Local Law No. 3 of 2026

ZONING LAW

of the Town of Windham, New York

Adopted by the Windham Town Board
in accordance with New York Consolidated Laws,
Town Law §266 and Municipal Home Rule Law §27
on June 11, 2026

TABLE OF CONTENTS

ARTICLE I – TITLE AND PURPOSE 1

§ 1-1 Title. 1
§ 1-2 Enactment. 1
§ 1-3 Purpose and Intent 1

ARTICLE II – TERMINOLOGY 2

§ 2-1 Word Usage 2
§ 2-2 Definitions 2

ARTICLE III – ZONING DISTRICTS & MAP 13

§ 3-1 Classification of Districts 13
§ 3-2 Statement of Purpose 13
§ 3-3 Zoning Map 14
§ 3-4 Interpretation of District Boundaries 14

ARTICLE IV – DISTRICT REGULATIONS 15

§ 4-1 General Provisions 15
§ 4-2 Use Regulations 15
§ 4-3 Area Regulations 17

ARTICLE V – SUPPLEMENTAL REGULATIONS APPLICABLE TO ALL DISTRICTS 18

§ 5-1 Special Use Permits 18
§ 5-2 Off-Street Parking and Loading Requirements 20
§ 5-3 Landscaping Standards 22
§ 5-4 Signage 23
§ 5-5 Architectural Review 27
§ 5-6 Ridgeline Protection Overlay District (RPOD) 30
§ 5-7 Fire Prevention and Protection 33

ARTICLE VI – SUPPLEMENTAL REGULATIONS APPLICABLE TO CERTAIN USES 35

§ 6-1 Accessory Dwelling Units (ADUs) 35
§ 6-2 Campgrounds and Use of Recreational Vehicles 36
§ 6-3 Conservation/Cluster Subdivisions 38
§ 6-4 Domestic Animals, Livestock and Poultry 40
§ 6-5 Outdoor Dining 42
§ 6-6 Outdoor Storage 43
§ 6-7 Portable Storage Containers 43
§ 6-8 Planned Resort Development 44
§ 6-9 Stripping of Land 47
§ 6-10 Wireless Telecommunications Towers and Facilities 48
§ 6-11 Solar Energy Systems 49
§ 6-12 Outdoor Lighting 49

ARTICLE VII - NONCONFORMING USES AND BUILDINGS..... 50

§ 7-1 Nonconforming Uses 50
§7-2 Nonconforming Buildings..... 50
§7-3 Existing Undersized Lots..... 50

ARTICLE VIII – SITE PLAN REVIEW PROCEDURES..... 51

§ 8-1 Purpose and Intent..... 51
§ 8-2 Applicability and Review Requirements. 51
§ 8-3 Site Plan Review 52
§ 8-4 Public Hearings & Planning Board Decision..... 55
§ 8-5 Performance Bond 57

ARTICLE IX - ADMINISTRATION AND ENFORCEMENT..... 58

§ 9-1 Enforcement..... 58
§ 9-2 Building Permits 58
§ 9-3 Certificate of Occupancy 59
§ 9-4 Violations & Penalties..... 59

ARTICLE X – ZONING BOARD OF APPEALS 60

§ 10-1 Creation, Appointment and Organization 60
§ 10-2 Powers & Duties 60

ARTICLE XI – PLANNING BOARD 63

§ 11-1 Creation, Appointment and Organization 63
§ 11-2 Powers & Duties 63

ARTICLE XII – AMENDMENTS..... 64

§ 12-1 Adoption of Amendments..... 64

ARTICLE XIII – INTERPRETATION & APPLICABILITY..... 65

§ 13-1 Interpretation..... 65
§ 13-2 Compliance with Other Regulations..... 65
§ 13-3 Illegality or Unconstitutionality..... 65
§ 13-4 Effective Date, Pending Applications and Prior Enactments..... 65

ARTICLE I – TITLE AND PURPOSE

§ 1-1 Title.

This local law shall be known and may be cited as the "Zoning Law of the Town of Windham, New York."

§ 1-2 Enactment.

The Town Board of the Town of Windham in the County of Greene, pursuant to New York State Town Law, hereby ordains, enacts and publishes this local law regulating and restricting the location, grouping, construction and use of buildings and structures, and the development and use of land in the Town of Windham, New York (hereinafter referred to as the "Town"). The local law is set forth in the following text, schedules and related maps and hereby constitutes the Zoning Law of the Town of Windham.

§ 1-3 Purpose and Intent.

This Zoning Law is adopted for the purposes set forth in the Municipal Home Rule Law of the State of New York, in accordance Article 16 and §264 of the Town Law of the State of New York. This law is specifically intended to implement the Town of Windham Comprehensive Plan, as may be amended from time to time. The Zoning Law is enacted for the protection of the health, safety and well-being of persons and property, and the protection and enhancement of the physical and visual environment, and shall be deemed to include the following purposes, among others:

A. To guide future development of the Town of Windham, foster an orderly pattern of growth, and prevent intrusion of incompatible uses;

B. To provide adequate light, air and privacy; to secure safety from fire, flood and other dangers; to prevent overcrowding or the overly intensive or inappropriate use of land; and to protect the quality of the physical environment;

C. To conserve the taxable value of land and buildings throughout the Town, and provide for the accommodation of new development in such a way as to create a harmonious appearance and enhance the desirable aesthetic qualities of the Town;

D. To encourage flexibility in the design and development of land in such a way as to facilitate the adequate and economical provisions of streets, utilities and parks, to preserve the natural and scenic qualities of open lands for public use and enjoyment, and to provide housing opportunities suitable to the varied needs of the population;

E. To preserve the integrity, stability and beauty of the community and the economic value of the land by means of the wise use and management of natural resources throughout the Town, including but not limited to scenic and historic resources, topographic features, wildlife habitats, surface waters and groundwater resources;

F. To prevent and reduce traffic congestion, and promote safe and efficient circulation of motorized and non-motorized vehicular traffic, and pedestrians;

ARTICLE II – TERMINOLOGY

§ 2-1 Word Usage

Except where specifically defined herein, all words used in this chapter shall carry their customary meanings. Unless the context clearly indicates to the contrary, words used in the present tense include the future, and the plural includes the singular. The word "person" shall be defined to include, but not be limited to, an individual, a partnership, a joint venture, a corporation, or any other form or entity. The word "lot" includes the word "plot"; the word "building" includes the word "structure"; the word "shall" is intended as mandatory; the word "requirements" means the minimum requirements necessary for the purposes set forth in Article I; and "occupied" or "used" shall be construed to include the words "intended," "arranged," or "designed to be occupied or used."

§ 2-2 Definitions

Unless otherwise expressly stated, the following terms shall have the meanings herein indicated:

ACCESS: An entranceway for vehicles to leave or enter a property or lot from a public or private road.

ACCESSORY: A term applied to a building or use clearly incidental or subordinate to and customarily in connection with the principal building or use on the same lot.

ACCESSORY DWELLING UNIT (ADU): A residential unit that is located on the same lot as a single-family dwelling unit, either internal to a single-family dwelling, attached to a single-family unit (such as in an addition) or in a detached structure (such as in a garage or separate accessory structure). The Accessory Dwelling Unit must be a complete housekeeping unit with a shared or separate entrance, kitchen, sleeping area, closet space, and bathroom facilities.

AGRIBUSINESS: A commercial business dealing with products or services required in agricultural operations (such as farm machinery sales), or the processing, production, and distribution of agricultural and/or forestry products.

AGRICULTURAL DISTRICT: That portion of the Town of Windham that is included in the New York State Certified Agricultural District established as per State Agriculture and Markets Law 25-aa.

ALTERATION: Any act or process which changes the arrangement in the structural parts of a building, enlarges or extends a building, or changes one or more of the exterior architectural features of a building.

ANTENNA: A rod, wire or other device used to transmit or receive WiFi, radio or television signals.

APPLICANT: The person(s), corporation, agency, or other legal entity responsible for submitting applications for review by the Planning Board, Zoning Board of Appeals, Town Board, or Code Enforcement Officer.

AREA OF DISTURBANCE: The total area of land that will be affected by construction activities including, but not limited to grading, excavation, demolition, storage areas, building locations, and where landscaping and other related work will take place and where soils are exposed or disturbed.

ART GALLERY: A building, place or area where paintings, sculptures or other works of art are exhibited or sold.

ARTISAN MANUFACTURING: The on-site manufacturing or production of goods primarily by hand, involving the use of hand tools and small-scale, light mechanical equipment, or the on-site production of food, beverages or value-added agricultural products. Typical uses include woodworking and cabinet shops, ceramic studios, jewelry manufacturing, or other small-scale operations with minimal external impacts on surrounding properties.

ARTIST'S STUDIO: A place of work for an artist, artisan, or craftsperson, including persons engaged in the application, teaching, or performance of fine arts including but not limited to writing, music,visual arts (drawing, painting, sculpture, etc.), or performing arts (acting, dancing, magic, etc.).

AQUIFER: An underground collection of potentially drinkable water.

ASSISTED LIVING: A facility that provides rooms, meals, personal care, and supervision of self-administered medication for people requiring assistance with daily living regardless of age. Such facilities may provide other services, such as recreational activities, financial services or transportation.

AUTOMOBILE REPAIR SHOP: A building or structure designed and used primarily for the repair or rebuilding of automobiles including general repair or maintenance, engine and transmission replacement, body and fender work, painting and upholstering service.

AUTOMOBILE SALES: The use of any building, land area or other premises principally for the display, sale, rental or lease of new or used automobiles, trucks, trailers, recreational vehicles or motorized construction equipment.

BEST MANAGEMENT PRACTICE: Accepted design, construction and management practices designed to protect the environment and minimize negative environmental impacts.

BIOSWALE: Vegetated, shallow, landscaped depressions designed to capture, treat, and infiltrate stormwater runoff.

BUFFER: An area of land within a property or site to allow adequate screening of view, noise or activity taking place within the property or site from adversely affecting an adjoining property or the general public. Buffers may include open spaces, landscaped areas, fences, walls, berms or any combination thereof.

BUILDING: Any structure having a roof supported by columns or walls and intended for the shelter, housing, or enclosure of any individual, animal, process, equipment, or materials of any kind. See also definition of "structure."

BUILDING ENVELOPE: The space within which a structure and its supporting infrastructure is permitted to be built on a lot and that includes the building, driveway, and any land disturbed for well and septic systems.

BUILDING, PRINCIPAL: A building in which the main or principal use of the lot is conducted.

BULK FUEL STORAGE: A facility where flammable fuels are stored, handled, or sold at wholesale or distributed to retail stations or for private use. This includes facilities that store gasoline, diesel, heating oil, and other similar flammable fuels.

CAMPGROUND: Land on which three or more campsites are located, established or maintained as a licensed business for occupancy by camping units as temporary living quarters for recreation, education or vacation purposes.

CAMPING UNIT: Any tent, lean-to, cabin or similar temporary structure, or recreational camping vehicle established or maintained and operated in a campground as temporary living quarters for recreation, education, or vacation purposes.

CAMPSITE: Any area of land within a campground intended for the exclusive occupancy of a single camping unit.

CAR WASH: A commercial establishment for the washing and detailing of motor vehicles as a principal use.

COMMERCIAL EVENT VENUE: A location where events are held for a fee, including but not limited to weddings, parties, meetings, family reunions and corporate events. The event locations shall include but not be limited to tents, gazebos, barns, open areas and residential structures. Event venues where the owner or operator receives no fee or other renumeration in connection with the event or use of the facility shall not be considered a commercial event venue.

COMMERCIAL RECREATION: A facility designed, equipped or constructed for the conduct of indoor or outdoor sports and leisure activities. Such facilities are operated as a private business and may be offered exclusively for members and guests as part of a planned resort development, or open to the public for a fee. Commercial recreation uses may include but not be limited to skiing and snowboarding facilities, snow tubing, ice skating or roller skating, golf courses and driving ranges, sports courts, amusement facilities, theatres, bowling alleys, billiard parlors, equestrian facilities, and trap or skeet shooting courses.

COMMON OPEN SPACE: Undeveloped land within a conservation/cluster subdivision that has been designated, dedicated, reserved, or restricted from further development through a conservation easement or deed restriction.

COMPATIBLE: A use of land or building(s) that, in terms of development intensity, building coverage, design, dimensions, occupancy, traffic generation, parking requirements, access and circulation, site improvements, and public facilities and service demands, is consistent with and similar to the existing community character and traditional neighboring uses and which use does not significantly adversely affect community character and the quality of life and health, safety and welfare of persons in surrounding or nearby buildings or lands.

CONSERVATION/CLUSTER SUBDIVISION: A subdivision which modifies the applicable zoning ordinance to provide an alternative method for the layout, configuration, and design of lots, buildings, structures, roads, utility lines, infrastructure, parks, and landscaping. Such subdivisions may include reduced lot sizes and groupings or clusters of dwellings designed to preserve open space and protect natural resources.

CONSERVATION EASEMENT: A grant of property rights or interests from the property owner to a unit of government or nonprofit conservation organization. This easement stipulates that the specified land shall remain in its natural, scenic, open, or wooded state, prohibiting any future or additional development.

CULTURAL FACILITY: An establishment that documents the social, intellectual or artistic manifestations that characterize a society, including museums, art galleries, and institutions of natural, historic, educational or cultural interest.

CUPOLA: A small dome, turret, rounded vault, or other structure built on top of a roof.

DARK SKY COMPLIANT: A set of lighting designs developed by the International Dark Sky Association that are accepted as best management practices to aid dark night sky conditions that remain un-impacted by outdoor light pollution.

DAY CARE CENTER: A facility licensed by the New York State Department of Social Services pursuant to § 390 of the Social Services Law that provides for more than three hours and less than 24 hours per day of care to seven or more children.

DESIGNATED HAMLET AREA: Lands within the Town of Windham that were identified in the 1997 Memorandum of Agreement (MOA) and subsequent revisions to be exempt from land acquisition and certain watershed regulations enforced by the New York City Department of Environmental Protection (NYCDEP).

DEVELOPMENT: The division of a parcel of land into two or more parcels; the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure; any mining, excavation, landfill, or grading or fill or other land disturbance; or any use or extension of the use of land.

DWELLING: A building designed or used principally as the living quarters for one or more families.

DWELLING UNIT: One or more rooms intended for use as separate living quarters, containing permanent facilities for cooking, sleeping and sanitation.

DWELLING, MULTIPLE-FAMILY: A building or group of buildings containing three or more dwelling units, including units that are located one over another. Also referred to as a Multi-Family dwelling. For multi-family dwelling units located over ground floor commercial uses, see MIXED USE.

DWELLING, ONE-FAMILY: A building designed for or occupied exclusively by one family. Also referred to as a Single-Family Dwelling

DWELLING, TOWNHOUSE: A one-family dwelling unit contained in a row of at least three such units in which each unit has its own front and rear access and is separated from any other unit by one or more vertical common fire-resistant walls. Also referred to as a row house.

DWELLING, TWO-FAMILY: A building designed for or occupied exclusively by two families living independently of each other. Also referred to as a duplex.

DOMESTIC ANIMAL: Any animal that has been bred and/or raised to live and breed for non-commercial purposes in a tame condition and is dependent on people for food and shelter. This shall include but not limited to dogs, cats, and related small animals.

DOMESTIC LIVESTOCK: Livestock such as sheep, horses, cattle, goats, swine and furbearing animals that are raised for home use or consumption and not associated with a commercial or agricultural operation.

DRIVEWAY: A private entrance drive privately owned and maintained, and not meant for use by the general public, which commonly leads to a single principal use.

EATING & DRINKING ESTABLISHMENT: Any establishment whose principal business is the sale of foods and/or beverages to the customer in a ready-to-consume state. Such businesses may require a permit from the NYS Department of Health, or a license from the NYS Department of Agriculture and Markets.

ELECTRIC VEHICLE CHARGING STATION (EVCS): Any electrical equipment or associated apparatus designed and used for the purpose of transferring energy from the electric supply system to a plug-in electric vehicle.

EQUIPMENT RENTAL: Establishments primarily engaged in the sale or rental of tractors, cranes, backhoes, or other construction equipment, agricultural implements, and similar industrial equipment.

ENVIRONMENTAL CONSTRAINT: An area with one or more of the following environmental characteristics: 1) steep slopes greater than 15%; 2) floodplain; 3) exposed bedrock or areas of land incapable of meeting percolation requirements; 4) habitats of endangered species; and 5) wetlands.

FARM IMPLEMENT SALES & SERVICE: Establishments primarily engaged in the sale or servicing of tractors, spreaders, cultivators, balers and related agricultural equipment.

FARM OPERATION: Any land, buildings, equipment, processing and handling facilities, and practices used in the production, preparation and marketing of crops, nursery stock, livestock and livestock products as a commercial enterprise as defined in 6 NYCRR Article 25-AA Section 301.

FARM STAND: A building or structure used for the display and sale of farm products primarily grown on the property upon which the stand is located.

FARMERS MARKET: A market that operates on a seasonal/year-round basis in a fixed location for the purpose of farms selling local/regional products from farms or artisans directly to the public. Such uses may include booths, tables, stands, tents and other temporary structures.

FINANCIAL INSTITUTION: A building or portion of a building primarily devoted to the provision of financial and/or banking services to customers or clients. Includes banks, credit unions, savings banks, savings and loan associations, and investment advisors.

FIRE LANE: An unobstructed paved or improved surface area clearly defined by pavement markings or signs that is designed to provide access for fire-fighting equipment and apparatus.

FLOODPLAIN, FLOOD HAZARD AREA: Any land area susceptible to being inundated by water from any source. See also Town of Windham Local Law 1 of 2002 for additional flood-related terms.

FOOD TRUCK: A mobile food service operation located in a licensed motorized vehicle or a movable cart, stand, or trailer and from which food and/or beverages are sold or distributed in individual portions to the general public for consumption on or off of the premises. Includes beverage trucks.

GARAGE, PRIVATE: An enclosed space for the storage of one or more motor vehicles, provided that no business, occupation or service is conducted for profit therein nor space therein for more than one car is leased to a nonresident of the premises. See also Shed, Private.

GASOLINE SERVICE STATION: Any use of land, including any building or structure thereon, that is used for the supply of gasoline, oil and other fuel for propulsion of motor vehicles. Any servicing or repair of motor vehicles, including body work and painting, shall be considered an Automobile Repair Shop.

GRADE, NATURAL: The elevation of the ground level in its natural state, before construction, filling or excavation.

GRADE, FINISHED: The final elevation of the average ground level adjoining a building at all exterior walls after development.

GRADING: Any stripping, cutting, filling or stockpiling of earth or land, including the land in its cut or filled condition, to create new grades.

GRADING, MINOR: Small-scale alteration of the ground surface, typically involving minimal excavation or filling, to level out minor irregularities or slight slopes on a property, usually without significantly changing the overall topography, often considered a less invasive form of land grading compared to major projects requiring substantial earth movement.

GRADING, MAJOR: Earth-moving activity that exceeds the thresholds for Minor Grading or otherwise involves a substantial alteration of existing topography, including changes to slopes, drainage patterns or land contours.

GREEN INFRASTRUCTURE: Measures that use plant or soil systems, permeable pavement or other permeable surfaces or substrates, or landscaping to store, infiltrate, or evaporate stormwater and reduce flows to sewer systems or to surface waters.

GROSS ACREAGE: The total area of a parcel of land being considered.

HABITAT: The place occupied by an organism, population, or community. It is the physical part of the environment in which an organism finds its home and includes the sum total of all the environmental conditions present in the specific place occupied by an organism.

HEALTH AND FITNESS ESTABLISHMENT: Any establishment that is equipped and arranged to provide instruction, services, or activities which improve or affect a person's physical condition by physical exercise or provide relaxation or wellness services.

HEIGHT: The vertical distance measured from the average elevation of the finished grade along the side of the structure fronting the nearest street to the highest point of the roofline (not including chimneys, cupolas and similar architectural features).

HISTORIC COLORS: Any paint color that is included in a curated collection of historic paint colors published by a major paint manufacturer (including but not limited to Sherwin-Williams, Benjamin Moore and PPG).

HISTORIC PROPERTY: Any property or building listed individually on the National or State Register of Historic Places or located within Windham’s designated historic district.

HOME OCCUPATION: Any commercial use which is clearly incidental and secondary to the primary residential use of the lot, does not change the character of the lot or dwelling, and is carried on by residents of the dwelling(s) situated on the lot.

HOMEOWNERS ASSOCIATION: An organization created to develop and manage a community of homes, town homes, or condominium units as defined by the Office of the New York State Attorney General. Such organizations have the authority to enforce the covenants, conditions, and restrictions, as well as manage the common elements of a housing development.

IMPERVIOUS SURFACE: Any man-made material, such as pavement used in parking lots or driveways, or any building or other structure on a lot, that does not allow precipitation and melted snow to penetrate into the soil.

KENNEL: A commercial business in which three or more dogs or domesticated animals are housed, bred, boarded, trained or sold, for a fee or other compensation.

LANDSCAPE PLAN: A component of a site plan that indicates areas of existing and proposed landscaping, and identifies the types of plant material or species of trees proposed to be installed on a site, along with any other information that can reasonably be requested by an approving authority.

LOADING AREA: An exterior off-street space available for the loading or unloading of goods and having direct usable access to a street.

LODGING: Any establishment which as a whole or part of its business activities offers temporary accommodation to the public, to employees, or to members or guests of members, and services in connection therewith or incidental thereto for a fee. Typically regulated by Subpart 7-1 of the NYS Sanitary Code, these establishments include but are not limited to commercial hotels, resort hotels, lodging houses, bed and breakfasts, inns, tourist camps, and similar usus.

LOT: A portion or parcel of land considered as a unit, devoted to a certain use or uses or occupied by a building or group of buildings that are united by a common interest or use, and the customary accessories and open space belonging to the same.

LOT AREA: The total horizontal area included within lot lines, except that no part of the area within a public right-of-way or road may be included in the computation of the area.

LOT, CORNER: A lot at the junction of and fronting on two or more intersecting streets.

LOT COVERAGE: The proportion of a lot area that is covered by impervious surface, including buildings and parking areas.

LOT DEPTH: The minimum distance from the street line of a lot to the rear lot line of such lot.

LOT LINE: Any boundary of a lot other than a street line.

LOT WIDTH: The distance between side lot lines measured at the required minimum yard depth or at a point of the principal structure closest to the front lot line measured along a line parallel to a line connecting the end points of the front lot line.

LUMBER YARD: A lot or building where bulk supplies of lumber and other building materials are stored, offered or kept for retail sale and may include storage on or about the premises of such material.

MEDICAL FACILITY: A clinic, hospital or similar facility operating primarily for the reception, care and treatment of sick, ailing or injured persons. Such facilities may also provide medical diagnostic services.

MICRO-BREWERY: A commercial facility licensed by the New York State Liquor Authority to produce no more than 75,000 barrels of beer per year.

MICRO-DISTILLERY: A commercial facility licensed by the New York State Liquor Authority to produce no more than 75,000 gallons of liquor or distilled spirits annually.

MIXED USE: A building or structure with a variety of complementary and integrated uses (such as residential, office and retail) located in a downtown setting. This includes upper floor apartments over ground floor commercial uses.

NONCONFORMING BUILDING: A building which contains a use permitted in the district in which it is located, but which does not conform to the district regulations for lot area, width, or depth; front, side or rear yards; maximum height; lot coverage; minimum habitable area per dwelling unit; or other dimensional requirements.

NONCONFORMING USE: Any use, whether of a building, tract of land, lot, or property, existing on the effective date of the amendment of this chapter, which does not conform to the use regulations of the district in which it is located.

NURSING HOME: A medical facility which is licensed by the NYS Department of Health, which provides health care under medical supervision and continuous nursing care to patients who, because of their physical or mental condition, require 24-hour medical care.

OFF-STREET PARKING: Area provided for parking that is not located on any public or private road.

OPEN SPACE: Land left in a natural state for conservation and agricultural purposes or for scenic purposes, devoted to the preservation of distinctive ecological, physical, visual, architectural, historic, geologic or botanic sites. It shall also mean land left in a natural state and that is devoted to active or passive recreation.

OUTDOOR DINING: An outdoor space directly abutting, adjacent and contiguous to a restaurant or eating establishment where food is served at tables and chairs, including sidewalk cafes.

OUTDOOR STORAGE: The keeping, in an unenclosed area, of any goods, junk, material, merchandise or vehicles for a period of more than seven (7) days.

OVERLAY DISTRICT: A zoning district that encompasses one or more underlying zones and that imposes additional requirements above that required by the underlying zone. Overlay zones deal with special situations that are not appropriate to a specific zoning district or apply to several districts.

PARENT PARCEL: The existing parcel of record, identified by individual tax parcel numbers, as of the effective date of this ordinance.

PERSONAL SERVICE ESTABLISHMENT: An establishment which provides work done or duties performed for humans, such as a barbershop, beauty salon, tailor, dry cleaner, etc.

PLANNED RESORT DEVELOPMENT: An area of land, made up of contiguous or non-contiguous tax parcels that is planned, developed, operated and maintained as a destination resort and containing one or more structures designed to accommodate a variety of commercial, recreational and residential uses, with appurtenant common areas and accessory uses.

POULTRY: Domesticated fowl such as chickens, ducks, geese, turkeys and similar game birds which are legally held in captivity and raised for non-commercial purposes.

PROFESSIONAL OFFICE: A building wherein business sales, service and professional activities are conducted, which activities may include but are not limited to administrative and executive functions, but shall exclude retail sales, manufacturing and processing. Offices for medical and dental clinics shall be considered “medical facilities.”

PUBLIC BUILDING: Any building used exclusively for public purposes by any department or branch of government, including town halls, post offices, and police, ambulance and fire stations.

PUBLIC PARK: A tract of land owned by a branch of government and available to the general public for recreational purposes.

PUBLIC UTILITY: Buildings, structures and facilities relating to the furnishing of utility services, such as electric, gas, telephone, water, sewer and transit, to the general public.

RAIN GARDEN: Shallow depressions filled with plants intended to filter and trap rain and other water overflow.

RECREATIONAL AREA: Any publicly owned property which is used for recreational purposes by the public, including but not limited to parks or playgrounds.

RECREATIONAL VEHICLE: A vehicle which is built on a single chassis and designed to be either self-propelled or towable, and not designed for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use.

RELIGIOUS USE: A structure or building in which worship, ceremonies, rituals and education pertaining to a particular system of religious beliefs are held.

RETAIL SALES: Retail establishments, completely enclosed within structures, engaged in selling goods or merchandise to the general public.

RIDGELINE OR RIDGETOP: The long, narrow crest or horizontal line of hills or mountains, usually at the highest elevation.

RIGHT-OF-WAY: A strip of land acquired by reservation, dedication, prescription or condemnation and intended to be occupied by a street, crosswalk, railroad, electric transmission lines, water line, sewer line or similar uses.

RIPARIAN: The area of land along both sides of stream channels.

SCENIC AREA: Any area of particular scenic beauty as determined by the federal, state or local officials having jurisdiction of the area. It includes real property interests that have been acquired for the restoration, preservation and enhancement of scenic beauty.

SCHOOL: Any building or part thereof that is designed, constructed or used for education or instruction in any branch of knowledge. This includes public elementary and secondary schools, as well as private educational institutions.

SETBACK: The required minimum distance between a structure and a property line which is intended to remain open and unencumbered. By drawing all of the setback lines within a lot, the area within which the principal structure may be erected can be established. See “Building Envelope.”

SHED, PRIVATE: An accessory structure, separate from the principal building, which is primarily used for the storage of personal property for private use.

SIGN: Any letter, word, model, banner, pennant, insignia, device or representation used as or which is in the nature of an advertisement, attraction or directive when located out of doors or affixed to the exterior of any building or structure.

SIGN, DIGITAL: An electrically activated changeable sign where the variable message capability can be electronically changed or programmed.

SIGNS, PORTABLE: Any sign not permanently attached to the ground or to a building or building surface, including channel letter signs, A-frame signs, and sandwich boards.

SIGN, PROJECTING: A sign other than a wall sign that is attached to or projects more than 18 inches from a building face or wall, and where the copy area of such sign is oriented perpendicular to the face of the building.

SIGN, TEMPORARY: A sign intended to display messages of a transitory or temporary nature. Portable signs or any sign not permanently embedded in the ground, or not permanently affixed to a building or sign structure that is permanently embedded in the ground, are considered temporary signs.

SIGN, WALL: A sign that is in any manner affixed to any exterior wall of a building or structure where the copy area of such signs remains on a parallel plane to the face of the building.

SKI RESORT: A resort developed principally for snow skiing, providing visitor-oriented accommodations, recreational facilities, and related amenities. Accommodations may include transient lodging or permanent dwellings. Recreational facilities may be for the use and enjoyment of resort guests and the general public and may include, but not be limited to, indoor and outdoor sport facilities (such as ski trails, snowmobile trails, nature trails, golf courses, tennis courts, athletic fields, swimming pools, etc) restaurants, meeting facilities, interpretive centers, spas and health centers.

SKI AREA: An area developed for snow skiing, providing facilities associated with alpine or nordic skiing, including but not limited to ski trails, lifts, operational and maintenance facilities, equipment storage, snowmaking facilities, restaurants, warming huts and ski schools. A ski area may be part of a ski resort, that provides base area facilities including, but not limited to hotels, motels and dwellings, retail establishments and year-round recreational uses.

SLOPE: The vertical distance, in feet, between the highest elevation of a lot or development and the lowest elevation of a lot or development, divided by the horizontal difference between these two elevations, in feet, said horizontal distance ordinarily to be the natural course of stormwater runoff.

SOCIAL or FRATERNAL ORGANIZATIONS: A building or portion of a building used for meetings, recreational or social activities conducted by a non-profit organization. Such facilities are usually for the use of members and their guests, and may include youth organizations, fraternal organizations, or similar entities.

SOLAR ENERGY SYSTEM: A solar energy system as defined in the Town of Windham Solar Energy Law (Local Law No. 1 of 2022) as amended.

STEEP SLOPE: Any land area where the slope exceeds 15%.

STREAM: A watercourse having a source and terminus, banks, and a channel through which water flows continuously or periodically.

STREAM, PERENNIAL: Those streams depicted on a USGS map with a solid blue line.

STRIPPING OF LAND: The excavation, filling, grading, or removal of any natural material from the ground's surface or subsurface greater than or equal to one (1) acre.

SWPPP: A Stormwater Pollution Prevention Plan, or a plan for controlling stormwater runoff and pollutants from a site during and after construction activities.

THEATER: A building or part of a building used to show motion pictures or for drama, dance, musical or other live performances, or used for public presentations, conferences, seminars and workshops.

TOP OF STREAM BANK: The break in slope between the creek bank and surrounding terrain that is the boundary where the normal water flow takes place including the active channel, active floodplain, and their associated banks.

VACATION CAMPGROUND: Any area providing non-permanent structures or sites designed for transient occupancy, including travel or pop-up trailers, motor homes, truck campers, tents, and cabins.

VETERINARY HOSPITAL: A facility for the medical and/or surgical care of sick or injured animals.

VIEWSHED: The field of view or an area of land that is visible to the human eye from a given vantage point

WIRELESS TELECOMMUNICATIONS FACILITY: A parcel of land containing a facility, licensed by the Federal Communications Commission (FCC), designed and used for the purpose of transmitting, receiving and relating voice or data signals from various wireless communication devices and equipment. Such facilities may include a tower, antenna(s) and accessory structures containing electronic equipment.

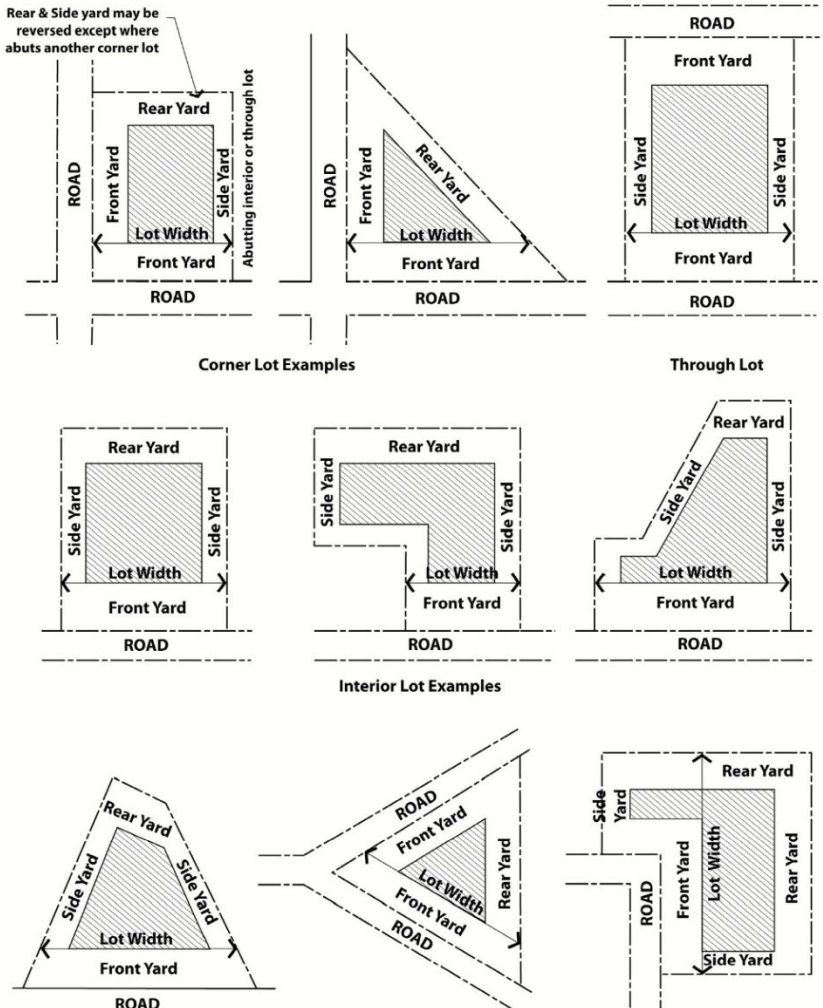
YARD: An open space that lies between the principal building or buildings and the nearest lot line. See also "Setback." See Figure 1.

YARD, FRONT: An open space extending the full width of the lot between any building and the front lot line, measured perpendicular to the building at the closest point to the front lot line. See Figure 1.

YARD, REAR: An open space extending across the full width of the lot between the principal building and the rear lot line, measured perpendicularly from the building to the closest point to the rear lot line. See Figure 1.

YARD, SIDE: An open space extending from the front yard to the rear yard, between the principal building and the side lot line, measured perpendicularly from the side lot line to the closest point of the principal building. See Figure 1.

Figure 1: Examples of Lot Configurations and Required Yards



ARTICLE III – ZONING DISTRICTS & MAP

§ 3-1 Classification of Districts

In order to fulfill the purposes of this chapter, the Town of Windham is divided into the following zoning districts:

Zoning District Name	Abbreviation
Rural Residential District	RR
Hamlet District	H
Planned Residential District	PR
Business District	B
Resort District	R

§ 3-2 Statement of Purpose

The following statements of purpose define the spirit and intent of each zoning district, and are to be used as guides in the interpretation and application of these regulations:

A. **Rural Residential District.** The purpose of this district is to preserve the rural residential character of the Town and protect the outlying areas from intense development. The intent of this district is to allow low-density, predominantly single-family residential development, and limited low-impact commercial development, with the goal of maintaining open space and protecting natural resources. This district is the largest district in the Town.

B. **Hamlet District.** The purpose of this district is to provide for moderate-density residential development and low-intensity neighborhood commercial development in and around the Town's hamlet centers. Many, but not all these areas are serviced by public water and sewer facilities.

C. **Planned Residential District.** The purpose of this district is to allow for the continuance of existing high-density residential developments in the Town of Windham. Such developments typically include custom-built residential units constructed by a single developer along with associated on-site recreational amenities. Such developments may be governed by homeowner or property owner associations with covenants and restrictions regulating architectural design, parking, building setbacks and other requirements that are also regulated under this Zoning Law. The intent is to allow these existing residential developments to continue in their present form and configuration, regardless of any nonconformities with regard to use or dimensional standards.

D. **Business District.** The purpose of this district is to provide for stable, viable commercial districts to serve the needs of the local community and support the local economy. The intent of this district is to allow a wide range of commercial uses, mixed-use development, and moderate-density residential development. This district is the most intensely developed part of the Town and is predominantly located along major travel corridors with access to public water and sewer facilities.

E. **Resort District.** The purpose of this district is to maintain the existing ski resort and associated facilities in the Town of Windham. The intent of this district is to allow any existing uses to continue uninterrupted and allow for reasonable future expansion. Future expansion would only be permitted in accordance with a master plan of development approved by the Town Board and Planning Board in accordance with the procedures set forth in §6-8.

§ 3-3 Zoning Map

The boundaries of the said districts are hereby established as shown on the official Zoning Map of the Town of Windham, as adopted by the Town Board and maintained by the Town Clerk. The Zoning Map, including all explanatory amendments, is adopted as an integral part of this chapter. A copy of said map, indicating the latest amendments, shall be kept up-to-date in the offices of the Town Clerk for the use and benefit of the public.

§ 3-4 Interpretation of District Boundaries

In applying the provisions of this chapter, the following guidelines shall be used to determine the location of district boundaries:

A. Unless otherwise shown, the district boundaries shall coincide with property lines, center lines of streets, highways, waterways, railroad and utility rights-of-way, and municipal boundary lines.

B. In all cases where the district boundaries are unclear or a matter of dispute, the location of said boundaries shown on the map shall be interpreted by the Zoning Board of Appeals.

§ 3-5 Effect of Establishment of Districts

A. No new building, structure or use shall hereafter be erected, altered or enlarged except in conformity with the regulations herein specified for the district in which it is located.

B. No lot existing at the time of passage of this chapter shall be reduced in size or area below the minimum requirements as set forth herein. Lots created after the effective date of this chapter shall meet the minimum requirements established in Article IV – District Regulations.

C. Within each district, the regulations set forth by this chapter shall be minimum regulations and shall apply uniformly to each kind of structure or land.

D. Only one use shall be permitted on any lot unless otherwise approved by the Planning Board. Before granting approval, the Planning Board shall conduct a public hearing held for such purpose. Multiple uses, when approved by the Planning Board, shall be compatible with each other and must be a use which would otherwise be permitted in the zone under the Schedule of District Regulations.

E. Nothing contained in this chapter shall require any change in the plans, construction or designated use of any existing building or structure complying with local laws of the Town of Windham in force prior to the effective date of this chapter.

ARTICLE IV – DISTRICT REGULATIONS

§ 4-1 General Provisions

To facilitate public understanding of this chapter and for the better administration thereof, the regulations establishing the permitted uses of land and buildings, the limitations on the size of lots, percent of coverage of land by buildings and the location, arrangement, height and size of buildings, and all other requirements for each of the districts established by Article III of this chapter are set forth in the "Schedule of Use Regulations" and "Schedule of Area Regulations" which are annexed hereto. Such schedules are hereby adopted and declared to be a part of this chapter and may be amended in the same manner as any other part of this chapter.

§ 4-2 Use Regulations

Regulations establishing the permitted uses of land and buildings in each zoning district are set forth in **Table 1 - Schedule of Use Regulations.** This table lists all uses that are prohibited (X), permitted as-of-right (P), or permitted subject to the issuance of a Special Use Permit (SP) within each zoning district. Any use not specifically listed in Table 1 shall be deemed to be prohibited. Special use permits shall not be required for any use existing at the time of passage of this chapter that remains in continuous operation. Any new use requiring the issuance of a special use permit shall be subject the standards and procedures set forth in § 5-1 of this chapter.

TABLE 1 – SCHEDULE OF USE REGULATIONS

ZONING DISTRICT	RR Rural Residential District	H Hamlet District	PR Planned Residential District	B Business District	R Resort District
Residential Uses					
Single-family dwelling	P	P	P	P	P
Two-family dwelling	SP	P	P	P	P
Multi-family dwelling	X	SP	P	P	P
Mixed Use	X	SP	X	P	P
Rowhouses; Townhouses	X	SP	P	P	P
Community Uses					
Religious Use	SP	SP	X	SP	X
Cultural Facility	SP	SP	X	P	SP
Public Building	P	SP	X	SP	P
Public Utility Facility	P	P	P	P	P
Public Park & Recreational area	P	P	X	P	P
School	SP	SP	X	SP	X
Social or Fraternal organizations	SP	P	X	P	X
Accessory Uses					
Accessory Dwelling Unit (ADU)	P	P	X	P	X
Farm Stand	P	SP	SP	SP	SP
Home occupation	SP	P	SP	P	P
Private garages & sheds	P	P	P	P	P
Outdoor dining/Sidewalk Cafes	SP	P	X	P	P
Outdoor storage	SP	SP	X	SP	SP

TABLE 1 – SCHEDULE OF USE REGULATIONS (continued)					
ZONING DISTRICT	RR Rural Residential District	H Hamlet District	PR Planned Residential District	B Business District	R Resort District
Commercial Uses					
Agribusiness	P	SP	X	SP	X
Artisan Manufacturing	SP	SP	X	SP	X
Artist studios	SP	SP	X	P	P
Assisted Living	SP	SP	X	SP	X
Automobile Repair Shop	SP	SP	X	SP	X
Automobile Sales	X	X	X	SP	X
Banks & Financial Institutions	X	SP	X	P	X
Eating & Drinking Establishments	SP	SP	X	P	P
Bulk fuel sales or storage	X	SP	X	SP	X
Campgrounds	SP	SP	X	X	X
Car Wash	X	SP	X	SP	X
Commercial Event Venue	X	SP	X	SP	X
Commercial Recreation	SP	SP	SP	SP	P
Commercial Solar	SP	SP	X	X	X
Day care center	SP	SP	SP	SP	P
Equipment Rental	SP	SP	X	SP	P
Farmers Market (non-permanent)	SP	SP	SP	SP	P
Farm Operation	P	P	X	X	X
Farm implement sales or service	SP	P	X	SP	X
Funeral Homes	X	SP	X	SP	X
Gasoline service stations	X	SP	X	SP	X
Health and Fitness Establishments	SP	SP	SP	P	P
Kennel (Animal Boarding)	SP	SP	X	X	X
Laundromat	SP	SP	X	P	X
Lodging	SP	SP	X	P	P
Lumber Yards	SP	SP	X	X	X
Medical or dental facilities	SP	SP	X	SP	SP
Micro-Brewery or Micro-Distillery	X	SP	X	P	SP
Nursing Home	SP	SP	X	P	X
Personal Service Establishment	SP	SP	X	SP	P
Private School	SP	SP	X	SP	P
Professional offices	SP	P	X	P	P
Retail Sales	X	SP	X	P	P
Ski Resort	X	X	X	X	P
Theatres	X	SP	X	SP	P
Veterinary Hospital	SP	SP	X	SP	X
Wireless Telecommunications Facility	SP	SP	SP	SP	SP

§ 4-3 Area Regulations

Area regulations that determine the size and placement of a building on a lot, as well as the maximum allowable density are set forth in **Table 2 - Schedule of Area Regulations.** Any lot or building existing at the time of passage of this chapter that does not conform with the dimensional requirements set forth in Table 2 - Schedule of Area Regulations shall be treated as a pre-existing Nonconforming Use subject to the standards and procedures as set forth in Article VII of this Chapter.

TABLE 2 – SCHEDULE OF AREA REGULATIONS					
ZONING DISTRICT	**RR** Rural Residential District	**H** Hamlet District	**PR** Planned Residential District	**B** Business District	**R** Resort District
Minimum Lot area					See §6-8 Planned Resort Development
With central water or sewer	N/A	0.5 acres	N/A	0.25 acres	
Without central water or sewer	3 acres	2 acres	N/A	1 acre	
Residential Density (dwelling units per acre)					
With central water or sewer	N/A	2 per acre	4 per acre	4 per acre	
Without central water or sewer	0.3 per acre	1 per acre	N/A	1 per acre	
Minimum Setbacks (feet)[1]					
Front yard	75’	50’	25’	25’	
Side yards	50’	30’	10’	10’	
Rear yard	50’	30’	10’	10’	
Other Requirements					
Minimum Lot width[1]	200’	100’	50’	50'	
Minimum Livable floor area/DU	1,000 sf	800 sf	400 sf	400 sf	
Maximum Height	35’	35’	35’	35’	
Maximum Lot Coverage[1]	15%	30%	60%	70%	

1. In the case of Townhouses and Rowhouses, the minimum setbacks, minimum lot width and maximum lot coverage apply to the original lot on which the townhouses and rowhouses were/are proposed, and not each individual townhouse or rowhouse unit. Groupings of attached townhouses with common party walls should maintain a minimum separation distance of 35’ between each grouping.

ARTICLE V – SUPPLEMENTAL REGULATIONS APPLICABLE TO ALL DISTRICTS

§ 5-1 Special Use Permits

A. General Provisions

1) The Town Board of the Town of Windham authorizes the Planning Board to review and grant special use permits as set forth herein.
2) Any uses of land listed in **Table 1 - Schedule of Use Regulations** as special uses shall only be permitted upon issuance of a special use permit by the Planning Board.
3) Any such uses that were in operation prior to the effective date of this chapter shall not require a special use permit from the Planning Board, unless and until the use ceases operating for a period of more than two years.

B. Standards for Special Use Permits. Special uses listed in this chapter possess characteristics of a nature such as to require special review and the application of special standards in order to assure an orderly and harmonious arrangement of land uses in the district and in the community. Before approving any such use, the Planning Board shall apply the following special standards:

1) Any proposed structures, equipment or material shall be readily accessible for fire, police and emergency personnel, and shall not impair the public health, safety or general welfare of the community;
2) The location, size and character of the special use shall be in harmony with the orderly development of the zoning district and must not be detrimental to the value, character or orderly development of adjacent properties;
3) Safe, convenient and adequate vehicular and pedestrian access to and from the use shall be provided as appropriate, and the use shall not create undue traffic or congestion traffic hazards;
4) Adequate off-street parking and loading areas shall be provided to ensure safe and convenient circulation;
5) The impact of the proposed use shall not engender avoidable impacts upon the environment of the site or adjacent lands and any such impacts shall be the minimum necessary to accommodate the proposed use.

C. Additional Requirements. The Planning Board may impose any additional requirements that are deemed appropriate to ensure that the proposed special use will be in harmony with the character of surrounding properties.

1) Before imposing such conditions, the Planning Board shall consider the following:
    a. The location and the intensity of the use.
    b. The location and height of the proposed buildings and structures.
    c. Traffic access, site circulation and the location and extent of parking and loading areas.

d. The location, extent and type of exterior artificial lighting and advertising.

e. The location, extent and type of proposed landscaping, screening and fencing.

f. The probable extent of noise, vibration, smoke, dust and other adverse influences.

2) The Planning Board may impose a limit on the hours of operation of any special use upon finding that such a limit is necessary to protect the health, safety or general welfare of the community.

D. Procedures

1) Applications for special use permits shall be filed with the Code Enforcement Officer, who shall forward the application to the Planning Board for decision.

2) A site plan for the development of a special use shall be submitted in accordance with the site plan review procedures contained in Article VIII of this Chapter, except that the Planning Board may waive this requirement for any special use that will involve no physical alteration or disturbance to the building or site.

3) To cover the cost of processing special use permits and applications, an application fee in an amount as promulgated by the Town Board shall accompany any application for a special use permit.

4) The Planning Board shall hold a public hearing on the special use within 62 days of the filing of a complete and proper special use permit application, and said hearing shall be advertised in a newspaper of general circulation in the Town at least ten days before the public hearing.

5) The applicant shall notify, by certified mail postmarked at least 15 days prior to the date of the public hearing, all owners of properties within 500 feet of the property which is the subject of the application. Proof of mailing must be delivered to the Planning Board prior to the start of the public hearing.

6) In accordance with §239-l and 239-m, Article 12-B, of the General Municipal Law of the State of New York, if the site lies within 500 feet of a county or state road, institution, park, drainage easement or a municipal boundary, a copy of the Special Permit application shall be forwarded to the Greene County Planning Board for its review and recommendation before the Planning Board renders a decision.

7) The decision by the Planning Board on the application shall be filed in the office of the Town Clerk within five business days after such decision is rendered and a copy mailed thereof to the applicant.

8) The Planning Board may attach conditions, limitations and safeguards to the special use permit as are necessary to assure continual conformance to all applicable standards and requirements.

9) Once issued, the special use permit shall not require renewal, unless as a condition of approval, the Planning Board specifically requires periodic renewal.

Any special use permit may be revoked by the Code Enforcement Officer at any time if there has been a failure of compliance with any one of the terms, conditions, limitations or requirements imposed by said permit, or if the use ceases to operate for a period of more than one year.

§ 5-2 Off-Street Parking and Loading Requirements

A. Required Off-Street Parking Spaces

For every building hereafter erected, altered, or changed in use, there shall be provided a minimum number off-street parking spaces as set forth in the following table:

Use	Minimum Parking Spaces
Residential Dwellings (one or two-family)	2 spaces per dwelling unit
Residential Dwellings (multi-family)	1.5 spaces per dwelling unit
Retail and service establishments	1 space per 200 square feet of floor area
Eating and drinking establishments	1 space per every 3 seats
Lodging	1 space per room
Houses of Worship & public assembly	1 space per 3 seats or 1 space per 100 square feet
Professional Offices (non-medical)	1 space per 200 square feet of floor area
Medical/dental office or clinic	8 per physician/dentist or 2 spaces per 200 square feet
Unspecified Uses	As determined by the Planning Board

To prevent oversized parking lots that may produce excess stormwater runoff, no more than 120% of the minimum required parking spaces shall be allowed for all uses.

B. Parking Lot Standards

1) Required parking spaces may be provided upon the same lot as the use to which they are accessory, or elsewhere, provided that all spaces therein are located within a five-hundred-foot walking distance of such lot.
2) Where two or more uses on the same site are able to share the same parking spaces because their parking demands occur at different times, the same parking spaces may be counted to satisfy the minimum parking requirements for each use, upon the approval by the Planning Board.
3) For the purpose of computing the minimum number of parking spaces available in a given area, each space shall be not less than 10 feet in width and 20 feet in length, exclusive of access drives or aisles.
4) Unobstructed access to and from a street shall be provided. Such access shall consist of at least one ten-foot lane for parking areas with fewer than 20 spaces and at least two ten-foot lanes for parking areas with 20 spaces or more.
5) Fire lanes and handicapped parking spaces shall be provided in accordance with all applicable state and federal regulations, and as determined by the Planning Board to be necessary for the protection of public health and safety.
6) All parking areas shall be properly drained and applicants are encouraged to incorporate green infrastructure elements including landscaped bioswales into their parking lot design wherever possible.
7) Parking lots in the Business District shall be buffered from any existing public sidewalks to the maximum extent practicable with landscaping or fencing, or a combination of both. Fences shall be constructed of natural materials (wood, brick, stone, etc.)

C. Off-Street Loading

1) Adequate off-street loading and unloading berths shall be provided for any commercial, institutional, industrial or wholesale use, as determined by the Planning Board.

2) All permitted or required loading berths shall be on the same lot as the use to which they are necessary and shall not include any area used to meet parking requirements.

3) In no case where a building is erected, converted or enlarged for commercial, institutional, industrial or wholesale purposes, shall the public right-of-way be used for the loading or unloading of materials.

D. Exemptions and waivers.

1) The provisions of this article shall not apply to any building or structure lawfully in use at the effective date of this chapter.

2) The minimum parking space requirements enumerated in § 5-2A shall not apply to any existing or new use within the Business (B) District. Instead, the required number of parking spaces shall be considered a recommendation rather than a mandate. Parking needs shall be evaluated by the Planning Board during the site plan review process and will take into consideration physical site limitations, the likelihood parking may be shared with adjoining facilities, the availability of sufficient on-street parking, and other relevant factors.

3) The Planning Board may waive the required parking for any use in whole or in part where such use is located within 500 feet walking distance of the entrance to one or more municipal parking facilities, or where it is demonstrated that shared parking is available.

§ 5-3 Landscaping Standards

A. General Requirements. The Planning Board shall require that a landscaping plan be prepared for any commercial, industrial, multi-family or special permit use where it is determined that said use could have a significant effect on the natural environment, adjoining land owners, or the view from a public highway.

B. Landscaping Plans. Landscaping plans shall indicate how existing vegetation will be preserved, and how building materials, colors, and textures will be blended with the natural and man-made landscape to enhance rather than detract from the aesthetic character of the area. Specific locations, varieties, and size for proposed plantings shall be provided as part of the plan. Grading plans showing any slopes, berms, landforms, drains, and stormwater management facilities shall also be provided, if applicable.

C. Plan Review. In reviewing any landscape plan, the Planning Board may secure the advice or assistance of one or more qualified consultants. The applicant will be notified prior to the board incurring any reimbursable costs or review fees. Once established, any review fees for the services of such consultant(s) shall be borne by the applicant who will provide monies needed to establish an escrow account from which fees shall be paid.

D. Guidelines for Landscaped Areas. The following guidelines and landscaping standards shall apply to all projects requiring preparation of a landscaping plan:

1) Landscaped areas shall be designed to preserve and enhance the appearance and character of the surrounding area, or to create boundaries and transitions between areas of differing development intensities.
2) Landscaped areas may include a combination of trees, shrubs, flowering plants, ground cover and manicured lawns. Simple designs requiring less maintenance are generally preferred, as landscaping that is not regularly maintained can look unkempt and become an eyesore.
3) Landscaped areas are recommended at the entrances to all multi-family residential developments and commercial buildings, and around permanent free-standing signage.
4) Landscape buffers are recommended to create an attractive natural barrier between properties. In such cases, the landscaping should appear as a single, cohesive buffer. Where appropriate topography and soil types exist, buffer areas are encouraged to be designed as landscaped bioswales or rain gardens.
5) Internal and peripheral landscaping plantings are recommended in parking lots with over 20 spaces to delineate driving lanes, provide shade, improve community aesthetics, and reduce stormwater runoff.
6) The use of native species is highly encouraged, and the use of invasive species as defined by six NYCRR Part 575 - Prohibited and Regulated Invasive Species shall be prohibited.
7) The minimum plant size shall be specified in the landscape plan and approved by the Planning Board. It is recommended that all landscaping material, except trees, be of a sufficient size at the time of planting to reach full maturity within three years.

§ 5-4 Signage

A. Purpose and Intent

1) The Town of Windham recognizes that signs are a necessary means of communication, and a form of expression protected by the First Amendment. The Town Board has determined that regulating the size, design and location of signage is necessary to preserve and enhance the character, historical integrity, beauty and general welfare of the Town.
2) The purpose of these regulations is to:
    a. Protect property values and create an attractive business and tourist climate.
    b. Enhance and protect the physical appearance and historic character of the community.
    c. Reduce distractions and obstructions that may adversely affect public safety.
3) These regulations supersede and replace the "Sign Law of the Town of Windham" adopted by the Town Board as Local Law #1 of 2018 and any subsequent revisions.

B. Prohibited Signs. The following types of signs are prohibited in the Town of Windham:

1) Signs that project into the public right-of-way or are located in such a manner as to cause a traffic hazard, or interfere with, mislead or confuse traffic.
2) Illuminated signs or lighting devices placed or directed so as to cause glare or create a traffic hazard.
3) Signs with a mirror or mirror-like surface, or that contain flashing, intermittent, rotating or moving lights.
4) Permanent signs that contain any banner(s), pennant(s), ribbon(s), streamer(s) spinner(s) or similar moving, fluttering or revolving device(s).
5) Exterior signs that contain exposed neon tubes.
6) Digital and LED signs, except digital price signs advertising the price of gasoline.
7) Portable channel letter signs, or signs placed on or affixed to a vehicle or trailer visible from a public right-of-way.
8) Exterior signs containing digital images or text projected onto a wall or structure.

C. Exempt Signs. The following types of signs may be erected and maintained without permits or fees:

1) Safety, directional, gateway and entranceway signs erected by any government.
2) Flags and insignia of any government or government agency.
3) Historical markers, tablets, and plaques not exceeding six square feet.
4) House, building or emergency numbers (E911).
5) On-premises directional signs for the convenience of the general public, identifying parking areas, fire zones, entrances and exits, provided that such signs are no more than four (4) square feet per face, and no more than six (6) feet in height above finished grade.

6) Temporary signs constructed of paper, plastic or other material intended for a limited period of display, provided that:

   i. Any sign, regardless of material, that is constructed on a permanent foundation or attached to a sign structure with a permanent foundation shall not be considered a temporary sign.

   ii. Temporary signs shall not exceed four (4) square feet per side and such signs may not be illuminated.

   iii. Temporary signs associated with a sale or event, including but not limited to commercial, residential or community activities, shall be removed within fifteen (15) calendar days after such sale or event has concluded, and in no event shall such signs be displayed for more than sixty (60) consecutive days.

   iv. Temporary signs shall not be erected, placed, used or maintained upon property without the consent of the owner, lessee, person or entity in lawful possession of the property.

   v. Movable temporary signs, including sandwich-boards and A-frame signs, shall be located no more than 500 feet from the business, shall be taken inside when the business is closed, and must not interfere with pedestrian or vehicular traffic.

   vi. Any sign that exceeds the maximum size, illumination or duration permitted under this section shall be considered a permanent sign that shall require a sign permit in accordance with this chapter.

D. Sign Permit Application & Review Procedures

1) No person, firm or corporation shall erect or modify any permanent sign in the Town of Windham without first obtaining a sign permit. Permit applications shall be made in writing to, and upon forms provided by the Town Clerk, and shall be accompanied by a color drawing depicting the proposed sign, and payment for any application fees as established by the Town Board.

2) The Town Board hereby authorizes the Planning Board to review applications, and issue permits for any proposed permanent signage in the Town of Windham in accordance with the procedures and design criteria set forth herein.

3) Any sign permit issued shall be valid for twelve (12) months from the date of issuance of such permit. Any permitted sign not constructed within that time period shall submit a new permit application and pay any applicable fees.

4) Any person who erects, constructs, modifies or structurally alters any sign without first applying for and obtaining a sign permit shall be considered in violation of the Zoning Law and shall be subject to the provisions of § 8-3 – Violations and Penalties.

E. Design and Construction

1) All proposed signs shall be reviewed relative to the appropriateness and compatibility of their design, shape, materials, and color in accordance with the following criteria:

   a. Signs should be a subordinate part of the streetscape, and the design should be consistent with the architectural character of the building or site on which it is placed.

b. Signs attached to any historic structure shall be mounted so that no significant architectural feature is concealed or damaged.

c. Signs should contain a minimum amount of information, and multiple signs should be combined into one whenever feasible, to avoid clutter and confusion.

d. Signs shall be fabricated in a professional workmanlike manner, and all signs shall be kept clean, neatly painted, and free from hazards such as faulty wiring or loose supports, braces or anchors.

e. All signs shall comply with the applicable regulations of the New York State Uniform Building Code and shall be securely anchored at all times.

f. Historic colors and sign materials such as wood, metal, masonry, or a composite of these materials are preferred. Fluorescent or day-glow paint colors are discouraged.

F. Number and Size

1) Number.

a. No more than three (3) permanent on-premises signs and one (1) permanent off-premises sign shall be permitted per business.

b. Open/closed and vacancy/no vacancy signs shall not be counted toward the sign limit, and double-sided signs shall be counted as one sign.

c. On-premises signs may include free-standing signs, wall signs affixed to a building or structure, hanging signs and awning signs.

d. Only one free-standing sign shall be permitted on any parcel, and such sign may be used to identify more than one on-premises business or establishment.

e. Where two (2) or more establishments are planned as an integrated shopping center or strip mall, one common freestanding sign identifying the shopping center is permitted. No freestanding signs may be displayed by individual establishments located within the center, but each establishment is permitted to have one (1) wall sign or hanging sign.

f. Multiple residences and apartment buildings shall be allowed no more than one (1) permitted on-premises sign.

2) Size.

a. Free-standing signs shall not exceed twenty-four (24) square feet per side and shall not be more than ten (10) feet in height above finished grade as measured from the ground directly below the sign to the highest point of the sign.

b. Free-standing signs located on historic properties shall not exceed eighteen (18) square feet per side.

c. Hanging signs mounted perpendicular to a building facade shall not exceed eight (8) square feet per side, shall not project more than three (3) feet, and shall be located a minimum of eight (8) feet above any sidewalk.

d. Wall signs affixed to the façade of a building or structure shall not exceed twenty-four (24) square feet or cover more than ten percent (10%) of the façade of the building side upon which it is affixed.

G. Lighting and Landscaping

1) All lighted signs shall be constructed in accordance with the standards of the National Electrical Code.
2) Internally illuminated box signs shall be prohibited on historic properties.
3) All outdoor lighting fixtures shall be directed downward, shielded or otherwise contained on the property from which it originates.
4) The installation of landscaping at the base of any freestanding signs may be required by the Planning Board as a condition of approval, if such landscaping will make the sign more compatible with the surrounding area.

H. Nonconforming signs

1) A nonconforming sign lawfully existing at the time of the effective date of this chapter may continue to exist in the manner and condition that existed at the time of such adoption, provided that the location, area, height and sign content remain unchanged.
2) Any change of use, sale of property, change of occupancy or tenancy shall require that any non-conforming signs associated with such use or property to be brought into conformance with the requirements of this chapter.
3) Any nonconforming sign that is hazardous, damaged or allowed to deteriorate such that replacement, or substantial repair is required, shall be made to come into conformance with the requirements of this chapter or must be removed within thirty (30) days after written notification from the Code Enforcement Officer.
4) Any sign which no longer conveys a current message or advertises events, goods, services or facilities no longer available shall be deemed nonconforming and removed or replaced within thirty (30) days after written notification from the Code Enforcement Officer.

§ 5-5 Architectural Review

A. Purpose and Intent

1) The Town of Windham possesses a rich heritage dating back to its early settlement in 1735, and the Town Board has determined that establishing design criteria and architectural review procedures are necessary to preserve and enhance the character, historical integrity, beauty and general welfare of the Town.
2) The purpose of these regulations is to:
    a. Encourage the protection, enhancement and preservation of buildings of historic, architectural and cultural value; and
    b. Strengthen the economy by preserving its historic and cultural assets; and
    c. Stabilize and improve property values.
3) The Town Board hereby authorizes the Planning Board to review the design and architecture of any proposed buildings or signage in the Town of Windham in accordance with the criteria and procedures as set forth herein.
4) These regulations supersede and replace the Architectural Review Board Local Law originally adopted by the Town Board as Local Law #2 of 1988 and any subsequent revisions.

B. Planning Board Jurisdiction

1) Architectural review shall not be required for the construction or alteration of a single-family or two-family residential dwelling located outside the designated historic district and not located on a historic property, unless otherwise required as part of site plan or special use permit review.
2) Planning Board review and approval of the architecture and appearance of buildings and structures in the Town of Windham shall be required for the following actions:
    a. The proposed demolition, alteration or new construction of any building or structure on any historic property in the Town of Windham, regardless of whether or not Planning Board review is otherwise required;
    b. The proposed alteration or new construction of any commercial or multi-family building within any Zoning District the Town of Windham;
3) For such actions, no permits shall be issued, and no material change in exterior building design nor any new construction of buildings shall take place without prior review and approval by the Planning Board.
4) During the review and approval process, the Planning Board shall give consideration to the following factors:
    a. The historic and architectural value and significance of the building and its relationship to the historic and architectural value of the surrounding area;
    b. The appropriateness of proposed exterior design, scale, texture, materials and architectural details;
    c. Any other factors relating to historical or architectural considerations deemed pertinent to the objectives of this section.

C. Design Criteria

1) The Planning Board shall review the exterior architectural features of any proposed new construction, additions, or alterations within its jurisdiction in accordance with the following design criteria:

    a. Historic Properties

        i. The removal or alteration of any historical material or distinctive architectural features on historic properties should be avoided whenever possible.

        ii. Deteriorated architectural features on historic properties should be repaired rather than replaced whenever possible. In the event replacement is necessary, new material that matches the material being replaced in composition, design, color, texture, and other visual qualities is encouraged.

        iii. Any proposed alterations or additions to a historic property should not destroy any significant historical, architectural or cultural material, and the design should be compatible with the size, color, scale, material, proportion and character of the property, neighborhood, and environment.

        iv. Distinctive stylistic features or examples of skilled craftsmanship that characterize a building, structure, or site should be treated with sensitivity.

        v. Air handling units, condensers, dumpsters and other commercial equipment associated with non-residential structures on historic properties should be set back, visually screened or disguised with a permanent architectural feature whenever possible.

    b. New Construction

        i. New structures should be compatible with preexisting building patterns found in adjacent or nearby buildings with regards to massing, height, scale, form and setbacks.

        ii. The height of new buildings should attempt to coordinate common heights and facade lines with neighboring buildings. In cases where there is a sharp contrast between the massing, height, scale, form or setbacks of immediately adjacent buildings, compatibility with the adjacent buildings of a smaller-scale is generally preferred.

        iii. New structures should contain architectural design features that complement Windham's existing historic architecture and reflect the scale and design of neighboring structures wherever possible.

        iv. The context of the historic nature of the area should be considered when choosing building materials and colors. Natural building materials such as brick, stone, and wood are highly encouraged, and neutral colors selected from a historic paint palette are generally preferred.

D. Referrals and Review Procedures

1) The Code Enforcement Officer shall refer any applications for demolition permits or building permits on a historic property to the Planning Board for its review and approval prior to issuing such permits;

2) The Planning Board shall review all matters referred to it in accordance with the design criteria described herein, and shall render a written decision within 62 days or such longer interval as mutually agreed to by the Planning Board and applicant;

3) The Planning Board shall have the power to retain one or more consultants qualified to advise whether a proposed project conforms to any of the requirements of this chapter, including but not limited to architects, engineers and historic preservation specialists. All fees for the services of such consultants shall be borne by the applicant, pursuant to an escrow agreement in form and content found acceptable to the Town Attorney.

4) The Planning Board may request additional information as it deems necessary to render a decision, including but not limited to elevations, renderings, material samples and specifications.

5) In exercising its authority, the Planning Board shall consider costs of materials, availability of materials, and the needs and objectives of the applicant. The Planning Board shall make every reasonable effort to find an economically feasible plan to achieve the applicant's goals in conformance with the purpose and objectives set forth herein.

6) The Planning Board shall conduct its architectural review concurrently with site plan review or special use permit review, if applicable.

E. Findings and Decisions

1) The Planning Board, in its sole discretion, shall either approve, approve subject to specific modifications or submission of additional data or material, or disapprove the application as follows:

   a. Approval. Approval shall be based upon a finding that the proposed construction, additions or alterations will not be detrimental to the visual environment and meets the design criteria set forth herein.

   b. Approval subject to modifications. Approval with modifications shall be based on a finding that the proposed construction, additions or alterations would meet the design criteria set forth herein if certain modifications were made, or that the Planning Board requires additional data or material in order to render a final decision. The findings shall set forth the specific modifications necessary to meet such criteria, and/or the specific data or material required to satisfy the Board's requirements

   c. Disapproval. Disapproval shall be based on a finding that one or more exterior architectural features will be detrimental to the visual environment or fail to meet one or more of the design criteria set forth herein. Disapproval may also be made if the applicant has failed to submit reasonably necessary elevations, renderings, samples or specifications sufficient to enable the Planning Board to review the application.

§ 5-6 Ridgeline Protection Overlay District (RPOD)

A. Purpose and Intent

1) Consistent with its Comprehensive Plan, The Town of Windham seeks to protect topographically prominent and scenically important ridgelines and associated steep slopes as part of the larger objective to maintain and protect the rural, scenic character of the Town. Certain ridgelines and steep slope areas have been designated as topographically prominent and scenically important and are established on the Ridgeline Protection Overlay District Map. Said map shall accompany and is considered part of the Town of Windham Official Zoning Map.

2) The intent of this sub-section is to

   a. Establish standards, guidelines and procedures that minimize disturbance and adverse visual impacts on ridgelines and scenic areas that have been designated by the Town as topographically prominent and scenically important.

   b. Ensure that any development that takes place within the RPOD preserves and protects critical natural resources and minimizes visual impacts or man-made features.

   c. Minimize the removal of native vegetation and regulate the excavation and alteration of land in order to minimize any danger of erosion.

   d. Minimize forest fragmentation and preserve linkages between forested areas to maintain the integrity of Windham's core forests.

   e. Provide measures that the Planning Board can apply in order to mitigate adverse impacts to ridgelines and steep slope areas identified during any required special use permit, site plan or subdivision application reviews proposed within the RPOD.

   f. Ensure that such standards, guidelines and procedures do not have the practical effect of preventing principal and accessory structures from being built within an RPOD, and that no lot becomes unbuildable due to the implementation of these ridgeline development standards.

B. Applicability

1) Compliance with the development standards of this sub-section shall apply to all applications requiring site plan, special use or subdivision approval in the RPOD, and for new structures proposed to be located within the RPOD needing a building permit.

C. Exemptions. The following land uses are exempt from compliance with the RPOD requirements:

1) Agricultural structures located on a farm operation in a New York State Agricultural District.

2) Low impact recreational activities including hiking trails, mountain biking trails, rock climbing, nature observation areas, scenic overlooks, and ski slopes.

3) Selective cutting of trees or vegetation in accordance with a professionally prepared Forestry Management Plan.

4) Selective cutting of trees or vegetation for normal maintenance purposes on less than one half acre of land, provided that no additional cutting shall be done on the parcel, or on adjoining parcels in common ownership.

5) Any addition, enlargement, extension or restoration of single-family residences, or construction of accessory buildings to any single-family residences, which have been constructed prior to the adoption of this law.

6) Telecommunication towers.

D. Waivers. The applicability of the RPOD and its standards may be waived by the Planning Board in its sole discretion on a case-by-case basis.

1) Waivers shall be explicitly requested by the applicant in writing and expressly granted only by the Planning Board. In granting waivers, the Planning Board may, in its sole discretion, incorporate such reasonable conditions as will in its judgment substantially secure the objectives of the requirements so waived.

2) Any waivers granted by the Planning Board shall be the minimum waiver necessary to allow the requested flexibility by the applicant, but also to protect the environment. The Planning Board must state, in writing, its grounds for electing to waive the requirement(s), cite whatever evidence that the Planning Board relied upon in making the determination, and file such statement along with the site plan application and supporting documents.

3) Waivers may be granted by the Planning Board in the following circumstances:

   a. The project is not visible from publicly accessible locations. Any applicant that believes that a structure proposed to be located within the RPOD will not be visible from publicly accessible locations may provide to the Planning Board, at the applicant's expense, a survey, photograph, photo-simulation, visual test or other credible evidence that substantiates the applicant's position. If the Planning Board agrees with the applicant, it may exercise its discretion to waive compliance with the requirements of this sub-section.

   b. The project site is not located within mapped RPOD. Any applicant that believes that the project site is not actually within the RPOD may provide to the Planning Board, at the applicant's expense, a survey or other credible evidence that substantiates the applicant's position. If the Planning Board agrees with the applicant, it may rule that the requirements of this sub-section do not apply to the project because it is not located in the RPOD.

   c. A site visit by the Planning Board verifies that RPOD intent and standards are met. Any applicant may also request the Planning Board conduct a site visit to verify that a proposed structure within an RPOD meets the intent and standards of this section. If the Planning Board determines that the proposed structure meets the intent and standards, it may exercise its discretion to waive compliance with the requirements of the RPOD.

   d. The lot becomes unbuildable due to RPOD development standards. If these development standards render a parcel unbuildable due to the size of a parcel or its topography, the Planning Board shall have the authority to waive some or all requirements of this sub-section. As part of such waiver, the Planning Board should establish mitigation measures that enable the proposed structure to be built while also ensuring that these development standards are upheld to the maximum extent practicable.

E. Site Plan or Subdivision Plat Submissions

1) The following information shall be submitted to the Planning Board as part of a complete application unless waived by the Planning Board:
   a. Area of disturbance.
   b. Slope calculation within the area of disturbance.
   c. Location of the proposed building envelope, including driveways.
   d. Percent of clearcutting, if any, proposed.
   e. Height of proposed building or structure.
   f. The Planning Board is authorized to require photographs, a photo simulation and/or viewshed analysis.
2) All conditions required by the Planning Board for development within the RPOD shall be included in both the Planning Board's approval resolution and as a plat note added to the final approved plan or plat. Any such standards that need to be maintained in the future shall also be included as a condition of approval to inform subsequent landowners and Planning Boards of the required development standards.
3) The Planning Board is authorized to require an applicant for a project proposed within the RPOD to develop a viewshed analysis and/or photo simulations of the project site to aid in evaluation of impacts to the scenic character within and looking towards the RPOD.

F. Site Development and Mitigation Tools

1) Building, alterations, additions, or structures should be placed downgrade of the ridgeline where possible.
2) Where a parcel in the RPOD is forested, the continuity of the tree canopy when viewed from publicly accessible locations shall be retained to the maximum extent practicable.
3) Clearing of existing vegetation shall be limited to the minimum necessary for the building envelope. At least 50% of the trees, shrubs, and other indigenous vegetation on the parcel shall be retained to reduce erosion and preserve the natural character of the RPOD.
4) Forested vegetation shall be maintained to screen the structure and help it blend with the surrounding natural environment, except that tree trimming and minor removal of trees to create view corridors to open views from the structure shall be allowed.
5) No area totaling two (2) acres or more on any parcel or contiguous parcels in the same ownership shall be clearcut.
6) Exterior colors of the sides and roof of structures shall blend with the natural environment of the surrounding RPOD to minimize the structure's visibility from publicly accessible locations.
7) The top of the structure's roof shall not be higher than the designated ridgeline unless the structure is screened by existing vegetation when viewed from publicly accessible locations and conditions are placed on the approval to ensure that said vegetation is not disturbed.
8) Customary rooftop accessory structures including cupolas, chimneys, and antennas shall be the only portion of a structure allowed to project above the roofline. When any of these features

are proposed to be placed in a manner that is above the top of the roofline, the applicant shall provide the Planning Board with plans or drawings that accurately depict them in accurate proportion to the structure, the ridgeline and the surrounding vegetation and environment.

9) To maintain dark skies and minimize light pollution, any exterior lights shall be fully shielded and angled so that all light is directed downward. Night-time illumination and glare shall not extend beyond property boundaries.

10) Roads and driveways shall be constructed to minimize erosion and the need for the clearing of vegetation. Trees may only be removed for location and construction of streets, driveways or structures. Selective clearing for views is permitted where the viewshed is obstructed by dense vegetation.

11) Sediment and erosion control measures shall be employed to minimize impacts during and after construction, in accordance with guidelines established by the New York State Department of Environmental Conservation and the New York City Department of Environmental Protection.

12) Utilities shall be constructed and routed underground except in those situations where natural features prevent the underground siting or where safety considerations necessitate above ground construction and routing. The Planning Board may waive this requirement.

13) Use of Conservation Subdivision Design for Major Subdivisions. In order to preserve the maximum amount of open space in steep slope areas, to carefully site building envelopes in these sensitive locations, and to minimize adverse environmental impacts, the Planning Board may require use of clustering or conservation subdivision design methodology pursuant to **§6-3.** Cluster developments and conservation subdivisions within an RPOD shall maintain at least 50% of the parcel as preserved open space. Such open space shall primarily include all slopes greater than 25% and be located at the top of the ridgeline or other highly visible locations.

§ 5-7 Fire Prevention and Protection

A. General requirements. The Fire Code of New York State (FCNYS) establishes minimum requirements for fire prevention and fire protection systems using prescriptive and performance-related provisions. To ensure the protection of public safety and the general welfare of the public, the following additional requirements apply to any projects requiring site plan or special permit approval from the Town of Windham Planning Board:

1) Notwithstanding any provisions of this chapter or any other laws or regulations to the contrary, all access roads (whether public or private) shall be designed and constructed such that emergency vehicles (e.g., fire apparatus, ambulances, etc.) can safely and easily access all structures, and any dead-end roads or cul-de-sacs shall include one or more approved turn-around areas.

2) The Planning Board shall refer any application involving new construction or the substantial renovation of commercial or multi-family residential structures to the Chief of the appropriate local Fire Department for review and comment on the adequacy of emergency access prior to the Planning Board issuing any approvals.

3) The Planning Board shall refer any application involving the construction of access roads (whether public or private) on slopes greater than 15% to the appropriate local Fire Department

and the Greene County Fire Coordinator for review and comment prior to issuing any approvals.

4) Any signs, landscaping, fencing or related site amenities shall not obstruct any fire hydrants, control valves or standpipes provided for Fire Department access.

5) All security gates shall be equipped with an override system to allow access by emergency vehicles, including but not limited to ready access gates, lock boxes, wireless transmitters or similar devices.

6) Electric Vehicle Charging Stations (EVCS):

   a. All EVCS, and any buildings or structures that contain or are otherwise associated with an EVCS, shall be designed, constructed and installed as required by the Uniform Code, Fire Code, and all applicable provisions of NFPA 70 regulations.

   b. No EVCS shall be affixed to or installed adjacent to any combustible materials, and all EVCS must have a remote shut-off switch installed at least thirty (30) feet from the EVCS installation.

7) Solar Energy Systems:

   a. Solar energy systems as defined in the Town of Windham Solar Energy Law (Local Law No 1 of 2022 as amended) shall be designed, constructed and installed in accordance with the Uniform Code, Fire Code and all applicable provisions of NFPA 70 regulations.

   b. Such systems shall provide adequate ingress and egress for all local emergency responders in the event of a fire or other emergency on the site.

ARTICLE VI – SUPPLEMENTAL REGULATIONS APPLICABLE TO CERTAIN USES

§ 6-1 Accessory Dwelling Units (ADUs)

A. Purpose and intent.

Consistent with its Comprehensive Plan, the Town of Windham seeks to improve the general welfare of the town and its residents by providing a variety of housing opportunities, including Accessory Dwelling Units. The intent of this sub-section is to:

1) Provide opportunities for residents to age in place.

2) Expand the supply of affordable housing for our local workforce.

3) Allow the more efficient use of the town's existing housing stock.

4) Protect and preserve property values while preserving the rural character of the town.

B. Applicability

Accessory Dwelling Units (ADUs) are permitted in the Hamlet (H), Rural Residential (RR) and Business (B) Zoning Districts as a permitted accessory structure to a principal permitted single- or two- family dwelling. The accessory dwelling unit must be located on the same parcel as the principal residential dwelling and clearly incidental and secondary to the principal dwelling.

C. Requirements

1) Construction of any ADU, whether a detached structure or expansion of the footprint of a principal dwelling, shall conform with all setbacks, lot coverage, and height requirements of the zoning district in which it is located.

2) ADUs proposed where the principal dwelling is located on a lot non-conforming with regards to lot size may be permitted, subject to Site Plan Review.

3) A maximum of one ADU shall be permitted on each qualifying parcel, and such ADU shall have no more than two bedrooms and two bathrooms.

4) The owner of the parcel on which an ADU is located shall maintain their primary domicile in either the principal dwelling or the accessory dwelling unit.

5) No ADU may be subdivided from the parent parcel as a stand-alone structure.

6) No ADU may be located on a parcel where a current building violation exists unless the legalization or creation of the Accessory Dwelling Unit will remedy the violation.

7) All ADUs shall be on a permanent foundation, shall contain no less than 400 square feet and no more than 1,000 square feet of gross floor area, and shall meet the requirements of New York State Uniform Fire Prevention and Building Code and New York Department of Health Code.

8) Use or conversion of recreational vehicles, storage containers, shipping containers, tractor-trailer bodies or other similar containers as ADUs is prohibited.

§ 6-2 Campgrounds and Use of Recreational Vehicles

A. Purpose and intent.

Outdoor recreation is an important part of the local economy in the Town of Windham. This sub-section seeks to promote the health, safety, and general welfare of the Town and its inhabitants by establishing regulations governing the operation and maintenance of commercial campgrounds and the use of recreational vehicles.

B. Applicability

1) Campgrounds are only permitted by special use in the Rural Residential (RR) and Hamlet (H) Zoning Districts. No applicant shall use or allow the use of a parcel of land or portion thereof for the establishment, operation, or maintenance of a campground unless a special use permit has been obtained from the Planning Board.

2) Recreational Vehicles are permitted in any zoning district and do not require Planning Board approval, provided they are used for personal use and enjoyment by the owner of the property on which it is located.

C. Campground Design Standards

1) Minimum development area. The parcel on which the campground is proposed shall have a minimum lot area of at least 3 contiguous acres in single ownership or under unified control. In the Rural Residential (RR) district, the minimum lot area shall be 5 contiguous acres.

2) The minimum area per site shall be 1,500 square feet. Campsites shall be large enough to allow at least a ten-foot clearance between the boundaries of the campsite and the exterior surfaces of the camping unit placed on it, to provide for a 20-foot separation distance between camping units on adjacent campsites.

3) Campgrounds with ten (10) or more campsites shall provide an accessible and usable common space for use and enjoyment by campers. The common area may include picnic tables, grills, bathroom and shower facilities, or other amenities for common use by campers. Such common space shall have a total area equal to at least 10% of the gross land area of the campground and shall be properly maintained at all times.

4) At least two dedicated parking spaces shall be provided for each campsite.

5) Fireplaces and fire pits, if provided, shall be located in a safe and convenient location where they will not constitute a fire hazard to vegetation, undergrowth, trees and camping units.

6) Interior campground streets/roads/paths shall be properly designed and constructed to provide adequate visibility and access for emergency vehicles.

7) Water supply, sewage disposal systems and septic pump out systems shall be designed and constructed in compliance with all Greene County Department of Health, New York State Department of Health, New York State Department of Environmental Conservation and New York City Department of Environmental Protection regulations.

D. Campground Operations

1) Tent sites shall only be used for temporary camping activities, and stays shall not exceed a total length of twenty-eight (28) days.

2) Sites with temporary utility hook-ups designed for campers or recreational vehicles may be occupied for up to 180 consecutive days. Campers and recreational vehicles may not be used as year-round permanent living quarters.

3) All garbage receptacles, including cans and dumpsters, shall be kept in a sanitary condition at all times and designed to be bear proof.

4) It shall be the responsibility of the campground operator or owner to ensure that garbage and refuse shall be collected and properly disposed of outside of the campground as frequently as may be necessary.

5) No campground operator shall permit or allow the dumping or placement of any sanitary waste or solid waste anywhere upon a campsite or elsewhere within the campground, except in places designated for such purpose.

E. Recreational Vehicles

1) All recreational vehicles must be registered and inspected in accordance with the New York State Vehicle and Traffic Law.

2) Recreational vehicles shall not be permanently connected to any utilities and shall not be utilized as permanent living quarters under any circumstances.

3) Recreational vehicles located outside of a campground shall not be leased or rented for commercial purposes.

4) Recreational vehicles shall not be parked or stored within the required setbacks of the respective zoning district and shall not be parked in such a manner as to limit the sight distance of the roadway.

§ 6-3 Conservation/Cluster Subdivisions

A. Purpose and Intent

1) The Planning Board may approve conservation/cluster subdivisions in any zoning district subject to the procedures and conditions set forth in this article, in Town Law §278, and the Town of Windham Subdivision Law.

2) The purpose of this provision is to provide flexibility in the design and development of land in such a way as to promote the most appropriate use of land, to facilitate the adequate and economical provision of streets and utilities, and to preserve the natural and scenic qualities of open space.

3) The intentions of the conservation/cluster subdivision requirements in the Town of Windham are as follows:

    a. Guide the thorough analysis of a development parcel to identify and coordinate suitable areas for development and conservation, ensuring compatibility with surrounding land uses.

    b. Preserve the rural character of the Town through the permanent preservation of significant open space, sensitive natural resources and scenic views.

    c. Protect environmentally sensitive areas and biological diversity, minimize the disturbance to existing vegetation, and maintain wildlife corridors.

    d. Promote the ecological, social, recreational, and economic value of undeveloped lands.

B. Applicability & Residential Yield

1) Conservation/cluster subdivisions shall only be permitted at the discretion of the Planning Board. The procedure outlined here for authorizing conservation/cluster subdivisions shall only be approved if the Planning Board determines that the proposal would benefit the Town and align with its goals, objectives, and the purpose of this article. At its discretion, the Planning Board may require the use of a conservation/cluster design to help protect and preserve important lands or to meet other Town objectives.

2) The Planning Board shall, by resolution, establish the maximum number of residential lots or units that shall be permitted on the subject property, referred to as the "residential yield." The residential yield shall be calculated by first determining the total acreage of the site and subtracting out all areas with environmental constraints and therefore unsuitable for development. Such areas shall include but not be limited to areas with slopes in excess of 15%, floodplains and flood prone areas, areas with exposed bedrock or land incapable of meeting percolation requirements, habitats of endangered species and wetlands. The net developable area shall then be multiplied by the appropriate number of dwelling units permitted per acre for the underlying zoning district in accordance with **Table 2 - Schedule of Area Regulations**.

3) In no case shall the residential yield exceed the number of lots that would be permitted if the land were subdivided in accordance with the minimum lot size and density requirements of this chapter,

the Town Subdivision Regulations, and all other applicable local, state and federal laws, regulations and standards.

C. Requirements

1) A conservation/cluster subdivision may be served by private individual wells, private individual septic systems, or by public or private water and sewer facilities, each approved by the appropriate agency or other entity having jurisdiction.

2) A minimum of 50% of the gross area of the Conservation/Cluster Subdivision shall be set aside as common open space. The Planning Board may reduce the amount of required open space depending on the unique attributes of the parcel; however, in no event shall the amount of open space be reduced to an amount less than 35% of the parcel's gross acreage.

3) Required open space shall not include spaces in between buildings but shall be large contiguous expanses permanently protected by a conservation easement or restrictive covenant. Such spaces shall be clearly shown on the subdivision plat, including any proposed improvements or amenities such as trails, landscaping, and recreational facilities.

4) All common open space, including any improvements or amenities, shall remain in single ownership or unified control through a homeowner’s association or similar organizational entity.

5) Once approved, no further subdivision of any lots in a conservation/cluster subdivision shall be permitted. A map note specifying this restriction shall be included on the final subdivision plat filed with Greene County.

D. Review and Approval

1) Review and approval of any application for a conservation/cluster subdivision shall be made in accordance with the procedures set forth in Town of Windham Subdivision Law and Article VII of this chapter, including submission of a preliminary subdivision plat (sketch plan) and a preliminary site plan for the purposes of initial review and discussion.

2) The subdivision plat and site plan shall include proposed lot lines and setbacks, locations of buildings and structures, their heights and spacing, as well as details about open spaces, landscaping and lighting. The submission shall also specify off-street parking, driveways, and any other relevant physical features related to the proposed Conservation/Cluster Subdivision.

3) Prior to approval, a public hearing shall be held in accordance with the requirements as set forth in the Town of Windham Subdivision Law. Nothing herein shall supersede any requirements of the subdivision or site plan regulations in effect, which may impose additional requirements prior to approval.

4) As a condition of approval, a performance bond shall be secured to ensure the proper installation of all park and recreation improvements outlined in the site plan as well as maintenance of all common areas until an organizational entity is established. The amount, adequacy, execution method, duration and surety of the bonds shall be approved by the Town Attorney in consultation with the Town Engineer or other consultants.

§ 6-4 Domestic Animals, Livestock and Poultry

A. Purpose and Intent

The keeping of domestic animals, livestock or poultry can have a measurably positive impact upon the health and welfare of Town residents and contributes to reducing food insecurity in rural areas. Regulation of such practice is necessary to ensure that the keeping of such creatures will not negatively impact surrounding properties or reduce property values.

B. General Provisions

Domestic animals, livestock and poultry, where permitted, shall be kept and managed in a manner that prevents them from roaming beyond the boundaries of the parcel on which they are kept or onto adjacent properties or public rights-of-way. Containment may be achieved through fencing, enclosures or other appropriate means, and shall be maintained so as to minimize impacts on neighboring properties.

C. Domestic Animals

1) In any zoning district, no more than five (5) domestic animals over six (6) months of age shall be kept on any one parcel, provided it is on a non-commercial basis.

2) Any outdoor kennels, shelters, enclosures or fenced-in exercise pens designed to house domestic animals shall comply with the requirements of §401 of the New York State Ag and Markets Law, including:

   a. Such enclosures shall be structurally sound and maintained in good repair to contain the animal housed inside and protect it from injury.

   b. Such enclosures shall provide sufficient space to allow each animal adequate freedom of movement.

   c. Such enclosures shall be kept in a clean condition in order to maintain a healthy environment for the animal and be designed to allow for the efficient elimination of animal waste.

D. Domestic Livestock

1) The minimum lot size for the keeping of domestic livestock is three (3) acres.

2) The number of domestic livestock that can be housed on parcel shall not exceed the following:

   a. Horses and Cattle: One (1) adult animal per acre.

   b. Alpacas and llamas: Two (2) adult animals per acre.

   c. All other domestic livestock including pigs, goats and sheep: Three (3) adult animals per acre.

3) All domestic livestock shall be kept within an enclosure or fence of sufficient strength to prevent escape or injury. The following minimum floor space is required for enclosed structures:

a. Horses and Cattle: Fifty (50) square feet per adult animal. Minimum stall size for horses shall be 10 feet by 10 feet.

b. Alpacas and llamas: Thirty (30) square feet per adult animal.

c. All other domestic livestock including pigs, goats and sheep: Twenty (20) square feet per adult animal.

D. Domestic Poultry

1) Domestic poultry may be kept as an accessory use to a residential dwelling on lots with a minimum lot area of one-half acre, subject to the following:

   a. Domestic poultry shall only be permitted as an accessory use to a lawful residential building.

   b. Domestic poultry shall not be permitted in Business Districts, except where expressly authorized by this chapter.

   c. Domestic poultry shall be kept in compliance with all provisions of this chapter.

2) The maximum number of domestic poultry on any lot shall not exceed twelve (12) per acre.

3) Domestic poultry shall be kept at all times in such a manner to prevent intrusion onto or damage to neighboring properties. A minimum size of three (3) square feet per bird for enclosed structures is required.

E. Other Requirements

1) Barns, stables, chicken coops or similar enclosed structures designed to house domestic animals, livestock or poultry shall meet the same side and rear setbacks as the primary residence. If practical, doorways and other openings shall be oriented away from neighboring properties.

2) All pens, stables and other outdoor enclosures shall be cleaned and kept free of manure and refuse on a regular basis.

3) No domestic animal, livestock or poultry shall cause a public nuisance. For purposes of this chapter, public nuisance shall include any domestic animal, livestock or poultry that:

   a) Causes damage to a property of anyone other than its owner.

   b) Causes unreasonable or detectable odors at the adjacent property line.

   c) Barks, whines, howls or makes other disturbing noises in an excessive, continuous or untimely fashion.

§ 6-5 Outdoor Dining

A. No outdoor dining, including but not limited to sidewalk cafes, food trucks and beverage trucks, shall be allowed to operate unless a permit has been obtained from the Planning Board. Any request to operate outdoor dining must be made in writing to the Planning Board on an application provided by the Town Clerk.

B. Application Fee. The annual fee for processing an outdoor cafe application shall be as set from time to time by resolution of the Town Board.

C. Within ten (10) days of receipt of an application, the Code Enforcement Officer shall send a copy to the Planning Board for review and approval. The Planning Board may impose any conditions, modifications or restrictions necessary to ensure compliance with the applicable provisions of the Town Code and the general protection of the health, safety and welfare of the public.

D. Notice of permit issuance, with any conditions or restrictions attached, will be distributed to the applicant who shall conspicuously post the permit on the establishment and keep the same posted for the duration of the permit.

E. Failure to comply with any conditions or restrictions imposed by the Planning Board the outdoor dining permit shall be grounds for the immediate revocation.

F. The premises upon which the outdoor dining is located shall be kept clean and refuse-free at all times. The Code Enforcement Officer shall be authorized to require an appropriate number of garbage cans or other refuse containers as they deem necessary.

G. Lighting shall be minimal and shall be installed so that the direct or indirect illumination from the source light shall not cause illumination on abutting properties.

H. Food and beverage trucks shall not be parked within any required front or side yard setback.

I. Expiration of permit. Once issued, any outdoor dining permit associated with a permanent business, including lodging or eating and drinking establishments, shall not require annual renewal provided any conditions or restrictions imposed by the Planning Board are followed. Any outdoor dining permit associated with a food truck or transient business shall require annual renewal.

§ 6-6 Outdoor Storage

A. No person, firm or corporation shall store, accumulate, place or abandon upon any parcel or property, any junk material outside of an enclosed structure, building or container.

B. No more than one (1) inoperative or unlicensed motor vehicle shall be parked, kept or stored outdoors such that they are readily visible to the public. Nor shall said vehicles at any time be in a state of major disassembly, disrepair, or in the process of being stripped or dismantled.

C. The outdoor storage of building supplies, raw materials, finished products or machinery and equipment as an accessory use to a commercial business is permitted in all zoning districts, subject to the issuance of a special permit by the Planning Board and adherence to the following conditions:

1) Plans or drawings for any proposed outdoor storage areas must be submitted to the Planning Board for approval.

2) The outdoor storage area must be located on the same parcel as the principal use and the preferred location is to the rear of the principal building.

3) The outdoor storage must be screened from public view by buildings, opaque fencing, screening, or landscaping maintained in good condition.

4) Any outdoor storage lawfully existing at the time of the effective date of this chapter may continue to exist, provided it is screened from public view and maintained in good condition.

5) Any change of use, sale of property, change of occupancy or tenancy shall require that any non-conforming outdoor storage associated with such use or property to be brought into conformance with the requirements of this chapter.

§ 6-7 Portable Storage Containers

A. Prohibited Uses

1) Use of a bus, mobile home, truck, truck trailer, horse trailer, semi-trailer, or similar vehicles or units as a portable storage container is prohibited.

2) Use of a portable storage container for the storage of any waste or hazardous material that creates a pollution threat or a fire hazard is prohibited.

3) Use or conversion of storage containers, tractor-trailer bodies, shipping containers and any other similar containers as living quarters is prohibited.

B. Permitted Temporary Uses

1) Portable storage containers are permitted in any zoning district for up to ninety (90) days for use during moving or for temporary storage without a permit.

2) Portable storage containers, construction trailers, roll-off containers and similar containers are permitted in any zoning district for up to one year (12 months) provided an active building permit has been issued for the property.

3) Any temporary use of storage containers, construction trailers, shipping containers or similar containers exceeding those time limits shall require a permit by the Code Enforcement Officer, and adherence to the following conditions:

a. Permits for an extension of time for the use of portable storage containers may be issued for a period not to exceed six (6) months at a time.

b. Any portable storage containers intended to be in use for more than six months must be effectively screened from public view.

c. In no case shall portable storage containers of any kind be allowed for a period greater than two years (24 months) without a variance by the Zoning Board of Appeals.

§ 6-8 Planned Resort Development

A. Purpose and Intent

1) The Town of Windham has historically been a resort destination, and the local economy is heavily dependent upon tourism. Consistent with the goals stated in the Town's Comprehensive Plan, encouraging year-round tourism, preserving the Town's scenic beauty, and improving access to recreational opportunities for residents and visitors will have a positive impact upon the health and welfare of Town residents.

2) The purpose of this section is to allow for the continued operation of ski resorts in existence prior to the adoption of this Chapter, and to provide flexible land use and design regulations governing future growth and expansion of those resorts in accordance with an approved master plan of development.

3) The intent of these regulations is to:

   a. Induce private investment in the Town, county and region, including reinvestment in existing businesses and the attraction of new seasonal and year-round businesses.

   b. Create diverse full- and part-time employment opportunities for residents of the Town, county and region.

   c. Enhance and expand recreational opportunities for Town of Windham residents and visitors.

   d. Protect property values in the vicinity of the resort and protect neighboring areas from any adverse impacts.

   e. Preserve significant natural resources, and those areas of scenic and ecological value upon which the community and resort industry depends.

   f. Maintain efficient use of the land to facilitate adequate and economical construction and maintenance of streets, stormwater management facilities, and water supply and sanitary sewerage systems.

B. Land Use and Development Regulations

1) The Town Board recognizes that standard use and area regulations may not be practical for preexisting ski resorts due to considerable prior investment in land and buildings, the large tracts of land involved, the mixture of commercial and residential uses, and the need for a fully integrated plan of development and operation.

2) Any ski resort(s) operating within the Town of Windham in existence prior to the adoption of this Chapter shall be considered a Planned Resort Development (PRD) use as defined in §2-2.

The land use and dimensional specifications included elsewhere in this chapter are hereby replaced with an approval process in which an approved master plan becomes the basis for continuing land use controls.

3) All lands in common ownership associated with such resort(s) shall be shown on the Official Zoning Map within the Resort (R) District.

4) Notwithstanding the uses listed within **Table 1 – Schedule of Uses**, any type of commercial or residential use may be permitted within the Resort Zoning District provided that commercial recreation is the principal use with at least 50% of all the land area devoted to such use.

5) Accessory uses must be appropriate for and compatible with resort development and be incidental to the principal use. Such uses may include but not be limited to the following:

   a. Lodging facilities.
   b. Restaurants and catering facilities.
   c. Retail shops and personal service establishments including health spas.
   d. Civic centers, auditoriums, exhibition halls or similar facilities developed for the purpose of accommodating groups for meetings, exhibitions, shows, festivals and events.
   e. Day care centers or childcare facilities for resort employees or guests.
   f. Heliports and related facilities, provided that the hours of operation and flight path shall be subject to Planning Board and Town Board approval.

6) No more than 20% of the net developable land area held in common ownership within a PRD shall be covered by impervious surfaces.

7) The maximum height of any new building in a PRD shall be 45 feet.

8) The minimum number parking and loading spaces in a PRD shall be in accordance with the off-street parking and loading requirements specified in § 5-2 of this Chapter.

9) Adequate access to all structures by emergency vehicles shall be provided.

10) All lands within a PRD shall be served by commonly controlled, publicly owned, or publicly regulated central water and sewer systems.

11) Any proposed new landscaping, signs or buildings in a PRD shall comply with the requirements set forth in §5-3, §5-4 and §5-5, respectively.

12) Any portion of a PRD that is located within the Ridgeline Protection Overlay District (RPOD) shall comply with the requirements of §5-7.

C. Procedure for Review and Approval

1) Any new construction or significant alteration of existing buildings or facilities associated with a PRD shall materially conform to a master plan of development approved by the Windham Planning Board and shall be subject to the terms and conditions of any applicable Developers Agreement(s) between the Windham Town Board and an applicant or developer.

2) No building permit(s) shall be issued for any site improvements, material alteration of existing buildings or facilities, or construction of any new buildings or facilities associated with a resort in existence prior to the date of adoption of this Chapter, until such time as an approved master plan and developers agreement are in place.

3) Any future amendments to the adopted master plan shall be subject to the following procedures for review and approval:
    a. In order to allow the Town Board and the developer to reach an understanding on basic design elements prior to detailed design investment, the developer shall submit any proposed modifications to the master plan in conceptual form to the Town Board for initial review and discussion.
    b. In reviewing any proposed modifications to the master plan, the Town Board shall consider the following:
        i. Whether the proposed modifications meet the intent and objectives of planned resort development, as expressed in this article.
        ii. Whether the proposed modifications are conceptually sound, meet a community and/or regional need, and are of a scale and density that is compatible with surrounding land uses.
        iii. Whether adequate infrastructure and utilities are available or proposed to be made available to service the proposed development.
        iv. Whether the proposal is consistent with and furthers the policies, goals and/or objectives of the Comprehensive Plan.
    c. If the Town Board determines that the planned modifications to the master plan merit further review, the developer shall be directed by the Town Board to prepare a formal site plan submission to the Planning Board for review and approval in accordance with the requirements set forth in Article VII – Site Plan Review Procedures.
4) After referral by the Town Board and receipt of complete application, the Planning Board shall schedule a public hearing in accordance with the requirements of this chapter. Within sixty-two (62) days of completion of the SEQR environmental review process, the Planning Board shall render a decision on the application. In its decision, the Planning Board may approve, approve with modifications or disapprove the site plan.
5) Upon issuance of site plan approval by the Planning Board, the developer shall return to the Town Board for approval of any associated amendments to this Chapter, including the Zoning Map, or modifications to any Developers Agreement(s), as may be necessary.
6) Unless otherwise specified or extended by the Planning Board, site plan approval shall expire if the applicant fails to undertake the proposed action or project within two years from the filing date of such decision thereof.

§ 6-9 Stripping of Land

A. Purpose and Intent

It is the purpose of this chapter to regulate the land stripping practices of grading, filling, topsoil removal, underlying material removal, and vegetation removal within the Town of Windham. The Town hereby finds that the undue stripping of land alters the existing topography and removes the natural ground cover, leading to airborne pollution, erosion, sedimentation, and environmental degradation.

B. Exclusions

1) This provision shall not be applicable to sand, gravel, shale, topsoil, or other aggregate mining operations that are active as of the date this regulation was adopted and are permitted by the New York State Department of Environmental Conservation.
2) Trenching for the installation or maintenance of public utilities.
3) Actions included in the necessary maintenance and upkeep of property, agricultural activities, or forest management.
4) Any emergency activity that is immediately necessary for the protection of life, property, or natural resources.

C. Regulations

1) No permittee shall remove, or cause to be removed, any vegetation or topsoil or perform any grading or filling totaling one (1) acre or greater without the granting of a permit from the Building Department of the Town of Windham.
2) Applications for permits for the stripping of land shall be in writing on a form provided by the Town Clerk or Building Department.
3) Each application shall be accompanied by a site plan showing the location of the area to be stripped, the quantity of material to be removed, the duration of the proposed activity, and a Stormwater Pollution Prevention Plan (SWPPP).
4) Upon authorization by the Planning Board, and submission of copies of any applicable permits issued by regulatory agencies related to stormwater discharges from construction activity, the Building Department shall issue a permit for the stripping of land. Permits shall be valid for a duration of time set by the Planning Board and shall be subject to any necessary conditions deemed appropriate by the Planning Board.
5) To ensure compliance with the standards of this section, the permittee may be required to provide a performance guarantee in the form of either a bond, a letter of credit, or another type of financial security approved by the Town to ensure completion of any such work upon the permittee's failure to do so.

§ 6-10 Wireless Telecommunications Towers and Facilities

A. Purpose and Intent.

The purpose of this section is to accommodate the need for wireless telecommunication towers and facilities in appropriate areas of the Town of Windham while protecting the public against any adverse impacts to aesthetic resources or the public safety and welfare. The intent of this section is to:

1) Preserve and enhance the positive aesthetic qualities of the natural and built environment in the Town of Windham;
2) Avoid potential damage to adjacent properties and structures;
3) Minimize adverse visual impacts through careful design, siting and screening;
4) Minimize the total number of new wireless telecommunication facilities by encouraging colocation or attachment to existing tall structures.

B. Regulations.

1) No wireless telecommunication tower shall hereafter be used, erected, moved, reconstructed, changed or altered except after approval of a special use permit and in conformity with these regulations.
2) Each application for a wireless telecommunication tower shall be accompanied by a site plan that shows all existing and proposed structures and improvements, including grading plans for any proposed access roads. The site plan shall also include documentation on the proposed intent and capacity of use as well as a justification for the height of any tower or antennas and justification for any land or vegetation clearing required.
3) The site plan shall include a landscape plan showing existing trees to be preserved or removed, and the location and dimensions of any proposed planting areas, curbs or fencing.
4) The applicant must also submit documentation to prove that the proposed wireless telecommunications facility is necessary in order to provide service to locations which the applicant is not able to serve with existing facilities and must demonstrate that the proposed facility is the least intrusive means available to fill a significant gap in coverage.
5) Shared use of existing towers shall be preferred to the construction of new towers. The applicant shall be required to present an adequate report inventorying existing towers within reasonable distance of the proposed site and outlining opportunities for shared use of existing facilities or structures as an alternative to a new construction. For new telecommunication towers, a statement by the applicant as to whether the proposed facility will be designed to accommodate co-location by other carriers in the future shall also be provided.
6) Wireless telecommunication facilities shall comply with the minimum setbacks required by the underlying zoning district. Additional setbacks may be required by the Planning Board to avoid potential damage to adjacent properties or structures in the event of tower failure and/or to preserve privacy of adjoining residential and public property. Setbacks shall apply to all tower parts, including guy wire anchors, and to any accessory facilities.
7) The maximum height of wireless telecommunications tower shall not exceed ninety (90) feet above finished grade level. The Planning Board, at its sole discretion, may modify the height

requirements if the Applicant can justify the need to exceed the height limitation to provide adequate service primarily within the Town of Windham.

8) Towers and accessory facilities shall be sited to have the least practical adverse visual effect on the environment. Accessory facilities shall maximize use of building materials, colors and textures designed to blend with the natural surroundings.

9) The Planning Board may request a Visual Impact Analysis that shall include a map identifying locations from which the proposed facility shall be visible, as well as photo simulations of views of the proposed facility from key public viewpoints where the site may be visible to a large number of residents, visitors, or travelers.

10) Maximum use of existing roads, public or private, for site access is encouraged. Construction of new roads shall minimize ground disturbance and vegetation cutting to the maximum extent possible, and road grades shall closely follow natural contours to assure minimal site disturbance.

11) The Planning Board shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to approval of the proposed wireless telecommunication facility. Such conditions shall include provisions for dismantling and removal of towers and accessory facilities upon abandonment of use, including providing a performance bond or other security instrument sufficient to cover the full cost of the removal.

§ 6-11 Solar Energy Systems

A. Applicability

Solar Energy Systems shall be permitted only in accordance with the requirements of this chapter and the Town of Windham Solar Energy Law (Local Law No. 1 of 2022), as amended.

§ 6-12 Outdoor Lighting

A. Standards

1) Outdoor lighting associated with any use subject to review under this chapter shall be designed, installed and maintained to minimize glare, light trespass and sky glow.

2) All outdoor lighting fixtures shall be fully shielded and directed downward to the extent practicable, and illumination levels shall be no greater than necessary for safety and operational needs.

ARTICLE VII - NONCONFORMING USES AND BUILDINGS

§ 7-1 Nonconforming Uses

A. The lawful use of any building or land existing at the time of the enactment of this chapter, where such use does not conform with the provisions of this chapter, shall be allowed to continue.

B. A nonconforming use that has permanently closed or failed to renew a required business license or local permit, shall be considered abandoned and may not be reestablished after two or more years of abandonment.

C. Nonconforming uses shall not be changed to another nonconforming use without a special permit from the Planning Board, and then only to a use which is of the same or a lesser degree of nonconformance.

D. Nonconforming uses shall not be enlarged, expanded or increased after the effective date of this chapter without prior approval by the Planning Board.

§7-2 Nonconforming Buildings

A. Buildings and structures existing at the time of enactment of this chapter whose size or location do not conform with the dimensional requirements of this chapter shall be deemed to meet the minimum dimensional requirements of this chapter.

B. Nonconforming commercial buildings may be reconstructed or structurally altered during their life but may not be expanded beyond the original building footprint without prior approval by the Planning Board.

C. Normal maintenance and repair, alteration, reconstruction or enlargement of a residential building or structure which is nonconforming as to district regulations for lot area, lot width, front, side or rear yards, maximum height, lot coverage or other such regulations is permitted if the same does not increase the degree of or create any new nonconformity. In such circumstances, Planning Board approval shall not be required.

D. Nonconforming buildings or structures damaged by fire, flood, accident or other act by God, may be restored or replaced in-kind, provided that construction is commenced within two years after such damage is incurred. Extensions may be granted by the Planning Board with due cause.

§7-3 Existing Undersized Lots

Lots of record at the time of adoption of this chapter whose size or dimensions are less than the specified minimum requirements set forth herein shall be deemed to meet the minimum size regulations of the chapter. No new lot shall be created which does not meet the minimum lot size or dimensional regulations of this chapter.

ARTICLE VIII – SITE PLAN REVIEW PROCEDURES

§ 8-1 Purpose and Intent

The Town of Windham Planning Board is authorized, in accordance with § 274-a and 274-b of the New York State Town Law, to review and approve, approve with modifications or disapprove site plans connected therewith. Through site plan review, it is the intent of this article to promote the health, safety and general welfare of the residents of the Town and to ensure that proposed development and use of land within the Town of Windham will have a harmonious relationship with the existing or permitted use of contiguous land and of adjacent neighborhoods.

§ 8-2 Applicability and Review Requirements.

A. Applicability.

Any alteration of land occurring after the adopted date of this chapter shall be subject to site plan review and approval by the Planning Board before being undertaken, including but not limited to the following:

1) The development or redevelopment of any property requiring the issuance of a special use permit.
2) Construction, significant alteration, or replacement of any structure for commercial use, or any material change in the use, frequency or intensity of a such use;
3) Construction, significant alteration, or replacement of any multi-family residential structure, condominium or townhouse development containing more than two units;
4) Construction, significant alteration, or replacement of any single-family residential dwelling located within the Hamlet (H) District, the Business (B) District or the Ridgeline Protection Overlay District (RPOD).
5) Construction, significant alteration, or replacement of any single-family residential dwelling in excess of 3,500 square feet of gross floor area in any zoning district.
6) Any accessory structures or uses which exceed the gross floor area of the principal structure.
7) Any conforming use which would otherwise be subject to this section that has been discontinued for a period of two years or more shall be subject to site plan review before such use is resumed.

B. Exceptions.

The following improvements shall not be subject to site plan review:

1) Ordinary repair or maintenance or interior alterations to existing structures of any type.
2) Construction, significant alteration or replacement of any single-family residential dwelling or accessory structure under 3,500 square feet, provided such structure is not located within the Hamlet (H) District, the Business (B) District or the Ridgeline Protection Overlay District (RPOD).
3) Stripping of land or clearcutting any area less than one (1) acre in size.

C. Effect of site plan approval.

1) No lot or parcel of land shall be used except in conformity with an approved site plan required pursuant to § 8-2.A.

2) No building permit shall be issued for any use or structure covered by this section until an approved site plan or approved amendment of an existing site plan has been secured by the applicant from the Planning Board and filed with the Code Enforcement Officer.

3) No certificate of occupancy will be issued for any structure or use of land covered by this section unless the structure is completed or the land is developed or used in accordance with an approved site plan or approved amendment of an existing site plan.

§ 8-3 Site Plan Review

Prior to undertaking any improvement activity, except for uses specifically listed in §8-2.B of this local law, site plan approval by the Planning Board is required. Applicants are encouraged, but not required, to follow the recommended procedures related to submission of a sketch plan prior to submitting a formal site plan application.

A. Sketch Plan. An initial presentation to the Planning Board by the applicant, prior to the preparation and submission of a formal site plan, may be held at the request of the applicant or the Planning Board. The intent of such a presentation is to enable the applicant to inform the Planning Board of their proposal prior at an early stage, prior to the preparation of a detailed site plan; and for the Planning Board to review the basic site design concept, advise the applicant as to any potential problems and concerns, and to generally determine the information to be submitted on the detailed site plan. In order to accomplish these objectives, the applicant shall provide, at a minimum, the following information:

1) A statement and rough sketch showing the locations and dimensions of principal and accessory structures, parking areas, access signs and other planned features.

2) An area map showing the parcel under consideration for site plan review, and all properties, subdivisions, streets, rights-of-way, easements and other pertinent features within 200 feet of the boundaries of the parcel. Said map should show existing natural features such as water bodies, watercourses, wetlands, wooded areas, individual large trees and flood hazard areas.

3) A topographic map of the site at 20-foot contour intervals.

B. Site Plan Application. A formal application for site plan approval shall be made to the Planning Board on forms provided by the Town at least one week prior to the scheduled meeting. Digital submissions are preferred and shall be accompanied by plans containing the following information:

1) Title of drawing including name and address of applicant and person responsible for preparation, identification of New York State licensed architect, landscape architect or engineer where appropriate on such drawing;

2) Date, north arrow and scale bar;

3) Section, lot and block number taken from the latest tax records, and the name and address of the owner of record;
4) Boundaries of the property plotted to scale, and the names and addresses of all adjoining landowners as shown on the latest tax records;
5) Existing zoning of the property, and relationship of the site to any overlay districts;
6) Location, design, type of construction, and exterior dimensions of all existing and proposed buildings;
7) Location, design and type of construction of all parking lots, loading areas, and ingress/egress points, including but not limited to dimensions, sight distance, and features like signage, lighting, pavement markings, etc.
8) Provision for pedestrian access, where applicable;
9) Location of outdoor storage, if any;
10) Location, design and construction materials of all existing or proposed site improvements including drains, culverts, retaining walls and fences;
11) Grading and drainage plan, showing existing and proposed contours, rock outcrops, depth to bedrock, soil characteristics, and watercourses;
12) Description of the method of sewage disposal, including the location, design and construction of such facilities;
13) Description of the method of securing potable water, including the location, design and construction of such facilities, and the location of any existing well(s) on the site;
14) Location of wells, septic systems and leach fields on adjoining property within 200 feet of site;
15) Location of fire and other emergency zones, including the location of fire hydrants;
16) Location, design and construction materials of all energy distribution facilities, including electrical, gas and alternate energy;
17) Location, size, and design and type of construction of all proposed signs;
18) Location and proposed development· of all buffer areas, including existing vegetative cover;
19) Location and design of outdoor lighting facilities;
20) General landscaping plan and planting schedule;
21) Construction phasing plan, if applicable;
22) Identification of all necessary permits from other governmental bodies required for the project's execution, and the dates such applications were submitted or approved, as applicable;
23) Copies of any deed restrictions on the property;
24) Other elements integral to the proposed development as may be considered necessary in the particular case by the Planning Board;

C. Environmental Review.

In compliance with the provisions of the State Environmental Quality Review Act under Article 8 of the Environmental Conservation Law and its implementing regulations, all site plan applications must be accompanied by a completed Environmental Assessment Form.

D. Application and Review Fees

1) All site plan applications shall be accompanied by a fee as provided in the local law adopted by the Town Board establishing fees. Said fees shall comprise a non-returnable review fee for a review under the terms of this article.
2) The applicant shall be required to pay the actual costs of publication of any and all legal notices or mailings required by any provision of this chapter or other provision of law.
3) In reviewing any site plan application, the Planning Board may secure the advice or assistance of one or more expert consultants as qualified to advise whether a proposed use will conform to the requirements of this article. The applicant will be notified prior to the board incurring any reimbursable costs or consultant fees.
4) Once established, any review fees for the services of such consultant(s) shall be borne by the applicant who will provide monies needed to establish an escrow account from which fees shall be paid. A copy of the report(s) of such consultant(s) shall be furnished to the applicant upon completion.
5) In the event that an applicant shall withdraw his application at any stage of the proceedings, then the Town shall return any unexpended portion of the deposited funds held in the escrow account.

E. Acceptance of Final Application

No application shall be considered final and the application shall be held in abeyance until:

1) All maps and plans are submitted in acceptable form and all of the requirements of **§ 8-3.B-C** have been met.
2) SEQRA environmental review has been completed and a negative declaration, or in the case of a positive declaration, a findings statement has been issued by the Lead Agency.
3) If review is required pursuant to §239 of the General Municipal Law, a recommendation from the Greene County Planning Board has been received, or more than thirty (30) days have elapsed from the date of referral;
4) If the site is located within a sewer district and requires sewerage or additional capacity, an approval for an allotment/connection is obtained from the Town Board;

F. General Considerations

The Planning Board's review of the site plan shall include, but is not limited to, the following general considerations:

1) Location, arrangement, size, design and general site compatibility of buildings, lighting, and signs.

2) Adequacy and arrangement of the vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers, and traffic controls.

3) Location, arrangement, appearance, and sufficiency of off-street parking and loading.

4) Adequacy and arrangement of pedestrian traffic access and circulation, walkway structures, control of intersections with vehicular traffic, and overall pedestrian convenience.

5) Adequacy of stormwater and drainage facilities.

6) Adequacy of water supply and sewage disposal facilities.

7) Adequacy, type, and arrangement of trees, shrubs, and other landscaping constituting a visual and/or noise buffer between the applicant's and adjoining lands, including the maximum retention of existing vegetation.

8) Special attention to the adequacy and impact of structures, roadways, and traffic circulation for the provision of emergency services and fire protection.

9) Special attention to the adequacy and impact of structures, roadways and landscaping in areas with susceptibility to ponding, flooding, and/or erosion.

10) Overall impact on the neighborhood, including compatibility of design considerations.

11) Overall compatibility with the natural resource characteristics of the site.

§ 8-4 Public Hearings & Planning Board Decision

A. Public Hearings

1) The Planning Board may conduct a public hearing on the site plan if considered desirable by a majority of its members. Such hearing shall be held at any time during the review process, but not more than sixty-two (62) days after acceptance of a complete site plan application.

2) The public hearing shall be advertised in the Town's Official newspaper of general circulation in the Town at least ten (10) working days before the date of the public hearing and the applicant must be provided with a notice of the hearing ten (10) working days in advance.

3) In accordance with current tax records, all known property owners with property abutting and within 500 feet of the site shall be notified by the applicant by mail (certified return receipt requested) within three (3) working days after the hearing date is set. However, for ordinary residential structures subject to site plan review, the Planning Board may limit the notification to the abutting property owners, including those lots separated by a street or roadway. The applicant shall submit a copy· of such notice and proof of mailing to the Planning Board at the public hearing.

B. Abandonment

In the event an applicant, consultants or representatives for site plan review do not appear before the Planning Board in conjunction with its application for a period of more than one year for purposes of advancing the application process, the Planning Board, in its discretion, may declare the site plan application to be abandoned. In the event the application is deemed abandoned and the applicant still desires to seek approval of its site plan, the applicant must make a new application for site plan approval and pay all required application fees.

C. Planning Board Decision

Within sixty-two (62) days of acceptance of a complete application for site plan approval, or if a public hearing is held, within sixty-two (62) days of the close of the public hearing, the Planning Board shall render a decision. In its decision, the Planning Board may approve, approve with modifications or disapprove the site plan. This time period can be extended by mutual consent of the applicant and the Planning Board.

1) Preliminary Approval. Upon approval of the site plan, and payment by the applicant of all fees and reimbursable costs due the Town, the Planning Board shall endorse its approval on a copy of the site plan and shall file it and a written statement of approval with the Town Clerk within five (5) days. A copy of the written statement of approval shall be mailed to the applicant by certified mail, return receipt requested.

2) Preliminary Approval with Modifications. The Planning Board may conditionally approve the final site plan. A copy of written statement containing the modifications required by the conditional approval will be mailed to the applicant by certified mail, return receipt requested. After adequate demonstration to the Planning Board that all conditions have been met, and payment by the applicant of all fees and reimbursement costs due the Town, the Planning Board shall endorse its approval on a copy of the site plan and shall file it and a written statement of approval with the Town Clerk within five (5) working days.

3) Disapproval. Upon disapproval of the site plan the decision of the Planning Board shall be filed with the Town Clerk within five (5) working days and a copy thereof mailed to the applicant by certified mail, return receipt requested, along with the Planning Board's reasons for disapproval.

4) Before the final approval may be granted and a building permit issued for any project, all required third-party permits and approvals must be submitted to the Town in writing.

5) No approved site may be altered or amended without prior approval by the Planning Board.

D. Expiration of approval:

1) All final and/or conditional final site plan approvals shall be valid for a period not to exceed twelve (12) months. If the twelve (12) month period expires, and no substantial construction has been initiated, the approval shall be null and void. The mere issuance of a building permit shall not extend the above-stated twelve (12) month period. Prior to the expiration, the applicant may petition the Planning Board in person for no more than two (6) month extensions and must show cause as to why the approval should not be deemed null and void.

2) In the event the applicant appearing before the Planning Board fails to show good cause for not advancing the project to satisfy the resolution conditions or does not provide evidence that third-party permits and approvals have been diligently pursued, the Planning Board in its sole discretion may deny the request for extension and require that the applicant file a new site plan application and pay all required application fees.

3) If the applicant commences construction and makes substantial expenditures prior to expiration of site plan approval, the approval shall be considered vested and shall remain valid even if construction later stops.

§ 8-5 Performance Bond

A. As a condition of site plan approval, the Planning Board may require the applicant to secure a performance bond. Said bond shall be in the form of cash, letter of credit, or negotiable securities, and shall guarantee to the Town that the owner/developer of said parcel will faithfully cause to be constructed and completed, within a reasonable period of time, all required improvements detailed on the approved site plan.

B. The amount of the performance bond shall be estimated by the Planning Board, its consultant(s) or an officer of the Town designated to make such estimate and shall be approved by the Town Board.

C. The required improvements shall not be considered to have been completed and the performance bond released until their installation has been approved by an officer of the Town or the Town Engineer.

D. If at any time during construction, the Town determines that 1) the amount of the performance bond is not sufficient to warrant all the improvements covered by such bond, 2) that the required improvements have been installed in a sufficient amount to warrant a reduction in the face amount of said bond, or 3) that the character and extent of such development requires additional improvements, the Town may mandate an increase or decrease in the face value of the performance bond by an appropriate amount.

ARTICLE IX - ADMINISTRATION AND ENFORCEMENT

§ 9-1 Enforcement

A. The provisions of this Chapter shall be administered and enforced by the Town of Windham Code Enforcement Officer, who shall be appointed by the Town Board.

B. The Code Enforcement Officer or his or her duly authorized assistant(s) shall have the right to make inspections of buildings and premises, issue summonses and appearance tickets, and commence actions in a court of competent jurisdiction for injunctive or other such relief.

C. It shall be the duty of the Code Enforcement Officer and employees of the Building Department to keep a record of all applications for permits and a record of all permits issued with a notation of all special conditions involved. They shall file and safely keep copies of all plans submitted, and the same shall become part of the Town's official records and shall be available for use by the Town Board and other officials.

§ 9-2 Building Permits

A. No building in any zoning district shall be erected, reconstructed or restored, or structurally altered without a building permit issued by the Town of Windham Code Enforcement Officer.

B. Building permits shall only be duly issued upon application to the Building Department and upon payment of the required fee established by the Town of Windham Town Board. No building permit shall be issued unless the proposed construction or use is in full conformity with all the provisions of all applicable regulations set forth in this Chapter.

C. No building permit shall be issued for any building that is subject to site plan approval by the Planning Board unless and until such approval has been duly granted by said Board in accordance with the requirements set forth in this Chapter, and any conditions which may have been prescribed by said board have been satisfied.

D. No building permit shall be issued for any special permit use in any district where such use is subject to approval by the Planning Board unless and until such approval has been duly granted by said board in accordance with the requirements set forth in this Chapter, and any conditions which may have been prescribed by said board have been satisfied.

E. No building permit shall be issued for a building that is permitted subject to a variance granted by the Zoning Board of Appeals unless and until such variance has been duly granted in accordance with the requirements set forth in this chapter, and any conditions which may have been prescribed by said board have been satisfied.

F. Once issued, a building permit shall expire if the work authorized has not commenced within 12 months after the date of issuance. The Code Enforcement Officer, at their sole discretion, may authorize one six-month extension of the building permit expiration date, upon notification of the Planning Board. After that, no further work shall be undertaken without a new building permit being issued.

§ 9-3 Certificate of Occupancy

A. No land, building or other structure or part thereof hereafter erected or altered in its use or structure shall be used or occupied until the Code Enforcement Officer or a designated employee of the Building Department has conducted a final inspection and issued a Certificate of Occupancy.

B. Within ten (10) working days after notification that a building, structure or premises is ready for occupancy or use, it shall be the duty of the officers and inspectors of the Building Department to make a final inspection thereof and to issue a Certificate of Occupancy confirming compliance with the provisions of this Chapter, and all other applicable sections of the Town Code.

C. If the officers and inspectors of the Building Department deny a certificate of occupancy, they shall state, in writing, the reasons for such denial and forward same to the address indicated on the application.

§ 9-4 Violations & Penalties

A. The Justice Court of the Town of Windham shall have jurisdiction over summonses and appearance tickets served or any information filed charging a violation of this Chapter.

B. Any person or legal entity who fails to comply with or who violates this chapter or who shall have aided or abetted the commission of any such violation shall each be guilty of a separate offense and, upon conviction thereof, shall be punishable as follows:

1) For a first offense, by a fine not exceeding $500 per offense, or imprisonment for a period not to exceed six months, or both.

2) For a second offense, both of which were committed within a period of five years, by a fine not less than $500 per offense nor more than $1,000 per offense, or imprisonment for a period not to exceed six months, or both.

3) For a third or subsequent offense, all of which occurred within a period of five years, by a fine not less than $1,000 per offense nor more than $5,000 per offense, or imprisonment for a period not to exceed six months, or both.

C. Any violation of this chapter is hereby declared to be a public nuisance and is subject to a stop-work order of all construction-related activities. Such stop-work order shall be issued by an officer or inspector of the Building Department, and such order shall remain in place until the violation is corrected, or a judicial order to the contrary has been granted.

ARTICLE X – ZONING BOARD OF APPEALS

§ 10-1 Creation, Appointment and Organization

A. In accordance with §267 of the Town Law of the State of New York, upon adoption of this zoning law, a Zoning Board of Appeals shall be created. The Board shall consist of five members appointed by the Town Board for staggered terms of five years each. If a vacancy shall occur otherwise than by expiration of the term, it shall be filled by the Town Board by appointment for the unexpired term.

B. The Town Board shall annually designate a Chairman, who shall preside over meetings. A quorum shall consist of three members. In order to reverse a decision of the officers and employees of the Building Department or grant a variance, an affirmative vote of at least three members shall be required. The Board shall keep minutes of its proceedings showing the vote of each member upon each question and shall keep records of its examinations and other official actions.

C. The Zoning Board of Appeals may have two (2) alternate members appointed by the Town Board. Said alternate members may fill a member's seat, at the Chairman's discretion, and vote when a member is absent or recused.

D. In accordance with §267 of the Town Law of the State of New York, each member of the Zoning Board of Appeals shall complete, at a minimum, four hours of training each year designed to enable such members to more effectively carry out their duties. Evidence that such training has been completed shall be provided to the Town Clerk by the end of each calendar year, and shall be a condition for reappointment to the board.

§ 10-2 Powers & Duties

A. Powers and duties. The Zoning Board of Appeals shall have all the powers and duties prescribed by §267 of the Town Law of the State of New York which are more particularly specified as follows:

1) Interpretation.

a. Upon appeal from a decision by the Code Enforcement Officer, the Zoning Board of Appeals is authorized to decide any question involving the interpretation of any provision of this chapter, including the determination of the exact location of any district boundary if there is uncertainty with respect thereto.

b. When a use is not specifically permitted in this chapter as either a use permitted by right or by special permit, it shall be understood that the use may be allowed by special use permit if the Zoning Board of Appeals determines that the use is similar to other uses listed in the district, and is consistent with the stated purpose of the district.

2) Area Variances.

a. The Zoning Board of Appeals is authorized to grant area variances as defined by and subject to the requirements set forth in §267-b of the Town Law of the State of New York.

b. In considering applications for an area variance, the Zoning Board of Appeals shall balance the interests of the applicant and those of the neighborhood or community and consider the following five factors in rendering its decision:

i. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;

ii. Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;

iii. Whether the requested area variance is substantial;

iv. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and

v. Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals but shall not necessarily preclude the granting of the area variance.

c. In granting an area variance, the Zoning Board of Appeals shall grant the minimum variance that it shall deem necessary and adequate and at the same time protect the character of the neighborhood and the health, safety and welfare of the community.

3) Use variances.

a. The Zoning Board of Appeals is authorized to grant use variances as defined by and subject to the requirements set forth in §267-b of the Town Law of the State of New York.

b. Use variances shall only be granted by the Zoning Board of Appeals in cases where the applicable zoning regulations and restrictions have been proven to have caused unnecessary hardship. In order to prove such unnecessary hardship, the applicant shall demonstrate to the Board of Appeals that:

i. The applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence; and

ii. The alleged hardship relating to the property in question is unique and does not apply to a substantial portion of the district or neighborhood; and

iii. The requested use variance, if granted, will not alter the essential character of the neighborhood; and

iv. The alleged hardship has not been self-created.

4) In accordance with §239-l and 239-m, Article 12-B, of the General Municipal Law of the State of New York, if the site lies within 500 feet of a county or state road, institution, park, drainage easement or a municipal boundary, a copy of the variance application shall be forwarded to the Greene County Planning Board for its review and recommendation before the Zoning Board of Appeals renders a decision.

5) Imposition of conditions. The Zoning Board of Appeals shall, in granting of both use variances and area variances, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property. Such conditions shall be

consistent with the spirit and intent of this chapter and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

B. Application and Review Procedures.

1) All applications for variances shall be filed in writing with the Secretary of the Zoning Board of Appeals on forms provided by the Building Department, and shall be accompanied by payment of a filing fee as set by the Town Board by local law.

2) All applications shall include a site plan, drawn to scale and accurately dimensioned, showing the location of all existing and proposed buildings and structures on the lot, and list the variance(s) requested.

3) The Zoning Board of Appeals shall hold a public hearing on all appeals or applications within 62 days of the filing of a complete and proper appeal or application. The Board shall fix a reasonable time for the hearing and give public notice of such hearing by publication in a paper of general circulation in the Town at least five days prior to the date thereof. The applicant shall notify, by certified mail (return receipt requested) all owners of properties within 300 feet of the property which is the subject of the application. The costs of sending or publishing any notices relating to such appeal shall be borne by the Applicant.

4) The Zoning Board of Appeals shall render its final decision within sixty-two (62) days after the conduct of said public hearing. This time period can be extended by mutual consent of the applicant and the Zoning Board of Appeals.

5) The time within which the Board of Appeals must render its decision may be extended by mutual consent of the applicant and the Board.

6) Decisions of the Zoning Board of Appeals shall be rendered in writing and shall specify the conditions for such approval or the grounds for denial. The final decision shall be filed in the office of the Town Clerk within five business days after the day such decision is rendered, and a copy thereof mailed to the applicant.

7) Applications for a variance will not be considered if a violation of Town Code or State Building Code exists at the parcel or parcels which are the subject of the proposed application; or real property taxes are delinquent regarding said parcel or parcels.

ARTICLE XI – PLANNING BOARD

§ 11-1 Creation, Appointment and Organization

A. In accordance with §271 of the Town Law of the State of New York, a Planning Board consisting of five (5) members shall be appointed by the Town Board.

B. The Town Board shall annually designate a Chairman, who shall preside over meetings. A quorum shall consist of three members. The Board shall keep minutes of its proceedings and records of its official actions.

C. The Planning Board may have two (2) alternate members appointed by the Town Board. Said alternate members may fill a member's seat, at the Chairman's discretion, and vote when a member is absent or recused.

D. In accordance with §267 of the Town Law of the State of New York, each member of the Planning Board shall complete, at a minimum, four hours of training each year designed to enable such members to more effectively carry out their duties. Evidence that such training has been completed shall be provided to the Town Clerk by the end of each calendar year and shall be a condition for reappointment to the board.

E. All provisions of state law relating to Planning Board member eligibility, vacancies, removal, compatibility of office, service on other boards, compensation, and attendance shall apply.

§ 11-2 Powers & Duties

A. Powers and duties. The Planning Board shall have all the powers and duties prescribed by §271 of the Town Law of the State of New York and the requirements of this Chapter including:

1) Reviewing and rendering decisions on site plan and special permit applications;

2) Reporting on matters referred by the Town Board including proposed zoning amendments;

3) Reviewing and making recommendations on a proposed town comprehensive plan update or amendment;

4) Undertaking research, mapping, reports or studies relating to the planning and development of the town as it seems desirable, providing any associated expenditures are first authorized by resolution of the Town Board.

ARTICLE XII – AMENDMENTS

§ 12-1 Adoption of Amendments

A. The Town Board may from time to time, on its own motion, on petition, or on the recommendation of the Planning Board, amend, supplement or repeal the regulations and provisions of this Chapter after public notice and hearing. Every such proposed amendment, whether initiated by the Town Board or by petition, shall be referred to the Planning Board for report and to the Greene County Planning Board in accordance with §239-m of the General Municipal Law. The Town Board shall not take action on any such amendment without a report from the Planning Board unless the Planning Board fails for any reason to render such report within 62 days following the date of such referral.

B. In making its report on a proposed amendment to the Town Board, the Planning Board shall make an inquiry and determination.

1) Concerning a proposed amendment to the text of the law, the Planning Board shall determine:

a. Whether such change is consistent with the aims and principles embodied in the regulations as to the particular districts concerned.

b. Which areas, land uses, buildings and establishments in the Town will be directly affected by such change and in what way they will be affected.

c. The indirect implications of such change in its effect on other regulations.

d. Whether such proposed amendment is consistent with the goals of the Comprehensive Plan of the Town.

2) Concerning a proposed amendment involving a change in the Zoning Map, the Planning Board shall determine:

a. Whether the uses permitted by the proposed change would be appropriate in the area concerned.

b. Whether adequate public facilities and services exist or can be created to serve the needs of any additional residences or other uses likely to be constructed as a result of such change.

c. Whether the proposed change is in accord with any existing or proposed plans in the vicinity.

d. The effect of the proposed amendment upon the growth of the Town as envisaged by the Comprehensive Plan.

C. The Town Board, by resolution adopted at a stated meeting, shall fix the time and place of a public hearing on the proposed amendment and cause notice to be published in a paper of general circulation in the Town and posted on the Town's web site at least 10 days prior to said hearing.

ARTICLE XIII – INTERPRETATION & APPLICABILITY

§ 13-1 Interpretation

In their interpretation and application, the provisions of this chapter shall be held to be the minimum adopted for the promotion of the public health, safety, comfort, convenience, and general welfare. It is not intended by this chapter to interfere with or abrogate or annul any easements, covenants or other agreements between parties; provided, however, that where this chapter imposes a greater restriction upon the use of a building or premises, or requires larger open spaces than are imposed or required by any other statute, local law, rule, regulation or permit, or by any easement, or agreement, the provisions of this chapter shall control.

§ 13-2 Compliance with Other Regulations

A. Notwithstanding any provisions of this chapter or any other laws or regulations to the contrary, the provisions and requirements of Article 3 of the 1997 New York City Watershed Memorandum of Agreement, referred to as the "Watershed Regulations," shall be complied with.

B. Notwithstanding any provisions of this chapter or any other laws or regulations to the contrary, the provisions and requirements of Article 8 of the Environmental Conservation Law, § 8-0113, Part 617, referred to as the "New York State Environmental Quality Review (SEQR) regulations," shall be complied with.

C. The Town shall comply with § 239-m of the New York State General Municipal Law prior to taking action on any variance, special use, or amendment to this chapter which are located within the distance requirements as spelled out in § 239-m of the General Municipal Law.

§ 13-3 Illegality or Unconstitutionality

If any clause, sentence, paragraph, word, section or part of this chapter shall be adjudged by any court of competent jurisdiction to be unconstitutional, illegal or invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, word, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

§ 13-4 Effective Date, Pending Applications and Prior Enactments

A. This chapter shall take effect after filing in the office of the Secretary of State and in accordance with the procedural requirements set forth in Town Law §264.

B. Applications for subdivision and site plan approval submitted to or approved by the Town of Windham Planning Board prior to December 11, 2025, the date of the Town Board’s acceptance of the referral of the proposed zoning law by the Town Zoning Commission, shall be subject to the local laws in place at the time of application. In such cases, all final and/or conditional final site plan approvals shall be valid for a period not to exceed twelve (12) months and shall be subject to the requirements of § 8-4.D of this chapter. If the Applicant fails to obtain third party approvals and apply for building permits within this timeframe, the approval shall be null and void and a new application must be submitted subject to all of the provisions of this chapter.

C. All other pending applications shall be subject to and reviewed under the terms of this chapter unless the Zoning Enforcement Officer determines that the Applicant has developed a substantial right to proceed under the existing laws that are in effect at the time of the adoption of this zoning law.

D. Upon taking effect, the following local laws previously enacted by the Town of Windham are hereby repealed in their entirety:

1) Local Law #2 of 1988 - Architectural Building Code and Architectural Review Board Local Law as amended by Local Law #3 of 1997 and Local Law #5 of 2006;

2) Local Law #2 of 1989 – Site Plan Law for the Town of Windham as amended by Local Law# 3 of 2002, Local Law #4 of 2006, and Local Law #2 of 2023;

3) Local Law #1 of 1997 - A Local Law Establishing Standards and Procedures for the Site Plan Review of Telecommunications Towers;

4) Local Law No. 1 of 1998 - A Local Law Establishing Standards for the Height of Communications Towers and/or Antennas;

5) Local Law #5 of 2003 – Setback Law of the Town of Windham as amended by Local Law #3 of 2023;

6) Local Law #3 of 2003 - Town Sign Law as amended by Local Law #1 of 2018 and Local Law #3 of 2022.

7) Local Law No. 1 of 2019 - Planning Board Membership Law.