

SECTION 300 – DEFINITIONS

In this chapter, the following terms shall have the following meaning unless a contrary meaning is required by the text or is specifically prescribed. In addition to the following definitions, performance standards regulating specified land uses should be reviewed in the, “District Standards,” for each zoning district (*Sec. 400*) and the, “Performance Standards,” (*Sec. 500*) that apply to all zoning districts in the Town.

Abutting Land. A lot of land currently listed by the Windham Tax Assessor having a common border with, or being separated from such a common border by a right-of-way or easement, another lot of land currently listed by the Windham Tax Assessor. For the purposes of this Ordinance, the owners of properties shall be considered to be those parties currently listed by the Windham Tax Assessor against whom taxes are assessed.

Accessory Apartment. An independent dwelling unit that has been added onto, or created within, a single-family detached dwelling or accessory building to a single-family detached dwelling.

Accessory Building. See definition of, “Building, Accessory.”

Accessory Use. See definition of, “Use, Accessory.”

Adult Amusement Device. Any device capable of showing by audio or visual reproduction, projection or otherwise, and used primarily to display materials containing details, descriptions or narrative accounts of acts of sexual stimulation, intercourse or deviation, the dominant theme of which is an appeal to the prurient interest of the listener or viewer within a cubicle or other enclosed area.

Adult Business Establishment. Any retail business, including but not limited to any bookstore, newsstand, novelty store, night club, bar, cabaret, amusement arcade or theater which:

- Keeps for public patronage or permits or allows the operation of any adult amusement device as defined in this section;
- Customarily exhibits motion pictures or displays any other visual representation described or advertised as being X-rated or for adults only or which customarily excludes persons from any portion of the premises by reason of immaturity of age by the use of such or similar phrases;
- Maintains a substantial inventory of sexually oriented or sexually explicit materials;
- Customarily provides entertainment primarily involved with the explicit depiction or description of sexual intercourse or sexual acts (as defined in Title 17-A M.R.S.A. § 251).

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

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

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

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

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

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

Arterial Street. See definition of, "Street Classification: Arterial Street"

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

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

Auction House. A place where objects or art, furniture, and other goods are offered for sale to persons who bid on the object in competition with each other.

Automobile Auction Facility. Any parcel of land, building or other premises, or portion thereof, which is used for the temporary storage of whole, wrecked automobiles that are offered for sale by an automobile auction business. This use does not include Automobile Graveyards, automobile recycling businesses or Junkyards, as defined according to 30-A M.R.S.A. §3752, of the Maine Revised Statutes, as amended from time to time.

Automobile Gas Station. Any building, land area, or other premises, or portion thereof, used for the retail dispensing or sales of vehicular fuels; and as an accessory use the sale of lubricants, tires, batteries, and similar vehicle accessories. The sale of additional items or services on the same site must also be allowed by the applicable zoning district(s). (*See definition of "Retail Store, Minimart"; "Automobile Repair Services, Minor"*)

Automobile Graveyard. An automobile graveyard shall be defined according to 30-A, M.R.S.A. § 3752, of the Maine Revised Statutes, as amended from time to time.

Automobile Repair Services. Establishments primarily engaged in the maintenance and repair of passenger vehicles, pickup trucks, all classes of commercial trucks and similar vehicles. The type of work typically provided includes, but is not limited to engine tune-ups and overhauls, transmission repairs, glass repair and replacement, oil changes, tire repairs and replacement, brake and muffler work, bodywork, painting and diagnostic tune-ups. (*See Sec. 500 Performance Standards*)(*See definition of "Small Engine Repair"*)

Automobile Sales. See "Retail Sales, Automobile Sales."

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

Bank. A bank or similar financial institution.

Backlot. See definition of, "Lot, Backlot"

Base Flood. The flood having a one-percent (1%) chance of being equaled or exceeded in any given year, commonly called the "one-hundred year flood."

Bed and Breakfast Inn. Overnight accommodations and a morning meal in a dwelling unit provided to transients for compensation. (*See Sec. 500 Performance Standards*).

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

Boarding Home for Sheltered Care. A group home for the sheltered care of persons with special needs, which, in addition to providing food and shelter, may also provide some combination of personal care, social or counseling services, and transportation. This definition does not include facilities for the treatment of substance abuse. (*See Sec. 500 Performance Standards*)

Buffer Strip. Open spaces, landscaped areas, fences, walls, berms, or any combination thereof used to physically separate or screen one use or property from another so as to visually shield or block noise, lights, or other nuisances.

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

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

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

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

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

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

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

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

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

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

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

Central Sewage System. A wastewater disposal system that receives wastewater from two (2) or more structures. (*See Sec. 500 Performance Standards*)

Child Care, Facility. A building in which a person maintains or otherwise carries out a regular program, for consideration, for any part of a day providing care and protection for children under thirteen (13) years of age. (*See Sec. 500 Performance Standards*)

Child Care, Family Home. A home used to provide child care in the resident's home on a regular basis, for consideration, for three (3) to twelve (12) children under thirteen (13) years of age who are not the children of the provider. (*See Sec. 500 Performance Standards*)

Clear Zone. The area adjacent to a street (measured from the edge of the travel lane) in which fixed objects or obstructions are not permitted. Fixed objects include, but are not limited to, trees, signs, utility poles, walls, boulders, and mailboxes. (*See Sec. 900 Subdivision Review*)

Club. A group organized for a common purpose, goal, interest, or activity, usually social, religious, cultural or educational in nature, usually characterized by certain membership qualifications, payment of fees and dues, regular meetings, a constitution, and by-laws.

Cluster Subdivision. A form of development that permits a reduction in lot area and bulk requirements, and the remaining land area is devoted to Open Space, active recreation, preservation of environmentally sensitive areas, or agriculture. (*See Sec. 400 Zoning Districts*) (*See Sec. 900 Subdivision Review*)

Collector Street. See definition of, "Street Classification: Collector Street"

Comprehensive Plan. A document or interrelated documents adopted by the Municipal Officers, containing the elements established under 30-A M.R.S.A. § 4326 sub-1 to 4, including the strategies for an implementation program which are consistent with the State goals and guidelines established under 30-A M.R.S.A. §4311 through § 4350.

Complete Substantial Construction. The completion of a portion of the improvements which represents no less than thirty (30) percent of the costs of the proposed improvements within a subdivision. If the subdivision is to consist of individual lots to be sold or leased by the subdivider, the cost of construction of buildings on those lots shall not be included. If the subdivision is a multifamily development, or if the applicant proposes to construct the buildings within the subdivision, the cost of building construction shall be included in the total costs of proposed improvements.

Conditional Use. A use which shall be authorized when all of the conditions of Section 516 and other applicable provisions of this Ordinance have been met. (*See “Conditional Use” in Sec. 500 Performance Standards*)

Contractor Services. A business engaged in the construction, renovation, maintenance or repair of residential or commercial buildings and structures, including building systems exterior to those buildings or structures. Such businesses include, but are not limited to plumbing, painting, building, well drilling, carpentry, masonry, electrical, roofing, heating, cooling and ventilation systems, and siding. This use includes indoor repair, maintenance, or storage of contractor’s vehicles, machinery, equipment or materials and space for the contractor’s business office. (*See Sec. 500 Performance Standards*)

Contractor Services, Landscaping. A business engaged in the decorative and functional alteration, planting and maintenance of residential and commercial grounds, including winter maintenance, like snow plowing and shoveling services. Such a business may engage in the installation and construction of underground improvements but only to the extent that such improvements (e.g., drainage or irrigation) are accessory to the principal business and are necessary to support or sustain the landscaped surface of the ground. (*See Sec. 500 Performance Standards*)

Contractor Storage Yard. A portion of a lot or parcel used for the outdoor storage of equipment, vehicles, machinery, or materials used by and accessory to onsite Contractor Services or Contractor Services, Landscaping, or Heavy Construction Services. (*See Sec. 500 Performance Standards*)

Construction Services, Heavy. A business engaged in the construction and maintenance of infrastructure, including road and utility construction or paving. This use is characterized by specialized heavy equipment, including graders, loaders, backhoes, dump trucks, cement mixers, etc. This use includes indoor repair, maintenance, or storage of contractor’s vehicles, machinery, equipment or materials and space for the contractor’s business office. (*See Sec. 500 Performance Standards*)

Heavy Construction Services, Major. A business with four (4) or more vehicles types that are classified by the Federal Highway Administration as Class 6-13 vehicles.

Heavy Construction Services, Minor. A business with three (3) or fewer vehicles types that are classified by the Federal Highway Administration as Class 6-13 vehicles.

Controlled Access Street. See definition of, “Street Classification: Controlled Access Street”

Convention Center. A building, or portion thereof, designed to accommodate 300 or more people in assembly. For the purposes of this Chapter, this definition does not include “Places of Worship.”

Corner Lot. See definition of, “Lot, Corner.”

Correctional Facility, Public. A publicly operated facility housing persons awaiting trial or persons serving a sentence after being found guilty of a criminal offense.

Curb Cut. The connection to a street, or opening along the curb line, at which point vehicles may enter or leave the roadway. (*See Sec. 500 Performance Standards*)

Daytime Hours. Those hours between 7:00 a.m. and 7:00 p.m.

Dead-End Street. See definition of, “Street Classification: Dead-End Street”

Demolition. The removal of part, or all, of a building or structure.

Developable Land. Parcels, lots or sites that meet the requirements of “Developable Land” in Section 500 Performance Standards.

Development. Any change of land use including but not limited to the construction of buildings, parking lots, streets or utilities or the filling or cutting of land areas, or the cutting of trees which is done as part of the site preparation. "Development" does not, however, include normal agricultural operations, e.g., cultivation of soil, the raising of livestock, or the erection of fences, nor does it include for the purpose of subdivision or site plan review, the erection of barns and other accessory farm buildings.

Distribution Center. An establishment in which a building is used for the receipt, storage, and distribution of goods, products, cargo, and materials, including transshipment by boat, rail, air, or motor vehicle. Included in this definition are the breakdown and/or consolidation of orders for shipment. However, the retail sale, assembly, or processing of goods, products, cargo, or materials are not considered part of the distribution process.

Drive-through Facility. Any portion of a structure from which business is transacted, or is capable of being transacted, directly with customers located in a motor vehicle during such business transactions. (*See Sec. 500 Performance Standards*)

Driveway. A route that provides access to no more than two (2) lots from either a public or private right-of-way. A driveway shall not be used to provide Frontage. (*See Sec. 300, Frontage*).

Dwelling. A structure, or portion thereof, that is used exclusively for human habitation.

Dwelling, Mixed Use. A building containing one (1) or more dwelling unit(s) and one (1) or more non-residential use(s) where residential uses are located above the first story of a building that contains a non-residential use on at-least the first story. (*See definition of, “Story”*)

Dwelling, Multifamily. A building containing three (3) or more dwelling units. A multifamily dwelling may be attached to a non-residential use.

Dwelling, Single-Family Detached. A freestanding building containing one (1) dwelling unit.

Dwelling, Two-Family. A building containing two (2) attached dwelling units. A two-family dwelling may, or may not, be attached to a non-residential use.

Dwelling Unit. One or more rooms, designed, occupied, or intended for occupancy as separate living quarters, with cooking, sleeping, and sanitary facilities provided within the dwelling unit for the exclusive use of a single family.

Engineer. A civil engineer licensed by the State of Maine.

Family. One (1) or more persons occupying a premise and living as a single housekeeping unit as distinguished from a group occupying a boardinghouse, lodging house, motel, or hotel as herein defined.

Fisheries, Significant. Areas identified by a government agency such as the Maine Department of Inland Fisheries and Wildlife, Atlantic Salmon Authority, or Maine Department of Marine Resources as having significant values as fisheries or any areas identified in the Town's Comprehensive Plan.

Fitness Center. An establishment that provides facilities for aerobic exercises, running and jogging, exercise equipment, game courts, swimming facilities, and saunas, showers, massage rooms, and lockers to members and their guests.

Flood Insurance Rate Map (FIRM). The official map on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the Town of Windham.

Forestry. The operation of timber tracts, tree farms, forest nurseries, the gathering of forest products, or the performance of forest services.

Frontage. The length of the front lot line measured at the street right-of-way. (*See "Developable Land" in Section 500 Performance Standards*)

Front Lot Line. See definition of, "Lot Line, Front."

Funeral Home. A building used for the preparation of the deceased for burial and the display of the deceased and rituals connected therewith before burial or cremation.

Golf Course. A tract of land laid out for at least nine (9) holes for playing the game of golf that may include a clubhouse, dining and snack bars, pro shop, and practice facilities.

Grade Plane. A reference plane representing the average of finished ground level adjoining the building at all exterior walls.

- Where the finished ground level slopes away from the exterior walls, the reference plane shall be established by one of the following:

- The lowest points within the area between the building and the lot line; or
- Where the lot line is more than six (6) feet from the building, the lowest points between the building and the lot line as measured at a point six (6) feet from the building.

Gross Floor Area (GFA). The sum of the gross horizontal areas of all enclosed stories of a building, including cellars, basements, mezzanines, penthouses, corridors, and lobbies from the exterior face of the exterior walls, or from the centerline of a common wall separating two buildings, but excluding any space with a floor-to-ceiling height of less than 6 feet 6 inches.

Groundwater Sensitive Area. An area that has been identified as being particularly vulnerable to the discharge of pollutants from on-site sewerage disposal systems due to its proximity to a ground water aquifer and/or a well head.

Hazardous Material. Hazardous material includes the following:

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

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

Home Occupation 1. An occupation or profession which is customarily carried on in a dwelling unit or in a building or other structure accessory to a dwelling unit and clearly incidental and secondary to the use of the dwelling unit for residential purposes. See "Home Occupation 1" in section 500 Performance Standards.

Home Occupation 2. An occupation or profession which is customarily carried on in a dwelling unit or in a building or other structure accessory to a dwelling unit and clearly incidental and secondary to the use of the dwelling unit for residential purposes. Home Occupation 2 uses must be approved by the Board of Appeals. (*See Sec. 500 Performance Standards*)

Hospital. An institution providing primary health services and medical or surgical care to persons, primarily inpatients, suffering from illness, disease, injury, deformity, and other abnormal physical or mental conditions and including as an integral part of the institution related

facilities, such as laboratories, outpatient facilities, training facilities, medical offices, and staff residences.

Hotel. A facility offering transient lodging accommodations to the general public for a fee. Hotels may include additional facilities and services, such as restaurants, meeting rooms, entertainment, personal services, and recreational facilities in those zoning districts in which these facilities are permitted. (*See Sec. 500 Performance Standards*)

Household Pets. Those animals normally considered as household companions, but not including horses, cows, sheep, goats, mink, swine, chickens, turkeys, or any animals raised for sale or for the sale of their products.

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. Examples include, but are not limited to, buildings, structures, pavement. Surfaces with a percolation rate faster than 120 minutes per inch shall not be considered impervious.

Impervious Area. The ratio of the horizontal area, of all impervious surfaces on a lot to the total lot area.

Industrial Hemp. Any variety of *Cannabis sativa* L. with a delta-9-tetrahydrocannabinol concentration that does not exceed 0.3% on a dry weight basis and that is grown or possessed by a licensed grower in compliance with state law. For the purposes of this ordinance the use is treated the same as “Agriculture” but shall also comply with the odor standards of Section 535.B.

Industrial or Commercial Street. See definition of, “Industrial or Commercial Street”

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 or, or manufacturing processes using flammable or explosive materials, or storage or manufacturing processes that potentially involve hazardous or commonly recognized offensive conditions. (*See definition of “Manufacturing”; and “Manufacturing, Hazardous”*)

Industry, Light. A use engaged in the manufacture, predominantly from previously prepared materials, or finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, incidental sales and incidental distribution of such products, but excluding basic industrial processing. (*See definition of “Manufacturing”*) (*See Sec. 500 Performance Standards*)

Junkyard. A yard, field or other outside area used to store, dismantle or otherwise handle:

- Discarded, worn-out or junked plumbing, heating supplies, electronic or industrial equipment, household appliances or furniture;
- Discarded, scrap and junked lumber; and

- Old or scrap copper, brass, rope, rags, batteries, paper trash, rubber debris, waste and all scrap iron, steel and other scrap ferrous or nonferrous material.

Kennel, Major. An establishment in which five (5) or more dogs, cats, or domesticated animals are boarded for a fee or compensation. (*See Sec. 500 Performance Standards*)

Kennel, Minor. An establishment in which four (4) or fewer dogs, cats, or domesticated animals are boarded for a fee or compensation. (*See Sec. 500 Performance Standards*)

Landscaped Buffer Strip. See definition of, “Buffer Strip, Landscaped.”

Landscaped Green Area. An area of land which is landscaped with a ground cover of bark mulch, grass or other natural green plant material and which is then covered with trees or shrubs for all or part of its area. For the purposes of this ordinance, the definition of a landscaped green area do not include materials such as concrete, asphalt, or hardscapes that have been painted green.

Legislative Body. The Town Council of Windham, Maine.

Level of Service. The operational or service level of transportation infrastructure as determined by the most current edition of the, “Highway Capacity Manual” published by the Transportation Research Board.

Loading Bay. An off-street space or berth used for the loading or unloading of cargo, products, or materials from vehicles.

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

Lot. A designated parcel, tract, or area of land established by plat, subdivision, or as otherwise permitted by law, to be separately owned, used, developed, or built upon.

Lot, Corner. A lot abutting on and at the intersection of two or more streets. (*See Sec. 500 Performance Standards*)

Lot, Developable. (*See definition of “Developable Land”*)

Lot, Interior. A lot other than a corner lot.

Lot, Through. A lot that fronts on two parallel streets or that fronts on two streets that do not intersect at the boundaries of the lot.

Lot Line. The boundary line of a lot.

Lot Line, Front. The lot line separating a lot from a street right-of-way or the portion of a lot that abuts a street right-of-way.

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

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

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

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

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

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

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

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

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

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

Marijuana Cultivation Facility. A facility used to purchase marijuana plants and seeds from other cultivation facilities; to cultivate, prepare and package adult use marijuana; to cultivate medical marijuana that exceeds 1,000 square feet floor area; to sell marijuana to products manufacturing facilities, stores and to other cultivation facilities; and to sell marijuana plants and seeds to other

cultivation facilities and immature marijuana plants and seedlings to marijuana stores. Cultivation facilities may be of the following types:

- (1) Tier 1 Marijuana Cultivation Facility. Not more than 500 square feet of plant canopy.
- (2) Tier 2 Marijuana Cultivation Facility. Not more than 2,000 square feet of plant canopy.
- (3) Tier 3 Marijuana Cultivation Facility. Not more than 7,000 square feet of plant canopy
- (4) Tier 4 Marijuana Cultivation Facility. Not more than 20,000 square feet of plant canopy

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

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

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

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

Medical Marijuana Registered Caregiver (Home Occupation). A person or an assistant of that person that provides care for a qualifying patient in accordance with state law and licensing and is registered with the state in accordance with state law and in accordance with the Home Occupation permitting and operational standards of this ordinance.

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

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

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

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

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

Municipal Officer. Any member of the Town Council of the Town of Windham.

Municipal Official. Any elected or appointed member of the Town of Windham.

Municipal Reviewing Authority. The board designated by either the State of Maine or this Ordinance to hear and decide upon specified applications.

Natural Areas and Natural Communities, Unique. Areas identified by a government agency such as the Maine Department of Conservation Natural Areas Program as having significant value as a natural area or any areas identified in the Town's Comprehensive Plan.

Net Residential Area or Acreage. The area of a parcel which is suitable for division as determined by the standards for "Net Residential Density" in Section 500.

Net Residential Density. The number of dwelling units per net residential acre.

Nonconforming Lot. A lot, the area, dimensions, or location of which was lawful prior to the adoption, revision, or amendment of the zoning ordinance but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of the zoning district.

Nonconforming Structure or Building. A structure or building, the size, dimensions, or location of which was lawful prior to the adoption, revision, or amendment of the zoning ordinance but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of the zoning ordinance.

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

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

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

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

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

Open Space. Land set aside for permanent protection from development within a Cluster Subdivision. Open Space uses may include passive and/or active use, including playfields and playgrounds, for preservation of environmentally sensitive areas, agriculture, forestry, or buffers.

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

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

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

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

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

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

Place of Worship. A church, synagogue, temple, mosque, or other facility that is used for prayer by persons of similar beliefs. This definition shall also include a special-purpose building that is architecturally designed and particularly adapted for the primary use of conducting formal religious services on a regular basis. Educational and child care activities that are conducted outside of the facility’s religious services or gatherings shall be defined separately in this Chapter.

Principal Use. See definition of, “Use, Principal.”

Private Road. See definition of, “Street Classification: Private Road.”

Private Way. See definition of, “Street Classification: Private Way.”

Public Building. (1) Any building used exclusively for public purposes by any department or branch of government; (2) buildings of an institutional nature and serving a public need, such as schools; libraries; museums; post offices; public safety, public works, and public utilities and services.

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

Public Utility Facility. Buildings, structures, or facilities, including switching stations, relating to the furnishing of utility services, such as electric, gas, telephone, water, and sewer to the public.

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

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

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

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

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

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

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

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

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

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

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

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

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

Retail Sales, Nursery. The growing, cultivation, storage, and sale of garden plants, flowers, trees, shrubs, and fertilizers, as well as the sale of garden tools and similar accessory and ancillary

products, to the general public. A nursery may also include a greenhouse structure in which plants, vegetables, and flowers are grown for sale.

Retail Sales, Outdoor. The display or sale of products and services outside of a building. This includes, but is not limited to, vehicles; garden supplies, flowers, shrubs, and other plant materials; boats and aircraft; farm equipment; motor homes; burial monuments; building and landscape materials; and lumber. This definition does not include yard sales conducted on residential properties. *(See Sec. 500 Performance Standards)*

Retirement Community. Any age restricted development, which may be in any housing form, including detached and attached units, apartments, and residences, offering private and semiprivate rooms. *(See Sec. 500 Performance Standards)*

Riding Stable. Any land or structure designed, intended or used for the keeping of horses or ponies for hire, either with or without instruction in riding.

Roadside Stand. A structure for the display and sale of agricultural products. *(See definition of, "Agriculture"; and standards for, "Agriculture" in Sec. 500 Performance Standards)*

Rockery (or "rockeries"). Rough rocks stacked in an "interlocking" pattern without concrete, mortar, or steel reinforcement. Neither mechanical nor physical connections are made between the individual rocks; "interlocking" is accomplished through proper rock layout, rock weight, and frictional interaction.

Rooming House. A building used for temporary occupancy of individuals who are lodged with or without meals and in which bathroom and kitchen facilities may be shared. *(See Sec. 500 Performance Standards)*

Sawmill, Permanent. A facility where logs are cut into boards or timbers; a mill or machine for sawing logs or producing firewood that is in operation on a permanent basis. *(See Sec. 500 Performance Standards)*

Sawmill, Temporary. A facility where logs are cut into boards or timbers, a mill or machine for sawing logs or producing firewood that is in operation for a cumulative duration of two (2) months or fewer in any twelve month period. This definition does not include the use of handheld chainsaws. *(See Sec. 500 Performance Standards)*

Self-Storage Facility. A building or group of buildings containing separate, individual, and private storage spaces of varying sizes available for lease or rent for varying periods of time. *(See definition of, "Warehousing, Public")*

Service Business. Establishments primarily engaged in providing assistance, as opposed to products, to individuals, business, industry, government, and other enterprises.

Service Business, Commercial. Establishments primarily engaged in providing services to business establishments on a fee or contract basis. This includes, but is not limited to,

advertising and mailing, building maintenance, employment services, management and consulting services, protective services, equipment rental and leasing.

Service Business, Personal. Establishments primarily engaged in providing services involving the care of a person or his or her personal goods or apparel. This includes, but is not limited to, laundry or dry cleaning services, beauty shops, barbershops, shoe repair, and clothing rental.

Setback. The distance between any structure and the nearest lot line or street.

Setback Line. That line that is the required minimum distance from any lot line and that establishes the area within which any structure may be erected or placed.

Setback, Rear. The distance between any structure and the rear lot line or street and measured perpendicular to the structure to the closest point of the rear lot line or street.

Setback, Required. The minimum distance between any structure and a lot line or street within which no structure is permitted to be located except as provided in this Ordinance.

Setback, Side. The distance between any structure and the side lot line or street and measured perpendicular from the side lot line or street to the closest point of the structure.

Sexually Explicit. The display or depiction of sex organs during actual or simulated sexual intercourse or sexual acts as defined in 17-A M.R.S.A. § 251.

Shipping Container. A free standing container typically assembled with steel and/or aluminum. The container typically does not have wheels, but rather, is transported via a flatbed truck, rail cars, or ship. The container is used for the transportation and/or storage of goods and materials. (*See Sec. 500 Performance Standards*)

Sidewalk. A paved way for pedestrian traffic which is constructed parallel to a road. (*See Sec. 900 Subdivision Review*)

Sign. A name, identification, description, emblem, trade name, trademark, display or illustration which is affixed to, painted or represented, directly or indirectly upon a building, structure, parcel or lot and which relates to an object, product, place, activity, person, institution, organization or business.

Slaughterhouse. A structure, building, or facility used to process live animals for human consumption.

Small Engine Repair. The maintenance and repair of engines or motors used for the following types of equipment: power tools, lawn mowers, snow blowers and wood splitters. Small engine repair shall not include the maintenance or repair of engines or motors used in passenger vehicles, all terrain vehicles (ATV's), mopeds, motorcycles and snowmobiles is prohibited.

Smokehouse. A structure, building, or facility used to process or cure animal meat or products through the use of smoke.

Story. That portion of a building included between the upper surface of a floor and the upper surface of the floor or roof next above.

Story, Basement. That portion of a building which is partly or completely below grade.

Story, First. The lowest story having its finished floor surface entirely above grade, except that a basement shall be considered the first story where the finished surface of the floor *above* the basement is:

- More than six (6) feet (1829 mm) above grade plane;
- More than six (6) feet (1829 mm) above the finished ground level for more than fifty (50) percent of the total building perimeter; or
- More than twelve (12) feet (3658 mm) above the finished ground level at any point.

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

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

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

Street Classification:

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

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

Controlled Access Street. A street which serves primarily as a major traffic way for travel within the Town between two arterial streets. For the purpose of this Ordinance, only the following roadway shall be classified as a Controlled Access Street: Manchester Drive. (*See Commercial I and Commercial II District Standards*) (*See "Controlled Access Street" in Sec. 500 Performance Standards*)

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

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

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

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

Local Street, Major. A street designed for public acceptance which complies in width and construction with the specifications in Section 911.M.5, Traffic Conditions and Streets, and has an estimated average daily traffic count of more than 400 vehicles per day.

Local Street, Minor. A street designed for public acceptance which complies in width and construction with the specifications in Section 911.M.5, Traffic Conditions and Streets, and has an estimated average daily traffic count of 400 or fewer vehicles per day.

Private Road, Major. A street constructed on or after October 22, 2009 that complies in width and construction with the specifications for private roads in Section 911.M.5, "Traffic Conditions and Streets," and serves more than ten (10) lots.

Private Road, Minor. A street constructed on or after October 22, 2009 that complies in width and construction with the specifications for private roads in Section 911.M.5, "Traffic Conditions and Streets," and serves ten (10) or fewer lots.

Private Way. A street that was constructed prior to October 22, 2009, that does not meet the specifications for private roads in Section 911.M.5 "Traffic Conditions and Streets," and that has not been accepted by the Town of Windham. Private ways do not include access ways typically referred to as tote roads or woods roads.

Public Street. Any street that complies in width and construction with the standards for public streets in Section 900 Subdivision Review, or a street meeting lesser standards that the Town of Windham agrees to accept. (*See Sec. 900 Subdivision Review*)

Structure. A combination of materials that form a construction for use, occupancy, or ornamentation whether installed on, above, or below the surface of land or water. For the purpose of this chapter, antennas shall be considered "structures"; however, fences, doghouses, tree houses designed for children's use, and bus shelters shall not be considered "structures."

Subdivision. A subdivision is a division of a tract or parcel of land as defined in 30-A, M.R.S.A. § 4401, as amended from time to time; provided, however, that the Town of Windham does hereby elect to count lots of 40 or more acres as lots for purposes of subdivision review.

Subdivision, Amended. The division of an existing subdivision or any change of to an approved subdivision that requires Planning Board approval.

Substantial Improvement. Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure either before the improvement or repair is started or, if the structure has been damaged and is being restored, before the damage occurred. For purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or structural part of the building commences, whether or not that alteration effects the external dimensions of the structure. The term does not, however, include any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions or for any alteration of a structure listed on the National Register of Historic Places or a State or Local Inventory of Historical Places.

Theater. A building, or part of a building, used to show motion pictures or for drama, dance, musical, or other live performances.

Truck Terminal. An area and building where trucks load and unload cargo and freight and where the cargo and freight may be broken down or aggregated into smaller or larger loads for transfer to other vehicles or modes of transportation.

Unfinished Area. The vertical interior of the exterior walls which, may include, rough wiring and rough plumbing, but no insulation, ceiling, inside partitions or heat.

Use. The purpose or activity for which land or structures are designed, arranged, or intended or for which land or structures are occupied or maintained.

Use, Accessory. A use customarily incidental and subordinate to the principal building or use and located on the same lot with such principal building or use. For the purposes of this ordinance, the following structures, either attached or detached to the primary use, shall be considered accessory uses: porches, garages, pools, and decks.

Use, Principal. The primary or predominant use of any lot or parcel.

Variance. Permission to depart from the literal requirements of the Land Use Ordinance. (*See Sec. 1100 Board of Appeals*)

Waiver. A relaxation of the terms of either Section 800 Site Plan Review or Section 900 Subdivision Review. (*See Sec. 800 Site Plan Review; See Sec. 900 Subdivision Review*)

Warehousing Private. A building used primarily for the storage of goods and materials by the owner of the goods or operated for a specific commercial establishment or group of establishments in a particular industrial field.

Warehousing, Public. A building or lot used primarily for the storage of goods and materials and available to the general public for a fee. This use definition includes self-storage facilities, as defined.

Water Body. (1) Any natural or artificial collection of water, whether permanent or temporary; (2) any body of water that meets the definition of “Water Body” in the Windham Shoreland Zoning Chapter. This definition does not include swimming pools (*See Chapter 199 Windham Shoreland Zoning*)

Wetland. (1) An area that is inundated or saturated by surface water or ground water at a frequency and duration sufficient to support – an that under normal circumstances does support – a prevalence of vegetation adapted for life in saturated soil conditions; (2) An area that meets the definition of a “Freshwater Wetland” in the Windham Shoreland Zoning Chapter. (*See Chapter 199 Windham Shoreland Zoning*)

Wildlife Habitat, Significant Wildlife Habitat. Areas identified by a government agency such as the Maine Department of Inland Fisheries and Wildlife as having significant value as habitat for animals or any areas identified in the Town’s Comprehensive Plan.

Wireless Telecommunications Tower and Facility. (1) A parcel of land containing a tower, sending and receiving antennas attached to the tower, and a prefabricated or modular structure or cabinets containing electronic equipment; (2) a Federal Communications Commission (FCC)-licensed facility, designed and used for the purpose of transmitting, receiving, and relaying voice and data signals from various wireless communication devices and equipment. For purposes of this Ordinance, amateur radio transmission facilities and facilities used exclusively for receive-only antennas are not classified as wireless telecommunications towers and facilities.

Yard. An open space that lies between the any structure and the nearest lot line.

Yard, Front. An open space extending the full width of the lot between any structure and the front lot line and measured perpendicular to the structure at the closest point to the front lot line..

Yard, Rear. A space extending across the full width of the lot between any structure and the rear lot line and measured perpendicular to the structure to the closest point of the rear lot line.

Yard, Required. The minimum open space between a lot line and the yard line within which no structure is permitted to be located except as provided in this Ordinance.

Yard, Side. A space extending from the front yard to the rear yard between any structure and the side lot line and measured perpendicular from the side lot line to the closest point of the structure.

Zone. A specifically delineated area or district in the Town within which uniform regulations and requirements govern the use, placement, spacing, and size of land and buildings.

Zoning. The delineation of districts and the establishment of regulations governing the use, placement, spacing, and size of land and buildings in the Town of Windham.

Zoning District. See definition of, “Zone.”

Section 300 Amendments

Order 10-075; Date 04-27-2010	Changes to Central Sewer System; Child Care Facility; Net Residential Density; and Dead End Streets
Order 10-164; Date 09-14-2010	Change to Outdoor Sales
Order 12-014; Date 02-14-2012	Change to Backlot
Order 12-148; Date 10-23-2012	Addition of Retirement Community
Order 12-149; Date 10-23-2012	Addition of Accessory Apartment
Order 14-164; Date 07-08-2014	Changes to Automobile Repair Services; Addition of Automobile Storage Lots
Order 14-387; Date 10-14-2014	Addition of Automobile Auction Facility
Order 14-463; Date 11-18-2014	Addition of Rockery
Order 14-491; Date 12-16-2014	Change to definition of Cluster Subdivision
Order 17-052; Date 03-28-2017	Change to definition of Accessory Apartment
Order 17-160; Date 09-12-2017	Addition of Marijuana; Retail Marijuana; Retail Marijuana Cultivation Facility; Retail Marijuana Establishment; Retail Marijuana Product; Retail Marijuana Products Manufacturing Facility; Retail Marijuana Social Club; Retail Marijuana Store; and Retail Marijuana Testing Facility.
Order 17-161; Date 10-10-2017	Change to Driveway; Arterial Street; Controlled Access Street; Local Street, Major; Private Road, Major; Addition of Local Street, Minor; Private Road, Minor; Deletion of Lot, Backlot; Lot, Frontage; Lot, Width; and Collector Street;
Order 18-099; Date 06-12-2018	Addition of Block; Other; and Street Classifications: Commercial Street, Curbed Lane, Residential Street
Order 18-257; Date 01-15-2019	Change to Open Space
Order 19-057; Date 06-11-2019	Deletion of Construction Services and Service Business, Landscaping; Addition of Contractor Services, Contractor Services Landscaping, Contractor Storage Yard, and Heavy Construction Services
Order 20-048; Date 05-26-2020	Change to Marijuana; Deletion of Retail Marijuana, Retail Marijuana Cultivation Facility, Retail Marijuana Establishment, Retail Marijuana Product; Retail Marijuana Products Manufacturing Facility, Retail Marijuana Social Club, Retail Marijuana Store, and Retail Marijuana Testing Facility; Addition of Adult Use Marijuana Store, Industrial Hemp, Marijuana Businesses, Marijuana Cultivation Facility, Marijuana Manufacturing Facility, Marijuana Testing Facility, Medical Marijuana Caregiver Retail Store, Medical Marijuana Registered Caregiver, and Medical Marijuana Registered Caregiver (Home Occupation).