planning, design, and construction includes the available parking by:

- a) Sufficient publicly owned parking spaces within 500 feet of the proposed development site.
- b) Access to a regularly scheduled transit stop within 500 feet of the proposed development, with service available during commuting hours.
- c) Direct access from a bikeway to the proposed development.
- d) Provision of a regularly scheduled, municipally supported shuttle bus service from the development to an alternate safe, secure, and convenient parking facility.

71.4.3. Parking Reduction Requests. In the case that an applicant believes that the required parking amounts are in excess of what is needed for the proposed use, the applicant may submit a request with justification for a reduction in parking space requirements. The request will be considered and acted on concurrent with, and as part of, the full development application process.

#### 71.4.4. Parking In The B-1 Downtown Business District.

There are no parking requirements within the B-1 Business District.

#### 71.4.5. Parking For Mixed-Use Developments.

In Mixed-Use developments, or developments where parking is affected by cooperative agreements between different land uses, for any proposed use, substantial change in use, construction, conversion, or increase in intensity of use of any buildings or structures, the applicant shall submit a parking demand analysis that demonstrates parking demand patterns. The parking demand analysis must be approved by the Commission and will serve as the basis for determination of required parking at the mixed-use site.

#### 71.4.6. Parking In Excess Of The Maximum

Parking lots may contain spaces in addition to the allowed maximum, provided all of the spaces above the maximum number are composed of a pervious surface and where adequate stormwater management is provided as specified in Section 71.9 of these regulations.

In the case that an applicant believes that the maximum parking amounts are insufficient for the proposed use, the applicant may submit a request with justification for an increase in parking space requirements. The request will be considered and acted on concurrent with, and as part of, the full development application process.

#### 71.4.7. Parking Space Held On Reserve

For phased developments, the Commission may provide that up to 50 percent of the parking spaces required by this section will not be immediately constructed and may be kept in reserve. Such reserve parking areas must be kept planted and maintained rather than surfaced for parking until such time the additional parking space is necessary to serve completed phases of the associated development. No above ground improvements shall be placed or constructed upon such reserve parking area. The area designated as reserve parking must be clearly depicted on the phased development site plan and the terms and conditions of phasing of the parking area completion as determined by the Commission, must be clearly set forth in notations on the approved site plan.

### **71.5. PARKING LOT DESIGN**

Parking lots shall be designed to achieve the greatest efficiency of use of space practicable. In general, the preferred layout should have:

- 90 degree parking, and
- parking provided around the periphery of the site, and
- no parking located between the building and the street.

EXAMPLES OF LOT LAYOUT ARE SHOWN IN FIGURE 1 BELOW.

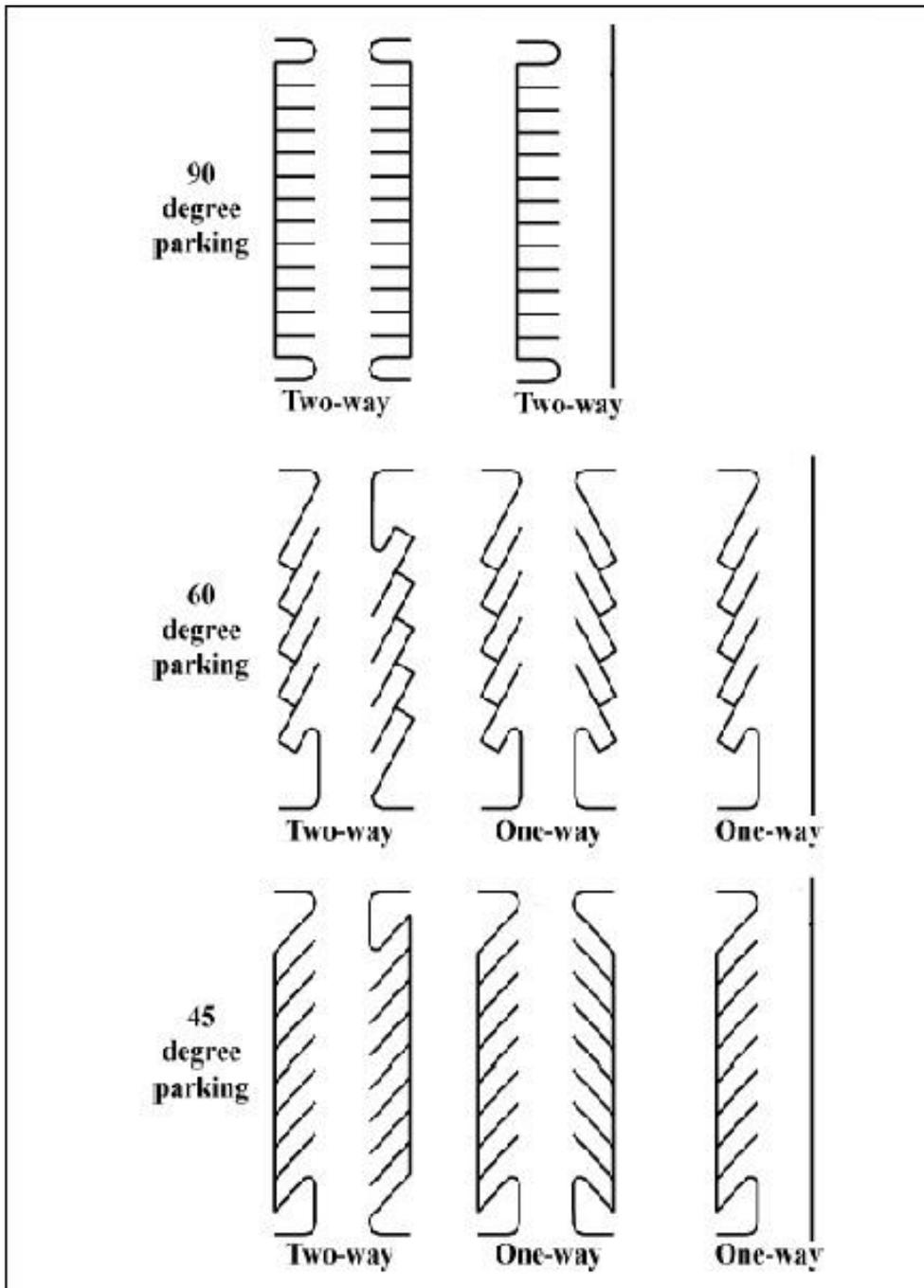


Figure 1. Example of various lot layouts.

**71.5.1. Minimum Design Requirements** At a minimum, all parking lots shall:

- a) Have a minimum rectangular stall size of 9ø wide x 18ø deep.
- b) Have aisle widths and parking angles in a minimum ratio as shown as follows:

Parking Angle	Minimum Aisle Width	Direction of Flow
45°	12ø	One way
50°	12ø	One way
55°	13ø	One way
60°	14ø	One way
65°	15ø	One way
70°	16ø	One way
75°	24ø	Two way
90°	24ø	Two Way

- c) Have a number and location of access drives compatible with traffic circulation patterns both within the site and on the abutting street system.
- d) Provide sufficient stacking area (area where cars may need to wait in line to exit onto the street or to enter to circulate in the parking lot) for 2 vehicles at the inbound access drives to the site.
- e) Curbing for parking spaces and abutting sidewalk width shall create a minimum of a 5' wide passageway.
- f) Minimize potential conflict points between pedestrians, bicycles, and motor vehicles.
- g) Required off-street parking facilities shall be maintained as long as the use or structure exists for which the facilities are designed to serve.
- h) Where large parking areas are proposed (such as for a shopping center), an internal street system shall be designed exclusive of any parking, in order to provide a direct and safe means of access to any principal building(s) or use(s) for emergency vehicles.
- i) All off-street parking areas must adhere to the construction standards of Section 71.11 of these Regulations.

*(continued next page)*

*(continued from Section 71.5.1)*

- j) In the Willimantic Service District, a minimum setback of five feet from all property lines shall be required for all parking facilities; in Windham; it shall be at least ten (10) feet, unless otherwise specified. The setback area shall be suitably landscaped and maintained in an aesthetic manner. Such landscaping shall consist of open areas maintained in lawn, natural vegetation, planting and trees, washed gravel, ornamental bricks or stone paving, and fences and screens where appropriate as specified for landscaping under Section 74.9.
- k) Separate the paved surfaces of parking areas from all buildings preferably by landscaping; planters may be used as an alternative. .
- l) Configure lot layout to facilitate safe vehicular movement throughout; provide sufficient turn-around for single entry lots.
- m) Encourage shared parking, particularly where abutting land uses have differing hours of peak usage.
- n) Provide for snow storage in the design of all parking areas to avoid conflicts with landscaping, visibility, drainage or pedestrian safety.
- o) Break up the scale of large parking areas by incorporating out-parcels for smaller commercial buildings that share the parking area.
- p) Unless otherwise approved by the Connecticut Department of Transportation, access to a lot shall be provided by a driveway opening, designed with the appropriate pitch and approach in order for vehicles to enter and exit in a safe manner. The maximum travel width of a driveway intended for vehicle access to a lot shall be limited to thirty (30) feet unless designed as a separate entrance and exit for four lanes of traffic (i.e. a shopping center). No curb cut for vehicular access may be closer than forty (40) feet to any other curb cut and no such cut may be closer than twenty (20) feet to any street intersection.

**71.6. FEES IN LIEU OF PARKING.** An applicant may voluntarily agree to pay a fee in lieu of parking to the Town of Windham in accordance with State law provided that the Commission has made a finding and declaration that the number of parking spaces which would be required in connection with such use of land pursuant to these Regulations: (1) would result in an excess of parking spaces for such use of land or in the area surrounding such use of land; or, (2) could not be physically located on the parcel of land for which such use is proposed. A two-thirds vote of the Commission shall be necessary to consent to such payment. A fee of \$500 shall be paid for each space waived by the Commission. Payment must be received by the Town prior to the issuance of the certificate of occupancy.

When an applicant wishes to offer a fee-in-lieu of parking, the applicant must coordinate with the Zoning Administrator and/or Town Engineer to determine how parking for the proposed use will be made available. A statement of the agreed upon plan for a fee-in-lieu of parking and manner of parking provision must be included with the application to the Commission.

Any off-street parking supplied in this manner shall run with the land (not be invalidated by change in ownership), and any subsequent change in use that requires more parking shall require subsequent action by the í *(continued next page)*

*(continued from Section 71.6)* ... property owner to satisfy any additional parking requirements. No refund of any fee-in-lieu of parking shall be made when there is a change in use requiring less parking.

#### **71.7. SHARED PARKING**

The Commission encourages parking lots for different structures or uses, or for mixed uses, to be shared in any zoning district.

71.7.1. At the applicant's request, shared parking may be provided, subject to the following provisions:

- a) A reciprocal written agreement has been executed by all the parties concerned that assures the perpetual joint use of such common parking, a copy of which has been submitted to and is acceptable to the Commission. The Commission may forward such agreements to the town legal counsel for review.
- b) The Commission may require the applicant to provide a parking study with all information deemed necessary to its decision-making on a shared parking arrangement. This information includes but is not limited to a) the type and hours of operation and parking demand, for each use, b) a site plan displaying shared use spaces in the lot and walking distance to the uses sharing the lot, c) a description of the character of land use and parking patterns of adjacent land uses, and d) an estimate of anticipated turnover in parking space use over the course of 12 to 24 hours at the site.
- c) Parking spaces to be shared must not be reserved for individuals or groups on a 24-hour basis.
- d) Uses sharing the parking facility do not need to be contained on the same lot, but shall be a maximum of 500 feet from the closest parking space in the parking lot which is to be used and allow for safe, convenient walking for most parkers, including safe pedestrian crossings, signage, and adequate lighting. A waiver of the maximum allowable distance from the use to the parking may be approved by the Commission with written justification and supporting information provided by the applicant.
- e) If the conditions for shared parking become null and void and the shared parking arrangement is discontinued, this will constitute a violation of zoning regulations for any use approved expressly with shared parking. The applicant must then provide written notification of the change to the Zoning Enforcement Official and, within 60 days of that notice, provide a remedy satisfactory to the Commission to provide adequate parking.

71.7.2. Reduction In Parking Space Requirements For Shared Parking:

Where shared parking is provided among a mix of land uses, the Commission may allow the following, at the applicant's request:

- a) Up to 30% of the parking spaces required for the predominant use on a site may be shared with other uses operating during the same time of day and days of the week. The predominant use is considered to be that which requires the most parking of those sharing the parking facilities.

*(continued next page)*

*(continued from Section 71.7.2) í*

- b) Up to 75% of the parking spaces required for uses such as theaters, public auditoriums, bowling alleys, nightclubs, movie theaters, and similar predominantly evening uses may be shared with uses such as banks, offices, and similar predominantly daytime uses.
- c) Up to 75% of the parking spaces required for uses such as churches and other uses exclusively in operation during the weekend may be shared with uses such as medical offices, banks, and other similar uses predominantly in operation on weekdays.

## **71.8. PEDESTRIAN AND BICYCLE ACCOMMODATIONS**

**71.8.1.** Intent. It is the intent of these regulations to promote and support access by bicycle and walking throughout the community. To this end, all parking lots must be designed to provide safe and convenient pedestrian and bicycle access as a part of any parking lot design including safe and convenient pedestrian and bicycle movement to and from public walkways and/or bikeways, streets, or transit stops.

### **71.8.2. Pedestrian Access Design Standards**

Provision for safe and convenient pedestrian access shall be incorporated into site plans for any parking area including to shared parking and to municipal parking areas. This shall be clearly shown on all site plans.

Any parking lot designed, constructed, and maintained, as part of a development must be designed such that the flow of pedestrians can be directed through a system of convenient routes that bring them to central walkways leading to main entrances. All walkways shall be constructed to provide for:

- a) Safe separation or delineation of all walkways from motor vehicle traffic through the use of raised sidewalks and/or landscaping between sidewalks and parking spaces and/or driving aisles
- b) Safe, well-articulated pedestrian crossings demarcated with pavement markings, pedestrian warning signs, and lighting
- c) A minimum of 5 feet in width
- d) Inclusion of plantings, benches, and lighting along walkways and at all pedestrian crossings
- e) Design, construction and maintenance to accommodate disabled individuals per Americans with Disabilities Act (ADA) requirements.

### **71.8.3. Bicycle Access Design Standards**

A minimum of one bicycle parking space shall be provided for each 20 off-street automobile parking spaces within the B1A zone. At a minimum, all bicycle parking spaces shall be provided in the form of bicycle racks with locking capability. Bicycle parking facilities shall be designed and installed to include:

- a) Spaces that are a minimum of 2 feet by 6 feet per bicycle
- b) The minimum number possible of potential conflict points between bicycles and motor vehicles
- c) Lighting

*(continued next page)*

*(continued from Section 71.8.3)*

- d) Provision for locking of bicycles to the rack or bicycle locker
- e) Adequate spacing for access to the bicycle and locking device when the spaces are occupied.
- f) Where possible, bicycle parking shall be located within view of building entrances or in view of windows, and/or security personnel stations.

**71.9. DESIGN STANDARDS FOR STORMWATER MANAGEMENT AND LANDSCAPING IN PARKING LOTS**

**71.9.1.** Intent: It is the intent of these regulations to encourage the use of Best Management Practices (BMPs) to minimize, treat, prevent and/or reduce degradation of water quality and flooding potential due to stormwater runoff from parking. In all districts, all developments shall be designed to the extent practicable with the goal of no-net runoff from the site. That is, runoff from the site after development shall not, to the extent practicable, exceed the runoff prior to the proposed development. In addition, the stormwater management system shall be designed, constructed, and maintained with BMPs to minimize run-off volumes, prevent flooding, reduce soil erosion, protect water quality, maintain or improve wildlife habitat, and contribute to the aesthetic values of the project.

**71.9.2.** Stormwater management systems in parking lots shall be designed in accordance with BMPs as described in the most recent version of the **Connecticut Stormwater Quality Manual** (CTDEP), and in accordance with the erosion and sedimentation control requirements and flood protection zone requirements specified in Sections 77 and 52 of these regulations respectively, and to meet the following general standards:

- a) Infiltration of stormwater shall be accommodated to the extent possible through limitation of land disturbance and grade changes, retention of existing natural drainage areas and wetlands, and use or creation of vegetated islands, vegetated medians, and vegetated perimeter buffer strips.
- b) All stormwater detention and conveyance structures shall be constructed to control the post-development peak discharge rates from 10, 25, and 100-year storms to the corresponding pre-development peak discharge rates.
- c) All stormwater detention basin shall be incorporated into the overall design of the site and landscaped.
- d) Site plans must include information regarding all existing and proposed landscaping and stormwater management structures and features.
- e) Natural drainage patterns shall be maintained to the extent practicable. The applicant must demonstrate through information provided on and in
- f) association with the proposed site plan, the existing and proposed drainage patterns and calculated flows.
- g) Parking lot drainage shall be designed such that all surface runoff (both piped and overland flow) is conveyed through a vegetated swale, vegetated filter strip, created wetlands, rain gardens, or detention basins with bio-filtration prior to discharge into existing wetlands, streams, ponds, or other waterbodies

*(continued on next page)*

*(continued from Section 71.9.2)*

- h) The use of native grasses and small-diameter wood-stemmed shrubs is encouraged as plantings for all vegetated swales, vegetated filter strips, created wetlands, rain gardens, or detention basins with bio-filtration
- i) Direct discharge of untreated stormwater to any natural wetland or waterbody is prohibited.
- j) Stormwater runoff discharged to wetlands must be diffused to non-erosive velocities prior to reaching any natural wetland based on calculations submitted with the application package.
- k) The applicant must demonstrate that any receiving wetlands or waterbodies have sufficient holding capacity, based on calculations submitted with the application package.
- l) The Commission may send any or all information provided on anticipated stormwater flow patterns and volumes and proposed stormwater management system to the Town Engineer and/or other consulting professional or agency for review and advisory comment.
- m) All stormwater BMPs shall be designed in a manner to minimize the need for maintenance and reduce the chances of failure. Design and maintenance guidelines to be followed shall be in accordance with the most recent version of the **Connecticut Stormwater Quality Manual** (CTDEP).

**71.9.3. Landscaping Standards for Parking Lot Stormwater Management:**

The landscaping requirements in this section are intended to maximize the natural areas retained in any parking lot in order to optimize natural infiltration of rainwater, intercept and manage stormwater runoff, and provide an aesthetic setting for development. In order to accomplish these goals the following standards shall apply:

- a) Developments with proposed parking areas of 15 spaces or more shall provide a minimum of 10% of the total parking area as landscaped open space. Such landscaped open space may be provided in the form of islands, aesthetic landscape treatments, pedestrian refuge/oasis areas, and may include the perimeter buffer between the parking lot and adjacent streets.
- b) Developments with proposed parking areas of 40 or more spaces shall also provide landscaped islands of a minimum width of 9 feet and 18 feet in length throughout the parking area planted with a mix of shrubs and trees. Such islands shall be located:
  - i. At each parking lot entrance.
  - ii. At the ends of each parking aisle.
  - iii. As intermediate islands in long rows of spaces, located every 15 spaces.
  - iv. As separation between pedestrian walkways and parking spaces and/or driving aisles.
  - v. Whenever possible, landscaped islands shall be used as mini-detention basins and situated below the grade of the parking spaces and driving aisles with the appropriate curbing so that stormwater runoff flow is directed to and trapped by such islands. *(continued next page)*

*(continued from Section 71.9.3b )*

- vi. A minimum of one deciduous or evergreen tree and two shrubs shall be planted on the parking lot islands for every 10 parking spaces. Trees and shrubs shall conform to the following standards:
  - Deciduous trees shall be planted at 2.5 inches in caliper with a mature height of at least 35 feet.
  - Evergreen trees shall be coniferous species planted at 6 feet in height
  - Shrubs shall be either deciduous species planted at 2 ½ feet in height or evergreen species planted at 2 ½ feet in spread.
  - Trees and shrubs shall be situated such that when at full growth they do not obstruct the vehicle sight lines of the approved plan.

**71.10. OFF-STREET LOADING SPACE:** All buildings in excess of 4,000 square feet, shall have one off-street loading space for each 40,000 square feet of gross floor area or fraction thereof, excluding basements. No off-street loading space and no vehicle loading bay, ramp or dock shall be designed or arranged in a manner that trucks must use any part of a street for maneuvering. Truck loading areas shall be designed to accommodate the largest anticipated vehicle to be used. At a minimum, one loading space shall constitute an area twelve (12) feet in width and thirty (30) feet in length with a vertical clearance of fifteen (15) feet with such shape, access and slope to accommodate one truck having an overall length of thirty (30) feet.

**71.11. CONSTRUCTION:** All off-street parking and loading spaces shall be suitably improved, graded, stabilized and maintained so as to cause no nuisance or danger from dust or from storm water flow onto any public or private street.

71.11.1. Parking lots shall be either an impervious surface or pervious asphalt or block. The Commission may allow gravel parking lots for temporary parking lots, or overflow parking in areas near wetlands. Driveways for gravel parking lots shall be hard-surfaced from at least 20 feet back from the property line, to the street.

71.11.2. Parking lots shall be constructed with an appropriate base material, scratch and top coat as required by the Town Engineer.

71.11.3. Grades. Maximum parking slopes shall be six percent, preferably a maximum three percent cross slope for parking stalls; minimum slope shall be one percent. The Commission may waive the maximum slope requirement, up to a maximum of 10 percent, if the applicant can demonstrate that an increase in the slope maximum will not result in conditions that may pose a hazard or otherwise endanger the public's health, safety or welfare.

71.11.4. Parking stalls shall be professionally striped with a long lasting paint, and one-way aisles shall have directional arrows paint on the surface, all Handicapped parking stalls shall be painted with the appropriate symbol, all such markings shall be maintained and repainted when needed.

## Section 72 - Sign Regulations

### 72.1 PURPOSE AND INTENT (*entire section revised 08/22/13*)

The purpose of this Section is to:

- Support both businesses and the community by making services and goods easily accessible with clear, legible signage,
- Protect public safety of pedestrians and motorists by regulating location, size, height and number of signs,
- Encourage signs that enhance the character of Windham.

### 72.2 SIGN RELATED DEFINITIONS

**Banner:** Any sign of lightweight fabric or similar flexible material that is securely mounted to a building or structure.

**Billboard:** A large outdoor display panel erected permanently or temporarily by the roadside or attached to, or painted on, a building, used for displaying advertisements. Billboards are not permitted.

**Canopy or Awning Sign:** A sign that is part of or attached to an awning, canopy or other structural protective cover.

**Directory Sign:** A sign, generally affixed at a building entrance, which indicates names and/or location of the occupants of the premises on which the sign is located, contains no advertising material of any kind, and is not legible from the street.

**Façade Length:** The length of the side of a building along the primary access road.

**Free-Standing or Ground Sign:** A sign permanently affixed to the ground.

**Hanging or Projecting Sign:** A pedestrian-oriented sign that projects perpendicularly from a structure.

**Identification Sign:** A sign that identifies a site that contains a group of structures or businesses, such as a shopping center, business park or apartment complex.

**Informational Sign:** A sign that is meant for the safety of those using the property. This includes signs for 'entrance', 'entry', 'exit', 'one way', 'no parking', and 'loading area' and shall contain no name, logo, lighting or any other image or text.

**Marquee:** Any permanent roof-like structure projecting beyond a building or extending along and projecting beyond the wall of a building. It is designed and constructed to provide protection from precipitation. The structure over gas pumps is an example of a marquee.

**Menu Sign:** A sign used to inform the public of the list of entrees, dishes, foods, and entertainment available in a restaurant.

**Menu Board:** A permanently mounted sign displaying the bill of fare for a drive-thru restaurant or similar listing of drive-thru services.

**Mural:** A painting not containing any advertisement or announcement on a building or other structure; murals require a permit from the Zoning Enforcement Agent.

**Nonconforming Sign:** Any sign that does not conform to the requirements of this regulation.

**Pennant, Feather, Streamer, Flag and Inflatable Signs:** Any lightweight object made of plastic, fabric or other material, whether or not containing a message of any kind, designed to move in the wind. Pennant, feather, flag, streamer and inflatable signs are not permitted.

Portable Sign: Any sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported by means of wheels; signs converted to 'A' or 'T' (*shaped*) frames; menu and sandwich board signs; and signs attached to or painted on vehicles parked and arbitrarily or persistently parked or displayed in a manner primarily intended to be viewed from a public right-of-way.

Rear Tenant: A business in a multi-tenant property with its primary entry not located on public way.

Roof Sign: Any sign attached, in part or entirely, to the roof of a building.

Sign: Any device, fixture, placard, or structure that uses any color, form, graphic, illumination, symbol, logo, or writing to advertise, announce the purpose of, or identify the purpose of, a person or entity, or to communicate information of any kind to the public. Flags, banners, streamers, inflatables or any material, rigid or flexible, displayed to convey a message, meaning or attraction to the public, are considered signs in the meaning above.

Sponsorship Sign: A sign that includes a logo or name for a business or company not located at that site.

Street Banner: Any display, other than holiday decorations, attached to utility or light poles including those that extend over a street or sidewalk, or any portion thereof, containing writing and/or graphics thereon, providing not more than 20% of the area of such banner shall pertain to an individual business.

Three-dimensional: Visually having the dimension of depth as well as width and height.

Temporary Sign: Any sign that is not permanently mounted to a building or to the ground. Temporary signs require a sign permit and are limited to two weeks time.

Wall Sign: Any sign attached to a wall, painted on the wall surface of, or erected and confined within the perimeter limits of an outside wall of any building or structure, which is supported by such wall or building, and which displays only one sign surface. A three-dimensional sign is defined as one sign surface for purpose of this definition.

Wall Promo Sign: Signs, affixed to a wall, that are subordinate to the primary wall sign.

Window Sign: Any sign painted or attached to a window and visible from the exterior of the building.

### 72.3 GENERAL REGULATIONS

No sign, except as listed in Section 72.11, shall be established, constructed, reconstructed, enlarged, extended, moved or structurally altered until a Certificate of Zoning Compliance has been issued for the sign(s). The text, body or style of an approved sign cannot be changed without a new Certificate of Zoning Compliance. All signs shall conform to the regulations and standards in this Section. In situations where Planning and Zoning Commission approval is required to authorize a proposed land use or proposed land use modification, a detailed sign plan shall be submitted to the PZC as part of the permit approval process.

72.3.1 For sites with more than one sign, a sign plan showing all existing and proposed signs, developed by design professionals experienced in commercial signage or environmental graphics, shall be submitted for approval and shall meet the following criteria:

- a) All signs shall be coordinated, including color and fonts, to present an effective and harmonious plan,

*(continued next page)*

*(Section 72.3.1 continued)*

- b) Each sign shall be designed and located to meet the needs of the intended viewer,
- c) Signs shall be designed in context with the building(s) and its surroundings, and through the use of similar detailing, form, color, lighting and material
- d) The shape, trim and detail of the signs shall complement the architectural features on the building,

72.3.2 Signs shall not distract or impair a motorist's line of sight, create a hazard for motorists, vehicles, pedestrians or bicycles, or negatively impact public health or safety.

72.3.3 Signage shall be mounted with concealed hardware, the hardware shall be stainless steel or galvanized to prevent rust and corrosion that could stain or discolor the building or surface below.

72.3.4 Signs shall pertain only to goods sold, services rendered and establishments, persons, organizations or facilities on the lot where the sign is located, unless specifically permitted under Section 72 of these Regulations.

72.3.5 Free-standing and Wall Signs shall follow the United States Sign Council's Standards for sign area of a minimum of 60% as background and a maximum of 40% containing text and/or logo; and shall be limited to name, logo, type of business or principal product; the minimum lettering size for free standing and wall signs shall be six inches in height.

72.3.6 Any sign not expressly permitted in these Regulations is prohibited.

**72.4 STANDARDS FOR SIGNS** Each individual sign shall meet the following standards and comply with the sign area, height, number and location permitted in the zone.

**72.4.1 Free-standing or Ground Signs:**

- a) Shall be designed as an integral part of the sign plan. The shape and materials of the sign shall complement the architectural features on the building. Landscaping surrounding the sign is encouraged.
- b) Be supported by a free-standing, self-supporting structure that is erected on the ground and is not attached to a building.
- c) Oriented, when possible, to the center of the building, and not located within the side setbacks for that district; there is no front setback; no part of the sign or its structure shall extend over the property line.

**72.4.2 Wall Signs:**

- a) The area for wall signs shall be designed as an integral element of the architecture. The shape and materials of the sign shall complement the architectural features on the building.
- b) Signs shall be located to enhance the architectural details on the building and shall not obscure any trim or other details, and be incorporated into the main entrance facade.

*(continued next page)*

- c) *(continued from Section 72.4.2)* Wall signs shall be attached to the face of the building in a place parallel and flush to such face, but shall not extend or project more than fifteen (15) inches from the building and shall not extend higher than the parapet in the case of a one-story building; and in the case of other buildings, they shall not extend above the sill of the windows of the second story.

#### **72.4.3 Hanging or Projecting Signs**

- a) A hanging or projecting sign shall project not more than four (4) feet, measured at right angles to the building to which the sign is attached. There shall be at least eight (8) feet of clearance beneath the sign, and shall not extend into any area which is accessible to service or emergency vehicles. The construction and method of securing such signs to the structure shall be approved by the ZEO or building official.

#### **72.4.4 Roof Signs**

- a) Roof signs shall be prohibited except in the case of a one-story building having a pitched roof that overhangs the business entryway in such a way as to limit the area for a wall sign to less than three (3) feet in height. In such a case, a roof sign of the same maximum sign area of the wall sign may be substituted for the permitted wall sign; the top of the roof sign shall be a minimum of three (3) feet below the ridge and two (2) feet from the roof edge.

#### **72.4.5 Awning, Canopy and Marquee Signs**

- a) All lettering, logos, graphics or distinctive background on awning or canopy shall be included in the maximum sign area calculation for that lot.
- b) Sign shall be built into and forming a part of the structure of the awning, canopy or marquee; signs shall not extend beyond the edge of the marquee.
- c) Backlighting of translucent or transparent material is prohibited.

#### **72.4.6 Multi-tenant / Mall Signage Plan**

- a) Hierarchy of Signs. A hierarchy of signage shall be established to facilitate way finding and minimize visual clutter.
- b) Property Identification Signs. One identifying sign in a highly visible location near the main driveway entrance shall be used to convey an overall identity for the property.
- The identification sign shall incorporate the street address into the sign to facilitate way finding and 911 emergency responses.
  - No tenant name shall be listed on the property identification sign.
  - The sign and the material used on the sign and its supports shall be visually consistent with the materials used on the building.
  - Individual Tenant Signs. The design of each tenant sign shall be coordinated with the design of the principle building(s) in terms of color, materials, detailing, and style.

*(continued next page)*

*(continued from Section 72.4.6)*

- Signs shall conform to a simple color and graphic palette in order to minimize the confusion and visual clutter of the sign.
  - Tenant wall signs shall be placed over or adjacent to the primary business entrance, the height of all tenant wall signs shall be equal, and the length in proportion with the width of the tenant space.
- c) Tenants on Upper Floors or in Rear of Building. Upper floor tenants are permitted one hanging sign, and one window sign. Signage for rear tenants shall meet the dimensional standards for number, size, width and height; if signage is not visible from any public street, sidewalk or residence, rear tenant signage is not included in the maximum sign area calculation for that lot.

#### **72.4.7 Illuminated Signs.**

- a) Illumination shall meet the standards set out in Section 77 of these Regulations, and shall be shielded so that the light source is not visible.
- b) No lighting or sign shall oscillate, flash or pulsate; the traditional, rotating, lit barber shop pole used only by an establishment licensed by the State of Connecticut to cut hair is exempt from this requirement.
- c) Electronically lighted changeable characters are only permitted in the portion of a bank sign showing the time and temperature and the portion of a gas station sign that lists fuel prices; characters shall be fixed, monochromatic and not exceeding fifteen (15) inches in height.
- d) Interior illumination (back lighting) is permitted for a maximum of 15% of the sign area; at least 85% of the sign area shall be opaque.
- e) All illuminated signs shall be reduced to at least 50% illumination 30 minutes after business closing.
- f) A single illuminated open sign up to four (4) sq. Ft. In size may be displayed per business while business is open.
- g) Other illuminated signs may be permitted by Special Permit considering uniqueness of colors, brightness, suitability of location, size and distance from a public street or residential area.

#### **72.4.8 Drive-thru Menu Boards.**

- a) One (1) menu board is allowed per business. Such signs may be free standing or wall mounted.
- b) The maximum aggregate area for a menu board shall not exceed 54 square feet; and shall not be included in the maximum sign area calculation if not visible from a public way or residential property.
- c) The maximum sign height shall not exceed 6 feet for freestanding signs.
- d) The sign shall be located so it is not legible from the street; if illuminated it shall not be visible from any residential property.

### **72.4.9 Non-conforming Signs**

- a) A legal, non-conforming sign shall not be permitted to be enlarged under Section 3.10 of these Regulations. No non-conforming sign may be re-lettered, sign face changed, the frame or pylon/pole replaced without a Certificate of Zoning Compliance. Once the sign and/or supporting structure has been abandoned as established by law, it shall be deemed permanently removed and may be replaced only in accordance with the provisions of these Regulations.

## **72.5 SIGN MEASUREMENT CALCULATIONS**

### **72.5.1 Sign Area Measurement**

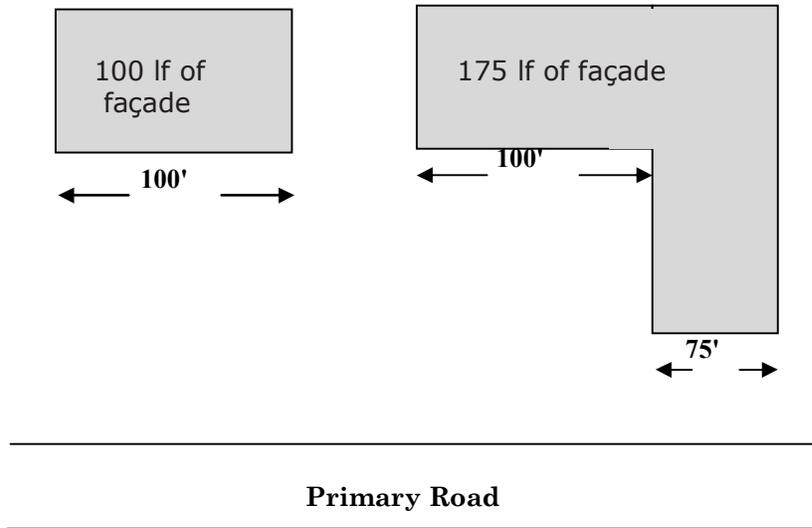
- a) The sign area shall be measured by drawing an imaginary rectangle around the outside edge of all letters, logos and symbols and shall include the surface between the letters, logos and symbols. The sign area shall include adjacent background material if such material is designed to be an integral part of the sign because of its texture, color or material.
- b) Excluded from the sign area measurement:
  - Supports which affix a sign to the ground or a building shall not be included in the sign area measurement unless such supports are obviously designed to be advertising. When attached to a wall, the area of the sign shall not include the wall itself unless the background is different from the balance of the wall and is designed as an integral part or is obviously related to the sign.
  - Up to 2 sq. Ft. Used for street address number of the property.
  - The second side of a double-faced (back to back, or vee-backed) sign, provided that both sides are equal in area, is excluded from the sign area measurement

### **72.5.2 Height Measurement**

- a) The height of a sign shall be measured from the average finished grade 5 feet out from the sign support, pylon, structure or wall on which the sign is attached to the highest part of the sign or supporting structure including finials, decorative cornices and other decorations, numbers or lights associated with the sign. The grade cannot be altered by filling, berming, excavating or other means for the purpose of altering the height of the sign.

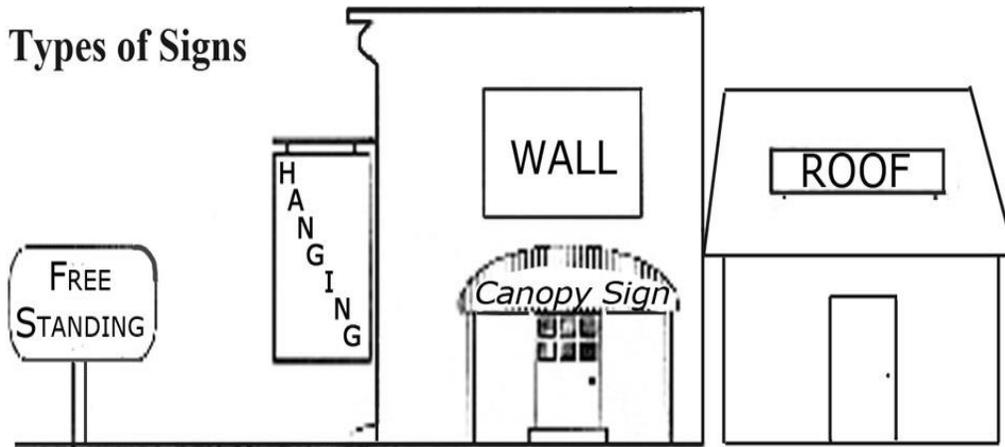
### 72.5.3 Maximum Sign Area Calculation

- a) The maximum square foot area for all signage located on one lot shall be based on building facade length along the primary road, and multiplied by a factor of 2.0.



For a building with a façade length along a primary road of 100ø the maximum sign area for that lot would be 200 sq. Ft. . For a building with a façade length of 175ø the maximum sign area for that lot would be 350 sq. Ft.

- b) Signs included in the maximum sign area calculation include free standing signs, hanging signs, wall signs, canopy signs, roof signs and window signs. The total of all signage cannot exceed the maximum sign area for that lot.



## 72.6 SIGNS in BUSINESS B1A, B2, B2A, B4 and COMMERCIAL (C) DISTRICTS

The following signs shall be permitted:

Type of Sign	Maximum Number	Maximum Area and Height	Permit Required	Additional Requirements
Single business on lot: Free Standing Sign	1	36 sq. Ft. 5' Height	Staff	Maximum sign area may be increased by 10% if signage is enhanced per Section 72.6.1.
		28 sq. Ft. 8' Height	Staff	
Single business on lot: Wall Sign (canopy sign may replace wall sign)	1 per lot; or 2 if double frontage	240 sq. Ft. Maximum area; not to exceed 15% of façade facing primary road	Staff	Unless impractical, sign shall be centered over primary entrance Maximum sign area may be increased by 10% if signage is enhanced per Section 72.6.1
Multi-tenants on lot: Free Standing Sign	1 per lot; or 2 if double frontage	3 or fewer businesses: 28 sq. Ft. 5' Height	Staff	Maximum sign area can be increased by 10% if signage is enhanced per Section 72.6.1
		More than 3 businesses: 36 sq. Ft. 8' Height		
Multi-tenants on lot: Wall Sign	1 per ground floor tenant	1 sq. Ft. Per linear foot of tenant frontage	Staff	All tenant signs shall be placed in a consistent manner
Secondary Signs: Hanging Sign	Limited by maximum sign area per lot	3 sq. Ft.	Staff	
Wall Promo Signs		Total less than 40% of major sign		
Window Signs		20% of total window area		

- 72.6.1 Sign area of individual signs may be increased if enhanced as follows:
- a) Free-standing sign: The maximum sign area may be increased by 10% if the support pole is enclosed as an architectural feature. The width of the enclosed support shall equal at least 40% of the average width of the sign, and shall complement the sign design and the architecture of the building. The support enclosure shall contain no lettering and no logos.
  - b) Free-standing and wall signs: The maximum sign area may be increased by 10% if the sign itself is embellished with three-dimensional decorative trim. Trim is any decorative sign feature that is not integral to the sign message, logo, or company color scheme but is solely for aesthetic purposes. The embellishment will not be counted toward the maximum height or area.
- 72.6.2 In multi-tenant buildings, signage for individual commercial tenants not located on the ground floor shall be accommodated, subject to the maximum sign area per lot.
- 72.6.3 Businesses whose lot only fronts a dead-end street may request the Commission approve an off-site free-standing sign.
- a) The sign location shall have a relationship to the access road to the business,
  - b) At least fifty (50) feet from any other free-standing sign,
  - c) The off-site sign shall be included in the maximum sign area calculation for the business on the dead-end street, and
  - d) Appropriate property easements shall be filed in the land records before the sign permit is issued.
  - e) Businesses are encouraged to share signs and/or sign structures.

## 72.7 SIGNS in B1 DISTRICT

72.7.1 **Building Sign Plan** All buildings with two or more businesses shall have an approved sign plan for the building prior to the approval of any signs permits after (08/22/13). The sign plan shall show the size and placement of all current and future wall and hanging signs for all commercial tenants in the building, and shall comply with 72.4.6 .

72.7.2 All free-standing signs and all building entranceways shall have the street address number prominently placed for way finding. There is no maximum sign area per lot within the B1 District.

72.7.3 The following signs shall be permitted:

Type of Sign	Maximum Number	Maximum Area and Height	Permit Required	Additional Requirements
Ground Floor Tenant: Wall Sign	1 per lot; or 2 if double frontage	50 sq. Ft.	Staff	Signs shall be three-dimensional, consistent with building style, and designed to maximize the sign frieze and/or width of business frontage.
Ground Floor Tenant: Hanging Sign	1	4.5 sq. Ft.	Staff	
Ground Floor Tenant: Free-standing Sign	1 per lot if building setback min of 10' from sidewalk ROW	24 sq. Ft. 5' High	Staff	Signs shall be three-dimensional, support pole shall be covered or enhanced and incorporated into design
Upper Floor Tenants: Directory Sign	1	1 sq. Ft.	Staff	Sign shall be consistent with Building Sign Plan (See 72.7.1)
Hanging Sign	1 per tenant	3 sq. Ft.	Staff	
Rear Tenants Hanging Sign on building		3 sq. Ft.	Staff	
Menu Sign: affixed to building at entry	1 per tenant	1 sq. Ft.	Staff	Limited to restaurants
A-frame Sign	1 per tenant	6 sq. Ft.	Staff	Cannot impede pedestrian movement

**72.8 SIGNS in B3 DISTRICT and NPR**

72.8.1 Building Sign Plan. All buildings with two or more businesses shall have an approved sign plan for the building prior to the approval of any signs permits after (08/22/13)as described in Section 72.7.1.

72.8.2 No sign in an NPR district shall be illuminated.

72.8.3 The following signs shall be permitted and all other signs are expressly prohibited:

Type of Sign	Maximum Number	Maximum Area and Height	Permit Required	Additional Requirements
Single business on lot: Free Standing Sign	1 per lot	15 sq. Ft. 4' Height	Staff	
Single business on lot: Wall sign (canopy sign may replace wall sign)	1 per lot	30 sq. Ft. Maximum area	Staff	
Multi-tenants on lot: Free Standing Identification Sign	1 per lot	15 sq. Ft. 4' Height		If lot has 3 or fewer tenants, sign may display business names. If lot has more than 3 tenants, sign shall only convey an overall identity for the property.
Multi-tenants on lot: Ground Floor Tenant Wall Sign	1 per tenant	24 sq. Ft.	Staff	Sign shall be 3 dimensional, consistent with building style, and designed to maximize the sign frieze and/or width of store frontage.
Hanging Sign	1	3 sq. Ft.	Staff	

**72.9 SIGNS IN MANUFACTURING, INDUSTRIAL AND PDD DISTRICTS.**

72.9.1 Signage in manufacturing and industrial districts, not associated with retail activity, is for informational purpose only and is not based on building frontage. The signage plan shall be approved by the Commission, or its designee, as part of the Site Plan.

72.9.2 Signage in PDD Districts shall require approval by the Commission.

## 72.10 SIGNS IN RESIDENTIAL DISTRICTS

The following table describes all signs permitted in Residence Districts. All other signs are expressly prohibited. No sign in a residential district shall be illuminated unless specifically listed below.

Type of Sign	Maximum Number	Maximum Area	Permit Required	Additional Requirements
Rental Property Emergency Contact Information	1 per lot	1 sq. Ft.	None	Affixed to the building easily visible to emergency personnel
Sale, Lease, Rental of Property	1 per lot	6 sq. Ft.	None	Permitted only on the site being marketed. See Sec. 72.11 for additional information.
Subdivision Marketing	1 per street entrance, not to exceed 2	32 sq. Ft.	Staff	Permitted only on the site being marketed. See Sec. 72.11.10 for additional information
Construction, Renovation or Repair	1 per construction	6 sq. Ft.	None	
Elderly Housing, Senior Residence Developments, Day Care Centers	1 for major entrance; 1 per residential dwelling	12 sq. Ft. For major entrance; 1 sq. Ft. For each residential dwelling	Staff	
Licensed Daycare Centers, Home Occupation, Bed and Breakfast	1 per use	4 sq. Ft.	Staff	Bed and Breakfast signs may be illuminated.
Roadside Produce/Vegetable Stands	2 per lot	12 sq. Ft.	Staff	Offsite sign permitted for directing to a farm
All other permitted non-residential uses	1 per entrance	20 sq. Ft. For major entrance; 4 sq. Ft. For secondary entrance	Staff	

## **72.11 SIGNS NOT REQUIRING A PERMIT:**

- 72.11.1 Informational and traffic signs, historical markers, authorized or erected by federal, state, or Town agency.
- 72.11.2 Information signs for the safety of those using the site. Such signs shall not exceed a total area of 1.5 square feet each and shall contain no advertising information, name or logo of the business.
- 72.11.3 Display of the national or state flag.
- 72.11.4 Temporary displays or lighting as customary part of holiday decorations.
- 72.11.5 A "For Sale", "For Lease" or "For Rent" sign within a Residential District, not over 6 square feet in area, within a commercial and industrial districts, not over 32 square feet in area. Signs shall be located on the property being marketed, and shall be removed within 5 days of the property being removed from the market.
- 72.11.6 In residential districts, temporary directional signs in connection with the notification of open houses to be held in connection with the sale or rental of premises. There shall be a limit of not more than 4 signs per open house, not exceeding 4 square feet in area per sign. Such signs shall only be used only on the day of the open house and shall be removed no later than one-half hour after the completion of the open house, but no later than 7:00 p.m. On the same day installed.
- 72.11.7 One flag, no larger than 3' x 5', with only the word 'open', displayed at a retail business' entry door is permitted during the hours that the business is open.
- 72.11.8 A sign not over 1 square feet identifying the name(s) and address of the occupant(s) of a dwelling unit.
- 72.11.9 Bulletin boards not over ten (10) sq. Ft. in area for public charitable or religious institutions when located on the premises of said institutions.
- 72.11.10 Within a business, commercial or industrial district, a sign not exceeding thirty-two (32) square feet in area denoting the professionals, financiers and agencies involved with the project, and other such information and when placed upon the property where work is under construction, and located a minimum of ten (10) feet from the side property lines.
- 72.11.11 One temporary marketing ground sign per new subdivision development, subject to the following:
  - a) Shall be non-illuminated, and not exceed eight (8) feet in total height and thirty-two (32) sq. ft. in area.
  - b) Shall be considered a temporary sign permitted to remain in place for a period of one year from the date of PZC approval of the project; and shall be removed when final CO issued. The Zoning Enforcement Officer may grant up to three (3), one-year extensions.
  - c) Shall only display the name of the development, its owner, its availability for lease and/or sale, and a telephone number.

- 72.11.12 A temporary "help wanted" sign not over 15 square feet; no advertising, logo or symbol is permitted on the sign.
- 72.11.13 One temporary, on-premises sign announcing a tag or garage sale at a residential property shall be permitted for a period not to exceed 3 days, or 9 days in any calendar year. Two off-premises signs announcing the tag or garage sale shall be permitted for a period not to exceed 3 days or 9 days in any calendar year. Signs shall be removed at close of sale.
- 72.11.14 Street banners approved by appropriate Town department and maintained the Town.
- 72.11.15 A sign erected by a fraternal, civic, religious or service organization or club, merely announcing its presence in the town and the time and place of its regular meeting, provided all such signs shall be grouped together with a common support structure and each component shall not exceed 1 square foot in area.
- 72.11.16 Directional signs for educational and religious uses by a non-profit corporation or governmental unit, non-profit health care facility or hospital, or municipal building use; all signs and locations shall be approved by the Town Traffic Commission.
- 72.11.17 One political sign for each candidate or referendum issue not exceeding three (3) square feet in area. Such sign shall not be placed on the property sooner than two months before the election or vote. Such signs should be removed as soon as possible after the election, and at least within one week.

**72.12 PROHIBITED SIGNS** The following signs are specifically prohibited:

- 72.12.1 Any moving sign or device designed to attract attention, including fluttering or rotating devices (such as, but not limited to, pennants, steamers, feather signs, balloons, inflatables, flags, propellers, and discs).
- 72.12.2 Any sign or device with flashing, moving, flickering, blinking, illuminated animation, or moving lights.
- 72.12.3 Signs capable of changing image using electronic control.
- 72.12.4 Signs with string or festoon lights; exposed neon, fluorescent, and/or incandescent tubing or lamps, raceways, ballast boxes and transformers or other electrical apparatus.
- 72.12.5 Any signs or devices with LED, LCD, plasma, or functionally equivalent technology to display text or graphics are not permitted. Except approved signs displaying time and temperature at a bank or a price list at a gas station.
- 72.12.6 Signs of a temporary character or purpose, except as provided in Section 72 regardless of the sign material used.
- 72.12.7 Any portable sign, including reader board signs and any sign displayed or painted on vehicles parked and arbitrarily or persistently parked or displayed in a manner primarily intended to be viewed from a public right-of-way.

- 72.12.8 Signs attached to or painted on railroad trestles or bridges except those of the owner of the trestle or bridge.
- 72.12.9 Billboards.
- 72.12.10 Any sign mounted or posted on any tree or utility pole.
- 72.12.11 Traffic signs that are not approved by the appropriate State or Town traffic authority.
- 72.12.12 Any artificial light or light-reflecting device in a location that distracts the attention of users of a public or private street.
- 72.12.13 All signs not expressly permitted by these regulations.

### **72.13 APPROVAL, ENFORCEMENT, SIGN REMOVAL**

- 72.13.1 When an applicant can demonstrate a unique circumstance with a site, the Commission may grant relief from these regulations for functional value:
  - a) The height of a free standing sign may be increased to a maximum of fifteen (15) feet due to unique topography that limits the visibility
  - b) The sign area of a free standing sign may be increased by a maximum of 30% due to unique site limitations limited by the maximum sign area for that lot
- 72.13.2 Signs which become unsafe or in disrepair in the opinion of the Zoning Enforcement Officer, or otherwise in violation of these Regulations shall, upon notice from the Zoning Enforcement Officer, be repaired or replaced by the owner or lessee of the property on which the sign is located within thirty (30) days of notice. Signs that have been abandoned shall be removed or relocated by the owner or lessee of the property on which such sign stands within thirty (30) days following such designation by the Zoning Enforcement Officer; if still remaining, the Zoning Enforcement Officer shall have the sign removed and destroyed.
- 72.13.3 Once a sign is removed in accordance with this provision, it may not be repositioned or replaced unless it is in conformance with the current provisions of the Zoning Regulations.
- 72.13.4 Whenever a proposed change in use or site modification on a subject property necessitates Planning & Zoning Commission/Zoning Board of Appeals approval in accordance with a Special Permit or Special Exception, the applicant shall be subject to conditions by the Commission or Board which may include the removal of any sign in conflict with these Regulations. Failure to abide by the conditions of approval shall render the approval null and void.

## Section 73 - Alcoholic Beverages

No sale of alcoholic liquor is permitted without an appropriate Liquor License issued by the Liquor Control Commission of the State of Connecticut. A Zoning Permit from the Town is also required for the sale of alcoholic liquor, and shall meet the following Regulations. (*Entire Section revised 4/26/12*)

### **73.1. SEPARATION REQUIREMENTS**

**73.1.1** The sale of alcoholic beverages, to be consumed on or off the premises shall not be located within 500 feet of any public or private school (defined as: the instruction of students, at least 75% of the enrolled students are under 18 years of age, and instruction is given at least 3 days a week for 8 or more months a year), licensed children's daycare center, property owned by a religious institution used for worship services, hospital, convalescent home, or public playground.

a) The following exceptions are permitted:

- There are no separation requirements for restaurants serving alcohol. Restaurants are defined as containing a commercial kitchen and dining facilities where the primary use is one of selling a full course meal and not the sale of alcoholic beverages. For the purposes of this section, "full course meal" means a diversified selection of food which ordinarily cannot be consumed without the use of tableware and which cannot be conveniently consumed while standing or walking. The hours of business operation shall not exceed the hours for serving alcohol as permitted by Connecticut General Statutes.
- In addition to the above, excepting Sections 73.1.2 and 73.1.3, within the B1 District there are no separation requirements for the sale of alcohol.

**73.1.2** A package store, or any retail outlet for the sale of alcoholic beverages to be consumed off the premises, shall not be located within 1,500 feet of another package store or retail outlet selling alcoholic beverages to be consumed off the premises. A store primarily engaged in the sale of groceries, which also sells beer, shall not be regarded as selling alcoholic beverages for the purpose of this Section.

**73.1.3** The sale of alcoholic beverages at a bar or tavern or similar outlet for consumption of alcoholic beverages on the premises shall not be located within 250 feet of another bar or tavern or similar outlet for consumption of alcoholic beverages on the premises.

**73.1.3** The sale of alcoholic beverages, to be consumed on or off the premises, shall not be permitted in any residential zones. Clubs and fraternal organizations permitted in a residential zone may apply for a Special Permit for the sale of alcoholic beverages to be consumed on the premises, subject to all the restrictions of this section; approval, if granted, shall apply to the applicant only and shall not be transferable.

## **73.2. PERMIT PROCESS**

- 73.2.1** If the use is for a restaurant, nonprofit theater or hotel to be located in a zone permitting such use, approval by the Zoning Officer is required; to be located in other nonresidential zones requires a Special Permit considered for approval by the Commission after a Public Hearing.
- 73.2.2** If the use is for a bar or tavern to be located in any zone permitting such use, approval by the Zoning Officer is required.
- 73.2.3** If the use is for a package store to be located in any zone permitting retail, approval by the Zoning Officer is required.
- 73.2.4** If the use is for a brew pub in the B1, B1A or B2 District, approval by the Zoning Officer is required; to be located in any other zone requires a Special Permit considered for approval by the Commission after a Public Hearing.
- 73.2.5** If the use is for manufacturing, wholesaling or distributing alcoholic beverages to be located in an industrial or manufacturing zone, or any zone permitting such activity, approval by the Zoning Officer is required.
- 73.2.6** Any other use requires a Special Permit considered for approval by the Commission after a Public Hearing.

**73.3. MEASUREMENTS:** All measurements referred to above shall be a radial arc drawn from the exterior boundaries of the property line to the exterior boundaries of the property line of any other premises from which separation is required using the latest Town of Windham Assessor's map, an A-2 Boundary Survey, or an approved subdivision map recorded in the Windham Land Records. Where the use is located within a shopping center or is in the B-1 Downtown Business District, the method of measuring the separation requirement shall be done with a straight line between any customer entrance to the building or premises and the exterior boundaries of the property line of the exterior boundaries of the property line of any other use, or premises from which separation is required.

**73.4.** In the event the use of a building or a portion thereof for the sale of alcoholic beverages for which a Zoning or Special Permit has been granted is abandoned or discontinued for a period of ninety (90) days, the Permit shall be terminated.

**73.5.** No provisions in this section and no provisions elsewhere in these regulations, including Section 3.10.13, shall be interpreted as allowing a nonconforming use to expand the sale of alcoholic liquors or to qualify for a liquor permit different from the class of liquor permit existing at the time of adoption of these regulations.

**73.6.** The Commission, or its Agent, has the right to revoke a Permit for the sale of alcohol for violation of these Regulations as per Section 91.10 of these Regulations.

## Section 74 - Performance Standards

### 74.1. PUBLIC HEALTH, SAFETY, WELFARE AND VALUE AND REASONABLE USE OF OTHER LOTS *(entire section revised 06/23/11)*:

- 74.1.1 Air Pollution No dust, dirt, fly ash or smoke and no offensive odors or noxious, toxic or corrosive fumes or gases shall be emitted into the air from any lot so as to endanger the public health or safety, to impair safety on or the value and reasonable use of any other lot, or to constitute a critical source of air pollution.
- 74.1.2 Land and Water Pollution No refuse or other waste materials shall be dumped on any lot except with the approval of the Director of Health of the Town of Windham. No refuse or other waste materials and no liquids shall be dumped on any lot or dumped or discharged into any river, stream, water course, storm drain, pond, lake or swamp so as to constitute a source of water pollution.
- 74.1.3 Noise With the exception of time signals and noise necessarily involved in the construction or demolition of buildings and other structures, no noise shall be transmitted outside the lot where it originates when noise has a decibel level, octave band, intermittent and/or beat frequency which would endanger the public health or safety or impair safety on or the value and reasonable use of any other lot.
- 74.1.4 Vibration With the exception of vibration necessarily involved in the construction or demolition of buildings, no vibration shall be transmitted outside the lot where it originates.
- 74.1.5 Danger No material which is dangerous due to explosion, extreme fire hazard or radioactivity shall be used, stored, manufactured, processed or assembled except in accordance with applicable codes, ordinances and regulations of the Town of Windham, State of Connecticut and Federal Government.
- 74.1.6 Radio Interference No use on any lot shall cause interference with radio and television reception on any other lot, and any use shall conform to the regulations of the Federal Communications Commission with regard to electromagnetic radiation and interference.
- 74.1.7 Driveways All portions of driveways with slopes of ten (10) percent or more shall be paved, with suitable and appropriate transition areas to control the effect of erosion, sedimentation, ponding or icing conditions.
- 74.1.8 Erosion, Sediment (E&S) Standards No site plan shall be approved which will cause erosion, flooding or sedimentation on the property being developed, surrounding properties, wetlands or watercourses, or as are defined by the Regulations of the Windham Inland Wetlands Agency or as defined in Section 77 of these Regulations.
- 74.1.9 Drive-up/Through Facilities In certain zoning districts, the Commission may approve a drive-up/through facility if the applicant can adequately demonstrate that there will not be any substantial effect on traffic conditions on any public street or neighboring property owner, and that idling vehicles will not affect air quality in the area. At a minimum, there shall be a minimum stacking lane ten (10) feet in width, with a minimum length for six í *(continued next page)*

*(continued from Section 74.1.9)*... vehicles, or 120 feet. In addition, a by-pass lane shall be provided, in order to allow vehicles to escape, and/or to provide access for emergency vehicles. Entrance and exits onto the street shall be separated by a distance of at least forty (40) feet. Vehicular access shall be separated from pedestrian circulation to minimize conflicts; techniques to increase motorist awareness of pedestrians, such as lighting, raised crosswalks, changes in paving, signage or other devices shall be used.

74.1.10 Exterior Lighting All flood lighting and all other types of lighting which are intended to illuminate the building or yards shall be arranged so that the lights will not shine into the eyes of any person external to the premises or cause a nuisance from excessive glare.

## 74.2. SITE PLANNING

Proposed development shall respect the uniqueness of each property, incorporate safe connections for pedestrians and vehicle, encourage connections to abutting commercial development and respect abutting residential properties with sensitive site planning and buffering.

### 74.1.1 VEHICULAR CIRCULATION

- a. Minimize the number curb cuts, onto town and state roads; whenever possible combine entrances to other commercial properties and provide connection between parking lots of abutting commercial properties.
- b. Locate the majority of the parking area at the rear or sides of the buildings whenever possible. If it is unavoidable that parking must be adjacent to a residential zone, screen with evergreen trees, earth berms, fences or shrubs.
- c. Separate vehicles from pedestrian areas to the greatest extent possible Coordinate the parking with building entrances, lighting and landscaping.
- d. Define circulation pattern with directional arrows, crosswalks, and other ground markings using pavement paint or other suitable material to ensure safe circulation

### 74.2.2 PEDESTRIAN CIRCULATION

- a. Locate walkways where motorists can anticipate pedestrians and react accordingly and with a full view of oncoming vehicles, with minimal interference from trees, shrubs and parked cars. Avoid walkways that cross drive-through lanes, access and service drives and other high-traffic routes.
- b. Size walkway width a minimum of five feet wide; additional width may be necessary in certain areas such as those with heavy pedestrian traffic or where cars overhang the walkway.
- c. Align walkways within parking lots with the main entry or focal point on the building, whenever possible; provide continuous internal walkways and/or sidewalks to each customer entrance.

*(continued next page)*

*(continued from Section 74.2.2)*

- d. Delineate walkways that cross vehicular paths by a change in pavement texture, pattern or color to maximize pedestrian safety. Select the material for crosswalks to be highly durable and low maintenance, and to allow safe bicycle movement across the surface.
- e. Design all walkways to facilitate maintenance by the property owner by coordinating the location of walkways with utilities, plantings, drainage and other site elements that could affect long-term maintenance.
- f. Design building entrances to provide outdoor spaces for seating, displays and aesthetic enhancement to create a pedestrian friendly space.
- g. Avoid the sheet flow of stormwater across walkways; size the stormwater system to limit ponding and icing during winter for uninterrupted use of the walkway.

#### **74.2.3 Service Areas**

- a. Locate all service areas at the side or rear of the principal building; avoid locations that face public roadways or abutting residential properties. Separate service drives from internal walkways, parking areas or other pedestrian areas by landscaped islands, grade changes or other devices.
- b. Screen service areas to minimize visibility from public and private streets, main entrances, abutting residential properties and neighborhoods, public open spaces and walkways. Use walls or fences that complement the design of the building for screening, enhance screening with evergreen trees, shrubs and earth berms.

#### **74.2.4 Buffers to Residential Districts**

- a. Land abutting residential districts shall have effective screening using evergreen trees in combination with earth berms, privacy fencing and shrubs, consistent with other materials used in the development. Select the proper type of buffer based on a thorough understanding of site conditions, distances to property lines, intensity of the proposed use and the degree of conflict with abutting uses.
- b. Such buffer areas shall be of such width, height, and character so as to present an opaque visual barrier to parking and storage areas, buildings or activities on the site.
- c. Maintain buffers in a condition that assures their continued effectiveness.

#### **74.2.5 Multiple-building Development**

- a. Design the entire site with a master plan that shows the general location of future buildings, parking lots, vehicular and pedestrian circulation, common open spaces, utilities, service areas, stormwater systems and other components of site development.

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*(continued from 74.2.5)*

- b. Coordinate the signage, lighting, site amenities, landscaping and architecture to unify the development. Orient all buildings to create usable, safe and attractive pedestrian spaces, preserve significant site features and minimize the appearance of parking areas.
- c. Incorporate outdoor use areas such as greens, plazas and courtyards, that are separated from vehicular traffic with landscaping, grade changes or other site feature, and part of an interconnected pedestrian circulation plan.

### **74.3. BUILDINGS**

New construction shall be designed to fit the individual characteristics of the site and be influenced by traditional New England patterns while meeting the needs of the intended use and users. National franchises are required to use their New England prototypes. All renovations and additions to existing structures are an opportunity to add visual interest to a building and enhance the original structure. Accessory structures (canopies, storage units, recycling or trash enclosures, cart corrals, and the like) shall coordinate with the primary building through the repetition of form, materials, details and color.

#### **74.3.1 FACADES**

- a. Design buildings to have an attractive and human scaled facade to the street, internal drives, parking areas and surrounding neighborhoods, with main entrances that are easy to distinguish, reinforced through site and architectural features, and, wherever possible, clearly visible from the street. Incorporate the proposed facade-mounted sign in the design of the building.
- b. All facades facing public roads, residential neighborhoods or abutting properties shall have similar elements such as windows and roof lines.
- c. For buildings less than 20,000 square feet, include recesses or projections in proportion to the building's height and length that limit the length of the plane of any facade to 40%. Break the plane of all building facades with window and door openings that are in scale with the facade.
- d. Incorporate mechanical and functional elements into the building and locate HVAC and other mechanical equipment and utility connections out of view from the public.

#### **74.3.2 MATERIALS AND DETAILS**

- a. Treat building materials as a significant design element in defining the appearance of the building. Limit the number of material types selected.
- b. Design roof lines to provide diversity to the building form, to reduce the mass of large buildings, to emphasize entrances and to add visual interest.

### **74.3.3 LARGE SCALE AND LINEAR BUILDINGS**

- a. Design buildings greater than 20,000 square feet in a manner to break up their mass into smaller visual components through the use of projections, recesses, varied roof line and facade treatments; limit the length of any facade to 70'. Incorporate raised roof line at key entryways. Include display windows on all facades that face a public area or street.
- b. Clearly delineate pedestrian entrances to each tenant to convey a sense of individuality through the use of architectural detailing, roof line breaks, landscaping and lighting.

### **74.3.4 VEHICULAR-FOCUSED BUILDINGS**

- a. Design buildings for service and gas stations, convenience stores, car washes, drive-throughs and the like with facade and roof line elements that reduce their scale and add architectural interest.
- b. Orient the building to face the street; locate all pump islands and canopies in the rear whenever possible, or at the side. Design the facades and roof lines as any other commercial building; incorporate windows or other fenestrations in the facade facing the street.
- c. Design service and drive-through canopies to be visually compatible with the main structure through consistency in roof pitch, architectural detailing, materials and color. Integrate vehicular doors for service bays or car washes into the design of the building and site so they are not directly visible from an adjacent residential area.

## **74.4. LANDSCAPE STANDARDS**

Landscaping shall enhance and complement commercial development through the use of properly selected and placed landscaping.

Landscaping shall be used as a component of screening for residential properties and for the less attractive parts of the site.

### **74.4.1 GENERAL LANDSCAPING STANDARDS**

- a. Include a landscape plan as part of the site development proposal that is prepared by a licensed landscape architect for all sites in excess of 5 acres or buildings in excess of 15,000 square feet.
- b. Develop a landscape plan to:
  - i) Use plant material and landscape elements that require a low degree of maintenance, are resistant to insect infestations, drought, disease, roadside salt, urban conditions, auto emissions and suitable for the growing conditions,
  - ii) Reuse existing trees and other plantings when possible,
  - iii) Use masses or drifts that emphasize colors and texture to soften edges and to integrate the building into the landscape. Use large rocks as landscape elements and as accents in mass plantings (buried at least half their depth and incorporated into the overall design theme). Use live ground cover such as grass and plantings í (continued next page)

(continued from Section 74.4.1 b - iii) i for large areas and avoids mulch as a substitute for live ground cover,

- iv) Avoid plants with poisonous fruits, large thorns, or invasive growth patterns, or trees and shrubs that could provide hiding places along walkways or block the view of moving vehicles,
- v) Use plant materials and other landscape elements for buffers between residential and commercial properties that have a pleasing appearance from both viewpoints, and uses evergreen plantings that are deer resistant as an effective for year-round buffering,
- vi) Require plant material to be installed in the following minimum sizes (unless otherwise required by site conditions):

Canopy Trees 2.5ø caliper	Deciduous Shrubs 24ø height
Flowering Trees 2ø caliper	Evergreen Shrubs 18ø height
Evergreen Trees 5-7ø height	Perennials 2 gallon container
	Ornamental Grasses 3 gallon container
	Ground Covers 3ø container

Guarantees all plant material for a period of not less than 2 years.

- c. A list of recommended plant material for various locations is available in the Planning Department. .

#### **74.5. LANDSCAPING AT ENTRANCE NEAR BUILDINGS AND AT OTHER FEATURES**

- a. Select plant material to coordinate with the building's facade, length and height. Locate to maintain a clear view of entryways, signs and lighting when plants material is at maturity.
- b. Select predominately large shade trees for roadside planting and locate a minimum of 5ø from the road right-of-way. Preserve adequate sight lines at intersections and driveway entries as determined by a traffic engineer.
- c. In pedestrian areas, avoid trees whose future branching may interfere with pedestrian movement. In outdoor seating area also avoid trees with messy fruit or excessive leaf litter.

#### **74.6. LANDSCAPING MAINTENANCE STANDARDS**

- a. Anticipate 3 to 8 years to achieve maturity for shrubs, and a 15-20 years for trees. Maintain site so the landscaping continues to improve as the plant material achieves maturity.
- b. Include a written maintenance plan for all landscape elements installed that details initial installation, guarantee period, replacement policy, periodic and seasonal maintenance, special considerations, use of pesticides and fertilizers, irrigation and seasonal displays.
- c. Allow all plant material to achieve their natural forms without excessive pruning. Avoid shaping evergreen shrubs into tight geometrical forms.
- d. Replace plant materials that do not survive or are damaged.

## Section 75 - Earth Excavation

- 75.1 GENERAL: In accordance with the procedure, standards and conditions hereinafter specified, the Planning & Zoning Commission may grant a Special Permit for the excavation, grading or removal of earth, loam, topsoil, sand, gravel, clay or stone on any lot. *(Revised June 23, 2011)*
- 75.2 EXEMPTIONS: The requirements to obtain a Special Permit shall not apply to the following cases: *(amended 05/17/98)*
- 75.2.1 Necessary excavation, grading or the removal of not more than <1,000 cubic yards of material from the site per year *(amended 05/17/98)* in direct connection with the lawful construction on the lot, of buildings, foundations, roads, driveways, parking areas, storm drainage, utility services, fences, walls, swimming pools or other bona fide construction projects provided a detailed site plan is submitted to the Planning & Zoning Commission for approval prior to any earth excavation. A written statement specifying the hours and days of the week when the excavation, grading or removal is to be conducted and estimating the number and kind of trucks and other equipment to be used shall be submitted. *(amended 05/17/98)*
- 75.2.2 Existing Operations: Any lawful existing operation in existence upon the adoption of the Zoning Regulations for Windham, involving the excavation, grading or removal from any lot, of any earth, loam, topsoil, sand, gravel, clay or stone may be continued within present boundaries without the need to secure a Special Permit. However, such operation shall be subject to all other provisions of these Regulations and the approval of a site plan by the Planning & Zoning Commission for each five-year period. *(amended 05/17/98)*
- 75.2.3 Excavation, grading or removal of less than ≤250 cubic yards of material lot during any twelve- (12) month period. *(amended 10/31/94)*
- 75.2.4 Provided that the excavation, grading or removal authorized under Paragraphs 75.2.1 and 75.2.2 shall be deemed to permit the excavation, grading or removal of only the quantity of material which is necessary to make the lot more suitable for the proposed use, and provided further that excavation, grading or removal authorized under Paragraphs 75.2.1 and 75.2.2 in connection with a project for which an application for a Certificate of Zoning Compliance for such project, then such excavation, grading or removal shall be deemed a violation of these Regulations unless a Special Permit for the excavation, grading or removal has been secured from the Planning & Zoning Commission in accordance with this Section. *(amended 10/31/94)*
- 75.3 APPLICATION: Application for a Special Permit *(amended 10/31/94)* under this Section shall be submitted in writing to the Town Planner, *(amended 02/11/86)* shall be accompanied by an application for a Certificate of Zoning Compliance and by the following:
- 75.3.1 Statement: A written statement specifying the hours and days of the week when the excavation, grading or removal is to be conducted and estimating the number and kind of trucks and other equipment to be used.

75.3.2 Maps and Plans: Sufficient copies of maps and plans prepared by a professional engineer or land surveyor licensed to practice in the State of Connecticut, showing all of the following information as applicable to the particular application: (*amended 10/31/94*)

- a. Property lines and streets adjoining the lot and the names of owners of property adjoining the lot;
- b. The location and exterior limits of the area to be excavated or graded;
- c. Existing contour lines on the lot to be excavated or graded, drawn to a scale of not less than 100 feet to the inch and with a contour interval not exceeding five feet;
- d. Proposed contour lines within the area to be excavated or graded, drawn to a scale of not less than 100 feet to the inch and with a contour interval not exceeding five feet;
- e. Existing and proposed drainage on the lot and existing rivers, streams, watercourses, ponds and swamps on or within 200 feet of the lot;
- f. Proposed vehicular access to the lot and any proposed roadways;
- g. The location on the lot of any wooded areas, rock outcrops and existing and proposed buildings, structures and processing equipment; and,
- h. An estimate of the number of cubic yards of material to be excavated, graded or removed.

75.3.3 Other: The Planning & Zoning Commission may request the submission of such additional information that it deems necessary in order to decide on the application.

75.3.3 Fee: All applications shall be accompanied by a fee as required.

75.4 PROCEDURE: Upon receipt of a completed application, the Town Planner shall transmit the application to the Planning & Zoning Commission, which shall hold a public hearing on the application within sixty-five (65) days after receipt as required by law. The applicant shall post on the property in question a notice of the hearing in conformance with Section 72.2. Within sixty-five (65) days of the public hearing, the Planning & Zoning Commission approves, modify and approve or disapprove the Special Permit (*amended 10/31/94*) application. The applicant may consent in writing to any extension of the time of public hearing and action on the application. The reasons for the action of the Commission on the application shall be stated in the records of the Commission. Failure to submit additional information requested by the Commission under Paragraph 75.3.3, within the period for action on the application, shall be grounds for disapproval of the application. (*amended 02/11/86*)

75.5 APPROVAL: After the public hearing, the Planning & Zoning Commission may grant a Special Permit (*amended 10/31/94*) to permit the excavation, grading or removal if it shall find that the following standards and conditions will be met:

75.5.1 The excavation, grading or removal shall be carried out in accordance with the maps and plans as approved by the Planning & Zoning Commission and within the exterior limits shown thereon.

- 75.5.2 The excavation, grading or removal shall not result in sharp declivity, pits or depressions or soil erosion, drainage or sewage problems or conditions which would impair the reasonable reuse and development of the lot for purposes permitted under these Regulations in the District where the lot is located.
- 75.5.3 At all stages of the work, proper drainage shall be provided to avoid stagnant water, soil erosion problems, excessive run-off, silting of streams and damage to public property, streets or drainage facilities.
- 75.5.4 Truck access to the lot and the work area shall be so arranged as to minimize traffic hazards on streets and to avoid nuisance to residents of the neighborhood.
- 75.5.5 No excavation, grading or removal which is above or (*amended 10/31/94*) below the elevation of any abutting street or property line shall occur within 100 feet of such line, except that excavation, grading or removal within such distance and below the elevation of an abutting property line may be permitted if written approval from the adjoining owner is received by the Planning & Zoning Commission.
- 75.5.6 Processing of materials, subject to screening, sifting, washing or crushing shall be subject to approval by the Commission based upon the suitability of the site characteristics, and the effect on surrounding properties. (*amended 05/17/98*) All processing machinery located in other than an Industrial District shall be removed from the lot upon termination of the Special Permit (*amended 10/31/94*) or the end of the operation.
- 75.5.7 No building or other structure shall be erected on the lot except as may be otherwise permitted in the District or, as approved by the Planning & Zoning Commission, as a temporary shelter for equipment and field office. Where fueling of vehicles will be performed on site, a fuel pad shall be designed and installed in order to capture and prevent any fuel spillage from contaminating the ground water. (*amended 10/31/94*)
- 75.5.8 The work shall be limited to the hours and days of the week that may be approved by the Planning & Zoning Commission in order to avoid nuisance to residents of the neighborhood.
- 75.5.9 Proper measures shall be taken to minimize nuisance from noise, dust, vibration and flying debris, and suitable fences or other barricades shall be provided around the excavation to protect pedestrians and vehicles to the satisfaction of the Planning & Zoning Commission.
- 75.5.10 Upon completion of the work authorized, the area of excavated or otherwise disturbed ground shall be prepared or restored as follows:
- a. Such area shall be evenly graded to slopes not exceeding one foot of rise or three feet of horizontal distance or to such lesser slope necessary for soil stability, safety and reasonable reuse and development of the lot; in addition, the area shall be evenly graded with sufficient slopes to assure adequate drainage of the area, so that stagnant pools of water will be avoided;
  - b. Adequate drain-ways of gradual slope shall be provided to assure drainage; There shall be no excavation, grading or removal below an elevation of six (6) feet above any ledge;

(continued next page)

*(continued from Section 75.5.10)*

- c. All debris and all loose boulders shall be buried or removed from the lot;
  - d. The top layer of any arable soil, to a depth of not less than four inches, shall be retained on the lot and spread over the entire disturbed area with any large stones removed, and the area shall then be seeded with a perennial grass and maintained until the ground shall be completely stabilized with a dense cover of grass and there exists no danger of erosion, but this provision shall not apply to the area of ponds nor to exposed areas of ledge existing prior to the work.
- 75.5.11 **Bonding:** For any permit (*amended 05/17/98*) approved, the applicant shall file with the Planning & Zoning Commission a cash, saving account or surety bond, in form acceptable to the Commission, an amount of \$500 per acre of disturbed area, or in such amount as the Commission deems sufficient to insure the faithful performance of the work in accordance with the provisions of this Section.
- 75.5.12 The Planning & Zoning Commission and the Zoning Enforcement Officer, or their authorized agents, shall at all times have reasonable access to the lot for the purpose of inspection and determination of compliance with this Section; the Planning & Zoning Commission may require the applicant to submit periodic reports, prepared by and bearing the seal of a land surveyor or engineer, showing the status and progress of the work
- 75.6 **TIME LIMIT:** Each Special Permit (*amended 10/31/94*) granted under this Section shall be valid for a period of two years or for such shorter period as may be requested by the applicant or fixed by the Planning & Zoning Commission; the Commission may by resolution renew the Special Permit annually for a total period not to exceed five years when the applicant presents copies of the approved maps and plans, prepared by and bearing the seal of a professional engineer or land surveyor, showing that the excavation, grading or removal is progressing as approved.
- 75.7 **INSPECTION FEE:** At the time of issuance of a Certificate of Zoning Compliance granted under this Section, the applicant shall pay an inspection fee as required by adopted fee schedule. (*amended 05/17/98*)
- 75.8 **RETURN OF BOND:** Upon completion of the excavation, grading or removal in accordance with the terms of the permit (*amended 05/17/98*) and after any of the lot required to be seeded has grown in a second growing season a dense cover of grass as required under this Section, the applicant may apply to the Planning & Zoning Commission for return of the bond filed as provided in this Section, and if the Planning & Zoning Commission is satisfied that the work has been completed as required, the bond shall be returned to the applicant, but otherwise the bond shall remain in full force and effect.
- 75.9 **MUNICIPAL OPERATIONS:** Upon written request by the Board of Selectmen of the Town of Windham, the Planning & Zoning Commission may by resolution waive the application requirements of Paragraph 75.3, the procedure set forth in Paragraphs 75.4 and 75.5, the bond requirements of Paragraph 75.5.11 and the inspection fee required in Paragraph 75.8 in connection with excavation, grading or removal on any lot conducted solely by or on behalf of and for the municipal purposes of the Town of Windham. The excavation, grading or removal, however, shall meet all of the standards and conditions of Paragraphs 75.5.2 through 75.5.10.

## Section 76 - Mobile Home Parks

- 76.1 GENERAL: In accordance with the procedures, standards and conditions hereinafter specified, the Planning & Zoning Commission may grant a Special Exception for only the expansion of an existing mobile home park in a Commercial C-1 District or Industrial M-1 District. All requirements of this Section are in addition to other requirements applicable in the District in which the mobile home Park is to be located. *(revised June 23, 2011)*
- 76.2 APPLICATION: Application for a Special Exception under this Section shall be submitted in writing on the form provided to the Town Planner, (amended 02/11/86) including a copy of the application for a Certificate of Zoning Compliance and shall be accompanied by the following:
- 76.2.1 Park Plan: A plan of the mobile home park, drawn to a scale of not less than 100 feet to the inch, showing all of the following information, both existing and proposed, as applicable to the particular application: property lines and lines delimiting the land to be used under the application; contours or ground elevations; buildings, structures, signs and outdoor illumination facilities; mobile home plots and the identification number and area and dimensions of each; streets rights-of-way, driveway and off-street parking and loading spaces; recreation areas; water courses, storm drainage and sewage disposal and water supply facilities; and landscaping (including trees and/or shrubs, lawn and other landscape features and natural terrain not to be disturbed); four copies shall be submitted.
- 76.2.2 Architectural Plans: Architectural plans of all proposed buildings, structures and signs, which plans may be in preliminary form but shall include exterior elevation drawings, generalized floor plans and perspective drawings; four copies shall be submitted.
- 76.2.3 Other: The Planning & Zoning Commission, upon written request by the applicant, may by resolution waive the required submission of 76.2.1 and 76.2.2 if the Commission finds that the information is not necessary in order to decide on the application.  
The Commission may request the submission of such additional information that it deems necessary in order to decide on the application and may require that the park plan and/or architectural plans be prepared by a professional engineer, architect or landscape architect, whichever may be authorized by law and licensed to practice in the State of Connecticut.
- 76.2.4 Fee: An application fee shall be submitted as required by adopted fee schedule.
- 76.3 PROCEDURE: Upon receipt, the Town Planner shall determine that the application complies with the requirements of Section 76.5 as well as Section 62.2. A complete application will be transmitted to the Planning & Zoning Commission, which shall hold a public hearing within sixty-five (65) days of receipt as required by law. The applicant shall post on the property in question a notice of the hearing in conformance with Section 72.2. A copy of the application shall also be transmitted to the Windham Planning & Zoning Commission. Within sixty-five (65) days after the public hearing, the Commission shall approve, modify and approve or disapprove the Special Exception application. The applicant may consent in writing to any extension of the time for public hearing and action on the application. The reasons for the action of the Commission on the application shall be stated in the records of the Commission. Failure to submit additional information requested by the Commission under Paragraph 76.2.3 within the period for action on the application shall be grounds for disapproval of the application.

- 76.4 RESERVED – (*Referral to Planning Commission deleted 6-23-11*)
- 76.5 APPROVAL: After the public hearing, the Planning & Zoning Commission may grant a Special Exception to permit establishment of a mobile home park if it shall find that the proposed use and the proposed buildings and structures will conform to the General Standards for other Special Exceptions set forth in Paragraph 62.5 of Section 62 in addition to the following special standards:
- 76.5.1 Minimum Lot: Each new mobile home park shall be located on a lot having a minimum area of twenty-five (25) acres.
- 76.5.2 Minimum Plot: Each mobile home shall be located on a plot having an identification number and there shall be no more than one mobile home on each plot. Each such plot shall have a minimum area of 8,000 square feet, shall be of such shape that a rectangle fifty (50) feet on a right-of-way shown on the park plan.
- 76.5.3 Grading and Drainage: The mobile home park shall be located on a lot having suitable existing topography and/or proposed grading to allow reasonable and safe use of the park, to ensure adequate surface drainage and to avoid erosion and stagnant water.
- 76.5.4 Access: Suitable and safe access shall be provided to each mobile home plot by means of a right-of-way having a width of forty (40) feet or more and improved with a travel way twenty-six (26) feet in width, provided with curbs and graded sidewalk areas, six (6) feet in width, on each side, and otherwise meeting the specifications of the Windham Planning & Zoning Commission for local streets under the Subdivision Regulations of the Town of Windham. No mobile home plot shall have access on a public street or highway.
- 76.5.5 Parking: There shall be at least two parking spaces for each mobile home, and such space shall either be located on the mobile home plot or on a lot not more than 200 feet in a direct line from the plot.
- 76.5.6 Lighting: Street lights of not less than 2,000 lumens each shall be installed at intervals of not more than 300 feet apart along the right-of-way giving access to mobile home plots.
- 76.5.7 Electricity: Each mobile home park shall be provided with an approved electrical connection specifically metered.
- 76.5.8 Water and Sewer: Each mobile home plot shall be served by public water supply and sanitary sewers.
- 76.5.9 Recreation Area: The mobile home park shall be provided with a suitable, developed outdoor recreation area or areas having an aggregate area of not less than 500 square feet per mobile home plot, and each such area shall contain not less than 10,000 square feet. Such recreation area shall not extend within less than ten (10) feet of the right-of-way specified in Paragraph 76.5.4 nor within less than 100 feet of any street line or property line.
- 76.6 CONDITIONAL APPROVAL: Approval of an application for a Special Exception under this Section shall be subject to such time limits for the commencement or completion of the proposal or phases thereof, as set forth in Section 62 of these Regulations. Special Exceptions previously approved by the Commission may seek the approval of phasing or timing schedules, in accordance with this Section 76.6 in connection with any modification or renewal of such Special Exceptions. All Special Exceptions may be granted subject to appropriate conditions and safeguards necessary to conserve the public health, safety, convenience, welfare and property values in the neighborhood.

*(continued next page)*

*(Section 76.6 continued)*

Each Special Exception granted under this Section is automatically subject to the following conditions in addition to any other conditions that may be specified by the Commission.  
*(amended 05/14/95)*

- 76.6.1 Refuse: The storage, collection and disposal of refuse in the mobile home park shall be subject to the approval of the Director of Health of the Town of Windham and shall be so provided by the management of the park as to create no health hazards, rodent harborage, insect breeding areas, accident hazards or area pollution. At least one refuse can with a tight fitting cover shall be furnished by the management of the park each mobile home plot.
- 76.6.2 Spacing and Preparation: Each mobile home shall be parked on a mobile home plot in such manner as to have twenty (20) feet of clearance from any mobile home on any other plot. Each mobile home shall have the wheels removed and shall be skirted.
- 76.6.3 Maintenance of Access: The right-of-way and travel way giving access to each mobile home plot shall be maintained in good condition so as to provide suitable and safe access.
- 76.6.4 Records: The management of the mobile home park shall keep a written record, subject to the inspection at any reasonable time by the Zoning Enforcement Officer, which shall contain all of the following: The date of arrival of each mobile home; the State and license number of the automobile or vehicle and that of the mobile home; the name of the make, year, serial number and length of the mobile home; and the identification number of the plot where the mobile home is parked.
- 76.6.5 Taxation Information: On or before November 1 of each year, the management of the mobile home park shall provide to the Board of Assessors of the Town of Windham a copy of all of the records specified in Paragraph 76.6.4 and pertaining to all mobile homes in the park on the preceding October 1. Said records shall be sworn to by the duly authorized representative of the management.
- 76.6.6 Method of Departure: The management of the mobile home park shall require each person, whose mobile home was parked or stationed in the park on October 1 of any year, to present or show a receipted tax bill from the Tax Collector of the Town of Windham for taxes to the Town, prior to departure.
- 76.6.7 Renewal: Each Special Exception under this Section shall be granted for a period of one year and shall thereafter be renewed each year by resolution of the Planning & Zoning Commission: a) upon payment of a renewal fee as required by adoption fee schedules by the management; and, b) upon finding by the Commission that the mobile home park has been developed and is being used and occupied in accordance with plans as approved and conditions specified.
- 76.7 EXISTING PARKS: Any mobile home park existing on the effective date of this Section and authorized under the Ordinances of the Town of Windham may continue even though a Special Exception therefore has not been obtained under this Section, provided that: a) a renewal fee as required by adopted fee schedules be paid to the Planning & Zoning Commission each year; and, b) the park is developed, used and occupied in accordance with the provisions of such Ordinances.
- 76.8 REVISIONS AND EXTENSIONS: Any revision of an approved Special Exception for a mobile home park and any extension of a mobile home park approved under this Section shall require submission of a Special Exception application as for the original application.

## Section 77 - Lighting Standards

**77.1. PURPOSE AND INTENT** (entire section added 8/22/13) The purpose of this Section is to:

- Provide specific standards in regard to lighting, in order to maximize the effectiveness of site lighting to enhance public safety and welfare, to raise public awareness of energy conservation, to avoid unnecessary upward illumination and illumination of adjacent properties, and to reduce glare.
- All business, residential, and community roadways, sidewalks and town property luminaires should be planned and installed with the idea of being a good neighbor by keeping unnecessary direct light from shining onto abutting properties or roadways, both public and private.

### **77.2. LIGHTING RELATED DEFINITIONS**

**Full Cut-Off Type Fixture:** A luminaire or light fixture that; by design of the housing, does not allow any light dispersion or direct glare to shine above a 90 degree horizontal plane from the base, or the purpose of the design is defeated, and disability glare will result.

**Fully Shielded Lights:** Fully shielded luminaire light fixtures allow you to control the glare in any direction.

**Glare:** Light emitting from a luminaire with intensity great enough to reduce a viewer's ability to see, and in extreme cases causing momentary blindness.

**Height of Luminaires:** The height of luminaires shall be the vertical distance from the ground directly below the centerline of the luminaire to the lowest direct-light-emitting part of the luminaire.

**Isodiagram:** An isodiagram is a graphical representation of points of equal illuminance drawn as single line circular patterns or computer generated spot readings in a grid pattern on a site plan. Lighting designers and manufacturers generate these diagrams to show the level and evenness of a lighting design and to show how light fixtures will perform on a given site.

**Lamp:** The light source component of luminaires that produces the actual light.

**Light, Direct:** light emitted directly from the lamp, off of the reflector or reflector diffuser, or through the refractor or diffuser lens, of a luminaire.

**Light, Indirect:** Direct light that has been reflected or has scattered off of other surfaces.

**Lumen/Foot-candle:** One-foot candle is one lumen per square foot. For the purposes of this regulation, the lumen-output values shall be the initial lumen output ratings of a lamp.

**Luminaire:** The lamp, housing, electrical components and support structure.

**Outdoor Lighting:** The night-time illumination of an outside area or object by any manmade device located outdoors that produces light by any means.

**Uplighting:** Any light source that distributes illumination above a 90 degree horizontal plane.

**77.3. GENERAL STANDARDS** Except as provided in this Section, these regulations shall apply to any non-residential outdoor lighting installed, modified, refurbished, repaired or serviced within the Town. Properties with residential uses shall conceal the source of outdoor lighting (lamp or reflectors contained within the luminaire) so the source of the light is not visible from beyond the boundaries of the property on which they were installed.

**77.4. LIGHTING PLAN** All outside lighting and interior lighting visible outside for non-residential and multi-family uses will be subject to a Site Plan review, unless waived by the Commission or its Agent.

**77.4.1** The lighting plan shall:

- a.) Establish a hierarchy of site lighting to provide safety and security throughout the project and complements the buildings, pedestrian amenities and site elements.
- b.) Select poles and fixtures at an appropriate scale for the buildings and surrounding spaces, and the human scale.
- c.) Coordinate the layout of fixtures with the landscaping plan to compliment the spacing and rhythm of plantings, especially large shade trees. Consider the growth pattern of trees and shrubs to avoid future dark areas and deep shadows.
- d.) Position and size fixtures to avoid spillover onto neighboring residential properties or glare on adjacent roadways.
- e.) Design the lighting plan so that all fixtures complement the architecture, landscaping and other elements of the site in terms of form, color and style.
- f.) Use luminaries, including decorative fixtures, classified by Illuminating Engineers Society of North America (IESNA) as full cut-off, preferably with metal halide lamps.
- g.) The plan shall detail
  - The location, height and type of any outdoor lighting luminaries, including building mounted,
  - The luminaire manufacturer's specification data, including lumen output and photometric data showing cutoff angles.
  - The type of lamp, for example metal halide, compact fluorescent, high pressure sodium,
- h.) An isodiagram may be required when more than four luminaries are proposed for the site to demonstrate compliance with c and d above.

**77.5. GENERAL REQUIREMENTS**

**77.5.1** All exterior lights and illuminated signs shall be designed, located, installed and directed in such a manner as to prevent light at, and glare beyond, the property lines and glare at any location on or off the property. *(continued next page)*

*(Section 77.5.1 continued)* The maintained horizontal illuminance recommendations set by the Illumination Engineering Society of North America (IES) shall be observed.

**77.5.2** Unless otherwise specifically approved by the Commission, based on the lighting engineer's recommendations and adequate screening, direct surface illumination levels shall not exceed the following values as measured by standard light meter in foot candles (lumens/square foot):

	MAXIMUM LUMENS/ SQUARE FOOT
Residential use, parking lot	10
Non-residential use, parking & pedestrian walk	20
Outdoor recreation courts and fields	100
Sign, indirectly illuminated	50
Commercial site, activity area	40

**77.5.3** All lighting for parking, streets, roads and pedestrian areas will be full cut-off type fixtures.

**77.5.4** Lighting for display, building, security and aesthetics shall be from the top and shine downward, not uplighted, except as otherwise approved by the Commission or its Agent. The lighting must be shielded to prevent direct glare and/or light trespass and must also be, as much as physically possible, contained to the target area.

**77.5.5** Floodlighting of a general area is prohibited.

**77.5.6** Adjacent to residential property and in all residential zones, no direct light source will be visible at the property line at ground level or above.

**77.5.7** Gasoline Service Stations. Maintained illumination recommendations set by the Illuminating Engineering Society of North America will be observed and not exceeded. All area lighting shall be full cutoff. Lighting under canopy shall be recessed so that the lens is recessed or flush with the bottom surface, to reduce off-site glare for roadways.

**77.5.8** Outdoor playing areas. Where playing fields or other special activity areas are to be illuminated, lighting fixtures shall be specified, mounted and aimed so that their beams fall within the primary playing area and immediate surroundings, and so that no direct illumination is directed off the site.

- 77.5.9** Employ soft, transitional light levels, which are consistent from area to area. Minimize contrast between light sources, lit areas and dark surroundings.
- 77.5.10** In all but the B-1 District, illuminated signs shall be reduced to at least 50% illumination within 30 minutes after business closing. All non-essential lighting will be required to be turned off within 30 minutes of business closing, leaving only the necessary lighting for site security or motion or infrared sensor lighting is encouraged. (Non-essential can apply to outdoor display, aesthetic and sign lighting). The Commission may specify hours of lighting.
- 77.5.11** Lighting designed to highlight flagpoles shall be low level and targeted directly at the flag.
- 77.5.12** The height of luminaries, except streetlights in public right-of-ways, shall be the minimum height necessary to provide adequate illumination, but shall not exceed a height of 30 feet. Lights mounted on buildings shall be placed below the eave line, properly shielded, and directed downward at a maximum illumination angle of 45 degrees from vertical.
- 77.5.13** White and natural lighting shall be used. Colored lighting used as advertising is prohibited.
- 77.5.14** Interior lighting that directed so as to be visible from the exterior, including lighting in windows and doors, shall be subject to these regulations.
- 77.5.15** Any strobe, pulsing, motion or other flashing lighting used solely to draw attention is prohibited.
- 77.5.16** Traditional seasonal lighting and lighting used by Police, Fire Department, Emergency services or for public safety are exempt from these regulations.
- 77.6. SPECIAL CIRCUMSTANCES** The Planning & Zoning Commission may require a Special Permit modifying the requirements of this Section, provided it determines that such modification is consistent with the purpose of these regulations, in the following cases:
- 77.6.1** where an applicant can demonstrate, by means of a history of vandalism or other objective means, that an extraordinary need for security exists,
- 77.6.2** where an applicant can show that conditions hazardous to the public, such as steep embankments or stairs, may exist in traveled ways or areas;
- 77.6.3** where a minor change is proposed to an existing non-conforming lighting installation, such that it would be unreasonable to require replacement of the entire installation;
- 77.6.4** where special lighting is indicated for historic buildings;
- 77.6.5** where special consideration is given to maintain uniformity with similar uses in the immediate vicinity.
- 77.6.6** where ornamental uplighting of sculpture, buildings or landscape features will enhance the character of the area.

## Section 78 - Rear Lot Development

- 78.1 PURPOSE AND INTENT: A rear lot shall provide twice the minimum lot area as is required within the district in which the lot lies. *(Revised June 23, 2011)*
- 78.2 APPROVAL: Such lots may be permitted by the Planning & Zoning Commission in the course of review of a (re-) subdivision for not more than one third (1/3) of the lots, or by the Zoning Board of Appeals for an isolated parcel by Special Exception when the Planning & Zoning Commission would not otherwise exercise authority over the development. *(added 05/28/95)*
- 78.3 STANDARDS: The following standards are the criteria necessary for approval:
- 78.3.1 Except for the frontage requirement, a rear lot shall provide twice the minimum lot area as is required for lots of the Zoning District in which the lot is found, unless otherwise approved in a clustered development. *(amended 06/22/06)*
- 78.3.2 Such lot shall be accessible to a street by way of an access owned as part of the lot, or by a common driveway, and consisting of a strip of land not less than twenty-five (25) feet in width nor more than forty-nine (49) feet in width. The area of the access shall not be included in meeting the minimum. *(Effective 10/1/09)*
- 78.3.3 Such lot(s) shall have a deed restriction prohibiting the owner(s) from petitioning the Town for acceptance of the access road or lane for maintenance as a public street. *(amended 05/28/95)*
- 78.3.4 All principal buildings or other structures shall be placed at least fifty (50) feet from the property line, unless otherwise specified. *(Effective 10/1/09)*
- 78.3.5 No buildings, swimming pool, tennis court, or similar accessory use shall be located on such rear lot closer than seventy-five (75) feet to an existing residence on an adjoining lot.
- 78.3.6 Careful consideration shall be given to the location of a driveway where it intersects with a street and its proximity to other driveways on neighboring properties. Driveways shall be suitably designed to provide access and turn around for emergency vehicles at all times, as well as complying with the requirements under Section 74.8 for driveways with steep slopes. *(amended 05/28/95)*
- 78.3.7 For rear lots exceeding twice the area requirements of the zone in which the rear lot is located, no building permit shall be issued for more than one building in the original rear area until subdivision approval has been granted. *(Effective 10/1/09)*
- 78.3.8 Length of access way shall be limited to 1,000 feet. All access ways shall meet the driveway standards of the Windham Subdivision Regulations. *(Effective 10/1/09)*

## ARTICLE VIII

### Section 80 - Home Occupation

- 80.1 HOME OCCUPATIONS: No residential or customary structure shall be used for a home occupation as defined in Section 4 except in conformance with the following requirements. *(revised 6/23/11)*
- 80.2 PERMITTED USES: Any home occupation which is compatible with a residential area is permitted, provided that the use of the dwelling is not substantially altered to make it impractical to use the structure as a dwelling. Where no measurable increase in traffic is generated to the home and there is no other noticeable effect or storage of hazardous materials, the use is authorized by the issuance of a permit from the Zoning Enforcement Officer. These uses may include but are not limited to the following: artist studio, barber or hair dresser, tailor or dressmaker, home based teaching limited to not more than six (6) children or students, tool sharpening, home office, or cabinet maker. Hobbyists do not need a permit, provided their hobby has no noticeable effect. *(amended 06/10/96)*
- 80.3 REQUIREMENTS: Unless otherwise specified, the requirements for home occupation shall be as follows:
- 80.3.1 The home occupation shall be conducted wholly within the dwelling or a customary accessory building to such residence building. *(revised 6/23/11)*
- 80.3.2 The total area devoted to the home occupation shall not exceed one quarter of the livable floor area of the dwelling. *(revised 6/23/11)*
- 80.3.3 No more than one non-resident person shall be employed. *(amended 06/10/96)*
- 80.3.4 No exterior storage of materials or other indication of the home occupation or variation from the residential character of the residence dwelling or the lot shall be permitted.
- 80.3.5 No offensive noise, vibration, smoke, dust, odors, heat or glare shall be produced; no health or safety hazard shall be created; no interference with radio or television reception in the neighbor-hood shall be produced.
- 80.3.6 Parking adequate to meet the needs of the proposed home occupation shall be provided per Section 71 of these regulations. *(revised 6/23/11)*
- 80.4 CERTIFICATE OF ZONING COMPLIANCE: A home occupation Certificate of Zoning Compliance, issued by the Zoning Enforcement Officer, provided the requirements and intent of this Section is continually met. Such certificate shall not be transferable to any new owner of the property. *(amended 06/10/96)*
- 80.4.1 A home occupation certificate may be revoked if the following occurs:
- a. The use has clearly altered the residential character of the premises and neighborhood through the generation of traffic substantially in excess of that normally generated by a residential dwelling unit;
  - b. Changes in the lot or the occupied building have been made altering the residential character of same; or,
  - c. Other conditions prohibited in Subsection 80.3 above have been created.

- 80.5 The granting of a Certificate of Zoning Compliance for a home occupation shall not constitute the establishment of a legal non-conforming use.
- 80.6 PROHIBITED USES: A home occupation shall not be construed to include restaurants, or other eating and drinking places, automotive repairs, or any other use which would create conditions prohibited in Section 80.3 above. *(amended 06/10/96)*
- 80.7 SPECIAL EXCEPTIONS: *(entire Section amended 06/10/96)* For those home occupations which generate retail or delivery traffic and occupy up to one third of the floor area of the dwelling, a Special Exception shall be necessary from the Zoning Board of Appeals as outlined in Section 92 prior to conducting the home occupation. These uses may include but are not limited to the following:
- Workshops of skilled craftsmen or woodworking shops not employing more than four non-resident persons.
  - Sale of hand crafted items produced on the premises with limited display of merchandise.
  - Repair and/or sale of small retail goods.
  - Office of a physician.
- 80.8 RURAL HOME BASED BUSINESSES: *(entire Section amended 06/10/96)* In rural areas of the Town, the Planning & Zoning Commission may permit the use of a dwelling or accessory buildings for home based business as defined in these Regulations by Special Permit in accordance with Section 62 provided the proposed use is suitable and appropriate to the area in which the property is located, and does not have a detrimental effect on neighboring properties in terms of the character and intensity of use, traffic generation, lighting, noise, storage and the scale of the proposed use.

## SECTION 84 - Other Regulations Applicable To Specific Uses

SPECIAL STANDARDS: (added 9/25/12) The proposed use and the proposed buildings and structures shall also conform to the following special standards:

84.1 CHILD DAY CARE CENTERS/FACILITIES (Formerly 62.6.1-revised 09/27/12): Child day care centers/facilities shall conform to the following additional standards (amended 10/31/94):

- a. The use shall be limited to daytime group care programs for children.
- b. The application shall be accompanied by a report from the Director of Health of the Town attesting that the proposed location, site plan, buildings and facilities comply in all respects to applicable Town and State health laws and regulations and will be adequate, safe and suitable for intended use.
- c. The child day care centers/facilities shall be so situated and developed so as to create no nuisance and to avoid a detrimental effect on the privacy, tranquility or value of surrounding properties. (amended 10/31/94)
- d. In order to maintain an adequate buffer between the facility and adjacent property, the Commission may require a larger lot than the maximum required, restrict the number of children served by the facility, restrict its hours of operation, require the construction of special screens and buffers, and/or prohibit the conduct of any activity on the exterior portions of the lot.

84.2 HOSPITALS AND HOMES (Formerly 62.6.2-revised 09/27/12): Hospitals, sanitarium and convalescent, nursing and rest homes shall conform to the following standards:

- a. The use shall be located on a lot having a minimum area of five acres, and there shall be no more than one patient bed for each 3,500 square feet of lot area. Except that any convalescent, nursing or rest home permitted to Districts R-4 and R-5 shall be located on a lot of at least one acre, and there shall be at least 2,000 square feet of lot area for each bed.
- b. The use shall be served by public water supply and sanitary sewers.
- c. The use shall comply in all respects to applicable laws and regulations of the State of Connecticut.
- d. The application shall be accompanied by a report from the Director of Health of the Town attesting to the adequacy of the proposed location, site plan, buildings and facilities for the intended use.
- e. The application shall be accompanied by a report from the Fire Marshal attesting as to the safety of the proposed location, site plan, buildings and facilities.

84.3 PUBLIC UTILITY SUBSTATIONS (Formerly 62.6.3-revised 09/27/12): Public utility substations shall conform to the following additional standards:

- a. There shall be no outside storage of materials or vehicles.
- b. Any buildings in connection with the use shall have a design which is in harmony with residential architecture in the neighborhood.

(continued next page)

*(Section 84.3 continued)*

- c. Any equipment or utility facilities not located in a building shall be enclosed on all sides by evergreen shrubs or trees or by buildings, fences, walls or embankments so as to be screened from view from any other lot or from any street.

84.4 ADULT USES*(Formerly 62.6.4-revised 09/27/12)*: In the development and execution of these Regulations, it is recognized that there are some uses, as defined in Section 4.2 as adult uses, which due to their very nature have serious objectionable operational characteristics in residential or commercial areas, particularly when they are in the immediate proximity to other adult uses, as the concentration of these uses, or their proximity to other uses of public assembly under certain circumstances could have a deleterious effect on adjacent areas. Special regulation of these adult uses is therefore necessary to insure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood. The Regulations are, therefore, adopted to protect retail trade, prevent crime, maintain property values, preserve the quality of neighborhood districts and life; address related concerns with littering, parking, traffic, and public indecency; to maintain the interest of persons in their property in a state of good repair, and to spend, patronize and trade in their community. Thus, a linear separation shall be required for each adult use as follows:

- a. An adult use shall be separated from another adult use, public library or museum facility by a distance of not less than 250 feet;
- b. An adult use shall be separated from the boundary of a residential district or residential use by not less than 250 feet; unless such adult use is within a shopping plaza, having a developed building of 100,000 square feet in size or larger, then the distance shall be measured from all entrances to the adult use;
- c. An adult use shall be separated from the premises of a school or educational facility, church or other recognized place of worship, public park or playground by a distance of 500 feet in the Willimantic Service District, and 1000 feet in the Windham Service District; and
- d. The method of measurement shall be determined by measuring along any street, or readily accessible means of public access from the nearest point of the entire premises of the adult use to the nearest part of the other specified uses.

84.5 VEHICLE WASHING FACILITIES*(Formerly 62.6.5-revised 09/27/12)*: Vehicle washing facilities shall conform to the following standards:

- a. General provisions available to all facilities *(amended 11/01/00)*:
  - 1. No facility shall be allowed to discharge directly into any storm water drainage collection system.
  - 2. Each facility shall either
    - (i) discharge its waste water effluent to a municipal waste water treatment facility, or (ii) incorporate into its design a water reclamation system, including a holding tank with an audio/visual alarm system to warn operating personnel of high level conditions requiring removal by proper means. In the event that a facility proposes to í *(continued next page)*

*(continued from Section 84.5 a 2ii)...* discharge its waste water effluent to a municipal waste water treatment plant, the applicant shall provide to the Windham Planning & Zoning Commission prior to the issuance of any Special Exception for a vehicle washing facility, verification that a municipal waste water treatment facility has agreed to accept the wash water effluent from the facility. *(amended 11/01/00)*

3. All facilities shall provide a safe and suitable means of ingress and egress, and maneuvering on site, including sufficient area on site for queuing of vehicles for peak periods of operation, and sufficient area for patrons to utilize self-service vacuum machines. Unless the facility provides an automatic drying machine, the vehicle washing facility shall provide an area for customers to dry and wipe down their vehicles prior to leaving the site. *(amended 11/01/00)*
4. The applicant for a vehicle washing facility shall demonstrate to the satisfaction of the Planning & Zoning Commission that mechanisms have been incorporated into the design of the facility to prevent an accumulation of water and wash residue on any street adjoining or to which the vehicle washing facility exists. The lot shall be so graded and drained as to dispose of all surface water accumulation within the area of the facility. If the vehicle washing facility does not contain a dryer unit, and/or a heated apron exiting the vehicle washing facility, a series of speed bumps or other mechanisms approved by the Commission shall be installed to ensure that wash water is shaken or otherwise removed from the vehicle before the vehicle enters a public highway. *(amended 11/01/00)*
5. Vacuum equipment and a cashiers booth (if any) may be located outside the principal structure, but must be on the same lot and within 500 feet of the facility. *(amended 11/01/00)*
6. All areas for the washing, drying, vacuuming and parking of vehicles shall be surfaced with bituminous cement or other properly bound pavement to provide a durable and dustless surface. *(added 11/01/00)*
7. Each vehicle washing facility shall be properly lighted. Such lighting shall be arranged to minimize glare on the site, and to reflect the light away from any public street or right of way, and away from any adjoining property. *(added 11/01/00)*
8. Every vehicle washing facility shall be screened from any adjacent residential property and/or residential zone by a suitable opaque fence (which shall bear no advertising) or a vegetative screen, not less than six (6) feet in height and providing year-round screening and to be maintained by the vehicle washing facility.
9. All washing facilities shall be enclosed in a permanent building constructed of masonry, porcelainized steel, or other material equal in durability and appearance. *(added 11/01/00)*

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*(continued from Section 84.5)*

10. Any trash or storage area shall be enclosed by a suitable opaque fence no less than six (6) feet in height. (added 11/01/00)
  11. The vehicle wash shall be equipped with a drain system in the vehicle wash exit driveway to maximize capture of water drip-off from washed vehicles. (added 11/01/00)
  12. Each vehicle washing facility shall provide an emergency bypass lane adjacent to the queuing area of sufficient width and location to allow queued vehicles to leave the queuing line and exit the vehicle washing facility site. (added 11/01/00)
  13. The facility shall be served by public water or the applicant shall demonstrate to the satisfaction of the Planning & Zoning Commission that the draw down from the proposed use will not adversely affect other wells located in the vicinity of the proposed facility. (added 11/01/00)
  14. The principal driveway entrance shall be located at least 150 feet from any intersection of public streets, and exits shall be at least forty (40) feet from the nearest intersection. Entrance and exit drives shall be placed on different streets when the property abuts on or has access to two or more streets. When the property does not abut on or have access to two or more streets, entrance and exit drives should be separated by a minimum distance of fifty (50) feet. (added 11/01/00)
- b. Additional performance standards to Semi-Automated Facilities *(amended 11/01/00)*
1. There shall be a minimum stacking area of 250 feet provided for queuing of waiting motor vehicles for each bay of a semi-automatic vehicle washing facility.
  2. If the semi-automatic facility is utilized as an accessory use to a convenience gasoline facility, the following additional conditions and standards shall apply:
    - i. The vehicle washing facility shall be limited to two bays with a maximum of four coin operated vacuums.
    - ii. There shall be sufficient unmarked stacking or queuing spaces for the vehicle washing facility, which do not interfere with on-site or off-site traffic flow. There shall be a sufficient length of driveway space between the vehicle wash exit and any point of internal traffic circulation on the premises to provide consistent traffic flow on the site.
- c. Additional performance standards applicable to Automatic Facilities: *(amended 11/01/00)*
1. A minimum stacking area of 500 feet shall be provided for queued vehicles for each bay.

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*(continued from Section 84.5 c)*

2. All automated facilities shall have a blower-dryer operation and shall include a sufficient residency time in the blower dryer cycle to remove water from the washed vehicle so that material amounts of drip-off will not be carried off of the vehicle washing facility site on vehicles exiting the vehicle wash.
3. At least one attendant shall be assigned to the control of each vehicle washing operation in order to ensure safe operation of the mechanism and to assist patrons during all hours of operation.
- d. Additional performance standards applicable to self-serve vehicle washing facilities:
  1. Minimum stacking area of 100 feet shall be provided for a self-serve vehicle washing facility.
  2. Each self-serve facility shall provide a minimum of two drying spaces for the drying of vehicles in an area convenient to the exit of each self-serve vehicle washing bay.
  3. Exit drives shall be designed to avoid the accumulation of water on the surface normally traversed by existing vehicles. The exit drive shall have a minimum length of 100 feet located past the vehicle washing facility or building, and shall incorporate two right angle turns (both left and right) along with speed bumps in order to shake the vehicle sufficiently to remove as much water as possible prior to exiting the site.

**84.6** COMMERCIAL RADIO AND TELEVISION TOWERS(Formerly 62.6.5-revised 09/27/12): Commercial radio and television towers (hereafter referred to simply as "tower" or "towers") may be permitted by a Special Permit as specified in these Regulations, provided that the following standards and conditions are met:

- a. Minimum Parcel Size: No tower shall be established on any lot less than two acres in size. In addition, any such lot shall be of such size and dimension that the distance between the tower base and property line shall be no less than one and one half (1 ½) times the tower height, such height measurement to include any antenna mounted upon the tower.
- b. Standards: In addition to the standards and criteria of Section 62, for Special Permit uses, the Commission shall evaluate the visual impact of the tower on historic or scenic vistas and natural features; the impact on property values on residential areas in the vicinity of the tower; the impact of the tower on migratory waterfowl flight patterns, and other wildlife impacts; the impact of tower lighting, with special attention to strobe lighting.
- c. Maximum Height: In no event shall any tower be greater than 250 feet in height.
- d. Other Permits: Prior to construction of any tower approved by the Commission, the proponent shall provide evidence that all necessary permits and approvals have been granted by the Federal Communications Commission, the Federal Aviation Agency, and such other State or Federal agencies which may have jurisdiction. (added 10/31/94)

**84.7 CLUSTERED MULTI-FAMILY DEVELOPMENT**(Formerly 62.6.8-revised 09/27/12): The Planning & Zoning Commission may approve a development for clustered multi-family or vertically attached development by Special Permit in accordance with these Regulations, where infra-structural support, and municipal services exist. Where the design is substantially different from abutting properties, the principal structures shall be setback a minimum of fifty (50) feet from the property lines. If the development is to be devised as a common interest community, copies of all condominium declarations shall be provided to the Commission for review. These provisions shall also apply to any conversion of an existing property to a common interest or cooperative housing community.

- a. **General Provisions:** The following general provisions shall be applicable in all applications of multi-family or vertically attached development:
- i. The minimum area necessary to qualify under this Section shall be five acres or ten (10) dwelling units; whichever is less, unless otherwise specified.
  - ii. All provisions of the Town's Subdivision Regulations and Public Improvement Specifications shall apply for the development of any and all streets, interior drives, water and sewer systems.
  - iii. **Open Space and Recreation:** A minimum of twenty (20) percent of the land shall be devoted to recreation and open space uses so located as to enhance the appearance of the development, protect important natural features and provide appropriate passive and active recreation for the residents. At least 300 square feet of such open space shall be devoted to appropriate recreational facilities per bedroom including but not limited to tennis courts, tot lots, playgrounds, swimming pools, ball fields, and/or indoor recreational use. The location and content of all open space and recreation facilities shall be subject to the approval of the Commission.
  - iv. **Buffers:** The Commission may require the provision of adequate buffers between all dwelling, parking and loading facilities, recreational facilities and uses on adjacent lots. Such buffered areas may be provided through existing vegetation, new landscaping, earth mounds or appropriate opaque fencing. The material used and its location shall be approved by the Commission.
  - v. **Density:** The maximum number of units permitted shall be limited as provided by the district in which the subject property is found.
  - vi. The minimum distance between any two buildings with abutting ends shall be thirty (30) feet where no windows are proposed; otherwise, there shall be fifty (50) feet.
  - vii. **Rubbish Disposal:** Each building shall be provided with an enclosed waste pen of sufficient size to accommodate all trash and recyclable waste stored on the premises. The waste pen and all utility areas shall be properly screened and buffered from all buildings and property lines. **Floor Area of Accessory Uses:** Permitted floor area for allowable accessory uses in multi-family and vertically attached developments shall not exceed twenty (20) percent of the floor area for residential uses as defined herein.

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(continued from Section 84.7 a – vii)... Customary uses accessory to residential dwellings such as laundry and drying facilities, refuse collection, lounges, rental offices, day care facilities, and minor retail stores limited to 2,500 square feet, etc., which are intended for the residents may be permitted. Where these uses are to be added after the original development is approved, the proposed use must be submitted to the Town in accordance with Section 61 for site plan review and approval, as required.

- viii. Walkways: Pedestrian walkways shall be provided for all dwellings to provide safe and convenient access. Pedestrian crossings at edges of the development shall be safely located, marked and controlled.
- ix. The height of buildings and structures shall be limited to a maximum of seventy (70) feet in Willimantic and forty (40) feet in Windham, excluding chimneys and HVAC equipment, etc.
- x. Each unit shall be designed so that natural light shall be provided for at least eight (8) percent of the net floor area, and so that natural ventilation shall be provided for at least four percent of the net floor area.
- xi. Dwelling Unit Size: Dwelling units containing three or more bedrooms shall be limited to no more than one such unit for every five units in a multi-family development. The minimum floor area for each unit shall be as follows:

<u>Unit Type</u>	<u>MIN. GROSS Floor Area</u>	<u>MIN. NET Floor Area</u>
Studio apartment	300 sq. ft.	225 sq. ft
Efficiency	400 sq. ft	300 sq. ft
One bedroom	500 sq. ft	400 sq. ft
Two bedroom	650 sq. ft	500 sq. ft
Three bedroom	800 sq. ft	650 sq. ft
Four bedroom	1000 sq. ft	750 sq. ft

(Note: The minimum net floor area generally excludes hallways, closets, utility rooms, bathrooms, lavatories, laundries, pantries, foyers, storage spaces and any area with less than five feet clear head room.)

- xii. Each building shall be provided with a loading area, which is within easy access to a staircase or an elevator for tenant use.

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Clustered Multi-Family Development *(continued from previous page)*

- b. Vertical Attachment: Where vertical attachment is proposed, each unit sharing a party wall shall be protected by a firewall of masonry construction.
  - i. When more than four units are attached, units shall be designed in a staggered or off-set alignment, in order to provide aesthetic relief and privacy to the units.
  - ii. Not more than twelve (12) units shall be vertically attached.
  - iii. Each unit shall have an exclusive yard space with a minimum area of 600 square feet.
  - iv. The minimum distance between two rows of buildings substantially parallel along their length shall be 100 feet apart.
  - v. The minimum floor area for each unit shall be as required for a single family home in the district.

## ARTICLE - IX

### Section 91 - Administration And Enforcement

- 91.1 ENFORCEMENT: The Town Planner or the Zoning Enforcement Officer shall have the responsibility and authority to enforce the provisions of these Regulations. No application for a Certificate of Zoning Compliance, order or other zoning enforcement document shall be issued unless signed by the Town Planner or the Zoning Enforcement Officer or a designated agent. *(Revised June 23, 2011)*
- 91.2 Application for CERTIFICATE OF ZONING COMPLIANCE: Application for a Certificate of Zoning Compliance shall be submitted to the Zoning Enforcement Officer prior to construction, reconstruction, extension, enlargement, moving or structural alteration of any building or other structure and prior to the use or occupancy of any land, building or other structure. The application shall be accompanied by a plan drawing or drawings in duplicate, drawn to scale, and showing the following:
- 91.2.1 Exact dimensions, area, radii and angles or bearings of the lot;
  - 91.2.2 The height, dimensions, use, floor area, ground coverage and location of all buildings and other structures, whether existing or proposed;
  - 91.2.3 The location, area and dimensions of off-street parking and loading spaces, any barriers required in connection therewith and the means of access to such spaces; and,
  - 91.2.4 Such additional information as may be necessary to determine compliance with the provisions of these Regulations.
- In addition, the application shall be accompanied by other plans, drawings, data and statements necessary to determine compliance with the provisions of these Regulations. Application shall be made on forms provided by the Zoning Enforcement Officer.
- 91.3 INSPECTIONS: The Zoning Enforcement Officer is authorized to inspect or cause to be inspected any building, structure, or premises to determine compliance with these Regulations. No Certificate of Zoning Compliance shall be issued until the Zoning Enforcement Officer has inspected the building, structure or premises involved to determine that the use and/or the buildings or other structures conform to these Regulations.
- 91.4 APPROVAL and Issuance of Certificate of Zoning Compliance: After determination is made that an application for a Certification of Zoning Compliance is substantially complete and proper, the Town Planner/Zoning Enforcement Officer shall approve an application for a Certificate of Zoning Compliance to permit the construction, reconstruction, extension, enlargement, moving or structural alteration of a building or other structure and shall issue a Certificate of Zoning Compliance for the use or occupancy of any land, buildings or other structures when he determines that all requirements of these Regulations have been met. The Zoning Enforcement Officer shall have the authority to approve minor deviations to the regulations provided that these deviations do not have a substantial effect on neighboring properties and will result in harmonious compatibility with neighboring properties. The Town Planner/Zoning Enforcement Officer shall approve or disapprove *(continued next page)*

*(Section 91.4 continued)* í an application or issue or deny a Certificate within ten (10) days of a request by the applicant and notify the applicant of the action. The Town Planner/Zoning Enforcement Officer is authorized to issue a temporary Certificate of Zoning Compliance, having a duration of not more than six (6) months, for the temporary use of land, buildings, and other structures in the process of completion in conformity with these Regulations provided that a cash bond or other appropriate surety is posted to assure completion of the work involved for the approved plans. *(revised 6/23/11)*

- 91.5 ORDERS: The Zoning Enforcement Officer is empowered to cause any land, building, structure or premises to be inspected and examined in order to determine compliance with these Regulations. He may order in writing the removal or remediation *(amended 10/31/94)* of any condition found to exist in violation of these Regulations.
- 91.6 ADMINISTRATIVE REGULATIONS: The Planning & Zoning Commission may adopt administrative rules and procedures necessary to enforce these Regulations. In the absence of a demonstration of a material change of circumstances of the application, the Commission may decline to consider an application for Special Exception or site plan review seeking the same or substantially the same approval within 365 days of the date of denial of the previous application. *(Revised June 23, 2011)*
- 91.7 FEES: Each application for a Certificate of Zoning Compliance shall be accompanied by an application fee established by Ordinance. Duplicate copies of a Certificate of Zoning Compliance may be issued for a fee established by Ordinance.
- 91.8 SITE PLANS, SPECIAL PERMITS, SPECIAL EXCEPTIONS, VARIANCES: Any maps, plans, documents, statements and stipulations submitted to and approved by the Planning & Zoning Commission or Board of Appeals in connection with a Special Permit or *(amended 10/31/94)* Special Exception application, site plan, variance or other action of such Commission or Board as required by these Regulations, and any conditions of such approval attached by the Commission or Board, shall be conditions for the approval of an application for a Certificate of Zoning Compliance by the Zoning Enforcement Officer.
- 91.9 RECORDS: The Zoning Enforcement Officer shall keep records of all applications and Certificates of Zoning Compliance, of all identifiable complaints of any violation of these Regulations, of all inspections made under these Regulations and of all notices of violation served by him and the action taken thereon.
- 91.10 VIOLATION OF APPROVAL  
Wherever the Zoning Agent and/or the Planning and Planning & Zoning Commission determines that the terms, conditions or restrictions upon which a site plan was approved have been violated, or that required site improvements have not been maintained, the Agent shall issue a violation notice to the subject property owner and any other persons, firms or corporations responsible. If the violation is not corrected within the time limits set by the Zoning Agent and/or Town Planner or the Planning & Zoning Commission, the Certificate of Zoning Compliance shall be revoked, and enforcement shall be pursued through the legal remedies provided by State Statutes *(added 6/23/11)*

## Section 92 - Zoning Board of Appeals

- 92.1 POWERS AND DUTIES: The Board is authorized to hear and decide appeals where it is alleged there is an error in any order, requirement or decision made by the official charged with enforcement of these Regulations; to authorize upon application in specific cases a variance from the terms of these Regulations where, owing to special conditions, a literal enforcement of the provisions of these Regulations would result in unnecessary hardship or an exceptional difficulty. Also, under special circumstances, the Board may grant approval upon application of Special Exceptions. Further, as provide by State Law, the Board is empowered to hear applications for the location of any business which sells or repairs motor vehicles, gasoline or bulk oil. *(amended 6/23/11)*
- 92.2 APPEALS: In reviewing any order, requirement or decision of the official charged with enforcement of the Zoning Regulations, the Board may reverse or affirm in whole or part, or modify any order, requirement, or decision from which such appeal is made. Further, the Board shall make such order, requirement, or decision as in its opinion should be made in the matter, and shall have all of the powers of the officer from whom the appeal shall be filed within thirty (30) days of the order or decision unless otherwise stated.
- 92.3 VARIANCE: A variance is not a personal exemption from the enforcement of the Zoning Regulations. It is the legal status granted to a certain parcel of realty without regard to ownership. Economic hardship of the individual such as financial loss or benefit is not a proper basis for a variance request. A variance from the terms of these Regulations shall not be granted by the Zoning Board of Appeals unless, and until, a written application for a variance is submitted in a form provided by the Board. The Board shall consider the following:
- a. That special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same district;
  - b. That literal interpretation of the provisions of these Regulations would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of these Regulations;
  - c. That the special conditions and circumstances do not result from self-created actions of the applicant. Where the condition is due to one's own voluntary act, the Board is without the power to grant a variance;
  - d. That granting the variance requested would not confer upon the applicant any special privilege that is denied by these Regulations, to other lands, structures or buildings in the same district; and,
  - e. That granting the variance will not be harmful to the neighborhood and does not affect substantially the Town's Plan of Development or the spirit and intent of the Zoning Regulations.
- 92.3.1 Findings and Conditions: In granting or denying an application for any variance, the Board: 1) shall grant the least variance required to relieve the undue hardship involved; and, 2) may impose conditions as are deemed necessary to maintain harmony with the neighborhood in accordance with the following criteria:

*(continued next page)*

*(Section 92.3.1 continued from previous page)*

- a. Ingress and egress to the lot and to existing or proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire, emergency or catastrophe
- b. Off-street parking and loading areas where required, with particular attention to the items in (a) above, and the effects on property values, noise, glare or odor on adjoining lots
- c. Trash, storage and delivery areas with particular reference to the items in (a) and (b) above.
- d. Utilities, potable water, sanitary facilities and storm drainage with reference to locations, availability and compatibility.
- e. Screening and buffering with reference to type, dimensions and character
- f. Materials to be used with respect to fire resistance and proximity to other buildings, and density of buildings in the neighborhood.
- g. Signs, if any, and exterior lighting with reference to brightness, glare, traffic safety, effect on property values, compatibility and harmony with other lots in the neighborhood.
- h. Require yards and other open space.
- i. General compatibility with lots in the same or abutting zoning districts.
- j. General compatibility with the Town Plan for land use..

92.4 SPECIAL EXCEPTIONS: *(entire Section revised 07/23/96)* The Zoning Board of Appeals is empowered to grant certain applications for Special Exception where specifically authorized, and to the extent permitted for certain uses of land, buildings or structures or other applications of property as provided in these Regulations. In granting or denying an application for any Special Exception, the Board shall specifically set forth the reasons for its decision in writing. In addition, the Board may modify the plan or proposal, and may impose such conditions as are deemed necessary to maintain harmony with the neighborhood so that neighboring properties shall not be substantially or permanently harmed. The Board shall act in an administrative capacity, and must determine whether the applicant's proposal satisfies the conditions set forth in these Regulations. The Board shall be guided by the following criteria:

- a. Adequate ingress and egress to the lot and to existing or proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire, emergency or catastrophe
- b. Adequate off-street parking and loading areas where required, with particular attention to the items in (a) above, and the effects on property values, noise, glare or odor on adjoining lots.
- c. Provision for trash, storage and delivery areas with particular reference to the items in (a) and (b) above.
- d. Adequate utilities, potable water, sanitary facilities, and storm drainage with reference to locations, availability and compatibility. *(continued next page)*

*(Section 92.4 continued from previous page)*

- e. Need and suitability of screening and buffering with reference to type dimensions and character.
- f. Appropriate materials to be used with respect to fire resistance and proximity to other buildings, and density of buildings in the neighborhood.
- g. Suitability of signs, if any, and exterior lighting with reference to brightness, glare, traffic safety, effect on property values, compatibility and harmony with other lots in the neighborhood.
- h. Required yards and other open space.
- i. General compatibility with lots in the same or abutting zoning districts.

92.5 RESERVED *(provision deleted 6/23/11 – to be consistent with CT State Law)*

92.6 PROCESS OF APPLICATION:

- a. Complete applications shall be filed with the Board in advance of the Board's regular meeting date. Applications shall be scheduled for a public hearing by the Board within sixty-five (65) days of receipt of the completed application.
- b. A public hearing shall be held on all applications before the Zoning Board of Appeals. All persons filing an appeal, variance, Special Exception, or certificate of approval request shall submit such application on forms provided by the Board. A fee shall be required upon application and as maybe specified by the Board of Selectmen.
- c. Four concurring votes of the Board shall be required for approval of any application before the Board. After the close of the public hearing, the Board shall render a decision within sixty-five (65) days, and said decision shall be published within fifteen (15) days, where upon a fifteen (15) day appeal period shall ensue.
- d. The approval shall become effective fifteen (15) days after the notice is published unless an appeal is filed with the court.
- e. Where an application is denied, an application requesting an identical action may not be considered for a period of twelve (12) months from the date of such denial

92.7 TIME LIMIT: After approval, the applicant shall have ninety (90) days to record the Notice of Action in the land records of the Town in the Town Clerk's Office. Failure to execute the approval plan within one year shall render the decision null and void, unless an extension is granted.

92.8 EXTENSION: Upon advance written notice by the applicant, the Board may grant up to two extensions for twelve (12) month periods on an approved variance, Special Exception, or motor vehicle location permit application by a simple vote provided no changes are involved (other than to make the plan more conforming with the Regulations for a variance).

92.9 AMENDMENTS: Amendments to an approved plan shall require review and approval by the Board as for a new application (unless to make the proposal more conforming to the Regulations for a variance).

## Section 93 ó Zoning Amendments

- 93.1 These Regulations, including the zoning map which is a part hereof, may be established, amended or repealed by the Planning & Zoning Commission on its own initiative or on petition. Any amendments may be adopted only after due notice and public hearing as required for adoption of these Regulations. Any petition for amendment shall be accompanied by the following *(Revised June 23, 2011)*:
- 93.1.1 For petitions concerning the text of these Regulations, sufficient copies of the existing and proposed text shall be submitted.
- 93.1.2 For petitions concerning the zoning map, two copies of a map, drawn to a scale of not less than 200 feet to the inch, covering the area of the proposed change and all areas within 500 feet of the proposed change, and showing for such area the existing and proposed zoning district boundary lines, the existing property lines and names of the current property owners from the records of the Windham Board of Assessors.
- 93.1.3 A petition fee as established by ordinance.

## Section 94 ó Penalties

- 94.1 Any person, firm or corporation who shall violate any provision of these Regulations shall be subject to penalties as provided in the General Statutes of the State of Connecticut.

## Section 95 - Validity, Effective Date And Repeal

- 95.1 The invalidism of any section, paragraph or provision of these Regulations shall not invalidate any other section, paragraph or provision thereof.
- 95.2 These Regulations and any amendment thereto, shall be in full force and effect from the date established by the Planning & Zoning Commission in accordance with the General Statutes of the State of Connecticut. *(Revised June 23, 2011)*
- 95.3 The Zoning Regulations of the City of Willimantic adopted on November 17, 1942, and all amendments thereto, and the Zoning Regulations of the Town of Windham adopted on April 20, 1972, and all amendments thereto, are hereby amended by striking all their provisions and substituting the foregoing regulations in lieu thereof. This amendment and compilation of the Regulations of the Town of Windham and the former City of Willimantic shall preserve all lawful non-conforming uses as heretofore existed, but shall not create any new non-conforming uses by the mere adoption of these amendments which are merely designed to reorganize and integrate the existing Regulations. The repeal of the above Regulations and all amendments thereto shall not affect or impair any act done, offense committed or right accruing, accrued or acquired or any liability, penalty, forfeiture or punishment incurred prior to the time such repeal took effect, but the same may be enjoyed, asserted, enforced, prosecuted or inflicted as fully and to the same extent as if such repeal had not been effected.