

ARTICLE 2. To vote by ballot on the following amendments to the Windham Zoning Ordinance as proposed by the Planning Board.

Planning Board Amendment #1: Multifamily Residential in Commercially Zoned Districts

Amend the Windham Zoning Ordinance provisions to comply with State law governing multi-family housing required under RSA 674:--80 as follows:

- A) Amend Section 604 - Neighborhood Business District by addition of the following new subsection:

604.1.15 - Multi-family housing as provided in Section 605.1.20 subject to the Sunset and Conformity provisions of Section 605.1.20.9.

- B) Amend Section 605 - Business Commercial District A by addition of the following new subsection:

605.1.20 - Multi-family housing subject to the Sunset and Conformity provisions in Section 605.1.20.9 below .

605.1.20.1 - Purpose and Intent - It is the purpose of this subsection to provide options for multi-family housing as required in RSA 674:80 while maintaining consistency with the character and capabilities of the Town of Windham. In the event of a conflict between requirements of this section and other requirements of the Windham Zoning Ordinance or any other Town regulations, the stricter requirements shall apply.

605.1.20.2 - Site Plan approval from the Planning Board shall be required for any such projects.

605.1.20.3 - Multi-family development structures shall consist of not less than five (5) units (RSA 674:58(II)) and not less than two (2) floors, and shall follow all dimensional requirements of the zoning district per Appendix A-1 of the Windham Zoning Ordinance. Additionally, the minimum front yard setback from Rt. 111A and Range Road shall be 50 feet.

605.1.20.4 - Multi-family development structures shall consist of not more than twelve (12) residential units.

605.1.20.5 - Multi-family development structures shall consist of units, at least one-third of which shall be single bedroom units and the remainder shall be two-bedroom units.

605.1.20.6 - Multi-family development shall contain not less than fifty percent (50%) of the units qualifying as Workforce Housing as defined in State law.

605.1.20.7 - Multi-family development structures shall dedicate the ground floor space for:

- i. Retail Sales, if allowed by the zoning district.
- ii. Offices, if allowed by the zoning district.

- iii. Personal Service Establishments, if allowed by the zoning district.
- iv. Banks and ATM, if allowed by the zoning district.
- v. Restaurants, if allowed by the zoning district.

605.1.20.8 - All other dimensional requirements for structures in the underlying zone shall be applicable.

605.1.20.9 – Sunset and Conformity Clause. The provisions of this subsection (605.1.20) remain in effect only so long as RSA 674:77 through 674:80, or substantially similar enabling legislation, remains in effect under New Hampshire law. If any portion of the referenced statutes is repealed or amended so as to alter municipal obligations, this section shall be deemed automatically repealed or amended.

- C) Amend Section 614- Professional Business and Technology District by addition of the following new Subsection:
 - 614.2.19 - Multi-family housing as provided in Section 605.1.20 subject to the Sunset and Conformity provisions of Section 605.1.20.9
- D) Amend Section 617 Business Commercial District B by addition of the following new Subsection:
 - 617.1.7 - Multi-family housing as provided in Section 605.1.20 subject to the Sunset and Conformity provisions of Section 605.1.20.9
- E) Amend Section 618-Gateway Commercial District by addition of the following new Subsection:
 - 618.2.12 - Multi-family housing as provided in Section 605.1.20 subject to the Sunset and Conformity provisions of Section 605.1.20.9

THE PLANNING BOARD RECOMMENDS VOTING YES/NO (0-0-0)

Planning Board Amendment #2: Transient Occupancy

Amend the Windham Zoning Ordinance and Land Regulations as follows:

- A) Amend the Definition of “Dwelling: Duplex” in Section 200 by addition of the following language:
 - Dwelling Units in duplex dwellings do not include Business Commercial Accommodations for Transient Occupancy”.
- B) Amend the Definition of “Dwelling: Multi-Family” in Section 200 by insertion of the word “Business” in the second sentence, such that it will read:
 - “Multi-Family dwellings do not include Business Commercial Accommodations for Transient Occupancy”.
- C) Amend the definition of “Bed and Breakfast” in Section 200 by insertion of the word “lodging” such that it will read:

An establishment providing transient lodging accommodations to the public, including meals, within an owner-occupied dwelling containing up to twelve (12) guest rooms.

- D) Amend the definition of “Motel” in Section 200 by insertion of the word “lodging” such that it will read:

An establishment providing transient lodging accommodations to the public, containing five (5) or more guest rooms, a majority of which have direct access without passing through a main registration lobby of the establishment, which is supervised by staff at all hours.

- E) Amend Section 200 to insert the following new definition:

Business Commercial Accommodations for Transient Occupancy/Transient Lodging Accommodations: for the purposes of this Ordinance is occupancy of a dwelling unit where the occupants pay consideration to the property owner (i.e. rental) to occupy said unit for a period of time less than thirty (30) days, or otherwise do not intend to establish a domicile in said unit. Examples include (but are not limited to) occupancy in a Hotel/Inn, Motel or Bed and Breakfast.

- F) Amend the Definition of Accessory Dwelling Unit in Section 602.1.9.2 of the Ordinance by addition of the following sentence:

Accessory dwelling units do not include Business Commercial Accommodations for Transient Occupancy.

Meaning and Intent – It is declared that the purpose of this amendment is to clarify and re-affirm previously existing restrictions on Business Commercial Accommodations for Transient occupancy of residential living units within the Town of Windham.

THE PLANNING BOARD RECOMMENDS VOTING YES (7-0-0)

Planning Board Amendment #3: Short-Term Rentals

Amend the Windham Zoning and Land Use Regulations by Adoption of a new Section 621 as follows:

621 – Short Term Rentals:

621.1 Purpose - The purpose of this ordinance is to regulate short-term rentals (STRs) in a manner that protects the health, safety, and welfare of the community, while allowing limited commercial use of residential properties in appropriate zoning districts through Conditional Use Permits (CUP).

621.2 Definitions:

621.2.1 Short-Term Rental (STR): The use, rental, or lease of a residential dwelling unit or portion thereof, where the occupants pay consideration to the property owner (i.e. rental) for occupancy for a period of less than 30 consecutive calendar days. This does not include hotels, motels, inns, boarding houses, bed & breakfasts (otherwise defined herein as Business Commercial Accommodations for Transient Occupancy).

621.2.2 Owner-Occupied STR: An STR where the owner resides on the premises during the rental period.

621.2.3 Non-Owner-Occupied STR: An STR where the owner is not in residence during the rental period.

621.3 Permitted Uses

Notwithstanding the prohibitions contained in the definitions of Section 200, Short Term Rentals shall be allowed as follows:

621.3.1 Owner-occupied Short-Term Rentals shall be permitted through Conditional Use Permit in Rural and Residence A Districts (only)

621.3.2 Non-Owner-Occupied Short-Term Rentals shall be permitted through Conditional Use Permit in Village Center District (only)

621.3.3 Owner-occupied Short Term Rentals are only permitted in Duplex Dwellings, or single family residences with a single attached accessory dwelling unit.

621.3.4 Non-Owner-Occupied Short Term Rentals shall be limited to a single unit of a Duplex, multi-family dwelling, or single family residence with a single attached accessory dwelling unit.

621.4 Conditional Use Permit Requirements

Property Owners who desire to offer STRs shall apply to the Planning Board for a Conditional Use Permit which may be granted if and only if the Planning Board determines the following conditions have been met:

1. Safety Requirements: Smoke and CO detectors, and fire extinguishers are required. Egress must comply with building code.
2. Septic and Water: Occupancy = 2 persons/bedroom + 1. Septic design approval required.
3. Parking: 1 off-street space per bedroom, no street parking.
4. Trash: Secure, non-visible trash and recycling plan.
5. Responsible Party: Local 24/7 contact who can respond within 2 hours.
6. Neighborhood Compatibility: Minimize noise, traffic, and disruption.
7. Duration: CUPs are valid for one year. CUPs previously approved by the Planning Board may be renewed by the Community Development Department if there are no changes in the conditions above or changes in ownership. Re-application for a new CUP is required for changes of the above conditions or ownership changes.

621.5 Application Procedure

621.5.1- Applicants for a Conditional Use Permit shall be required to submit a completed CUP application form to be developed by the Community Development which includes requirements for the following:

- Scaled site and floor plan
- Septic approval documentation
- Contact details
- Proof of NH Meals & Rooms tax compliance
- Abutter list with associated mailing envelopes or mailing labels
- An application fee as established by the Board of Selectmen

621.5.2 - The Planning Board shall schedule and conduct a public hearing on Conditional Use Permit applications before voting to grant such permits.

621.6 Required Records –

621.6.1 - STR owners must maintain records of:

- Guest registration information
- Rental dates and occupancy numbers
- Complaint resolutions
- Safety equipment inspections

Records must be made available to Town officials upon request during normal business hours.

621.6.2 CUP holders must submit an annual report with their renewal application including:

- Number of rental nights
- Maximum occupancy achieved
- Any complaints received and resolutions
- Confirmation of safety equipment maintenance

621.7 – Investigation of Complaints – The Code Enforcement Officer will be responsible to investigate all complaints associated with compliance with CUP conditions of approval. Investigations may include site visit's, interviews and review of submitted evidence. In appropriate cases the Code Enforcement Officer may issue violation notices and may recommend revocation of CUPs.

621.8 Fines and Penalties- Violations shall be subject to fines and penalties under 676:17.

621.9 Revocation of CUP – The Planning Board, on recommendation of the Code Enforcement Officer, may conduct a hearing and revoke a CUP for substantial violations of CUP provisions, including noncompliance with safety requirements, false or misrepresented application materials or multiple confirmed instances of violation of CUP requirements.

621.10 Appeals – Appeals of Planning Board decisions to deny or revoke a CUP may be made to the Zoning Board of Adjustment in the same fashion as Administrative Appeals See RSA 676:5.

THE PLANNING BOARD RECOMMENDS VOTING YES/NO (0-0-0)

Planning Board Amendment #4: Accessory Dwelling Units (ADUs)

Amend the Windham Zoning Ordinance and Land Regulations as follows:

- A) Amending Section 602.1.9.2 by deleting the definition for “Accessory Dwelling Unit” and replacing it with a new definition for “Accessory Dwelling Unit” with the following:

Pursuant to NH RSA 674:71, a residential living unit that is located on a lot containing a single-family dwelling that provides independent living facilities for one or more persons, including provisions for sleeping, eating, cooking, and sanitation, on the same parcel of land as the principal dwelling unit it accompanies. Accessory dwelling units may be constructed at the same time as the principal dwelling unit.

Attached Unit: Pursuant to NH RSA 674:71, a unit that is within or physically connected to the principal dwelling unit, or completely contained within a preexisting or simultaneously constructed detached structure.

Detached unit: Pursuant to NH RSA 674:71, a unit that is neither within nor physically connected to the principal dwelling unit, nor completely contained within a preexisting detached structure.

- B) Amending Section 602.1.9.2 by deleting the definition for “Property Owner” and replacing it with a new definition for “Property Owner” with the following:

For the purposes of this subsection, the phrase “property owner” shall be one of the following:

- i. One or more natural persons
- ii. A revocable Trust, where the Donor(s)/Grantor(s) are one (or two) natural persons
- iii. A New Hampshire Limited Liability Company where the member (or two equal members) are natural persons
- iv. A New Hampshire Corporation, where the sole stockholder (or not more than two equal stockholders) are natural persons.

Such natural person shall have a current possessory fee ownership in the land and buildings situated thereon which constitutes the lot and the principal and accessory dwelling units.

- C) Amending Section 602.1.9.3.1 by insertion of the words ", which can be an attached unit or detached unit." in the first sentence, such that it will read:

Maximum of one (1) accessory dwelling unit shall be allowed per single family dwelling, which can be an attached unit or detached unit. Accessory dwelling units associated with multiple single-family dwellings attached to each other such as townhouses, and with manufactured housing as defined in RSA 674:3 are prohibited.

- D) Amending Section 602.1.9.3.2 by deleting it and replacing it with the following:

The property owner (to include Grantors, members or stockholders of the property owner) must occupy either the principal or the accessory dwelling as their principal place of residence.

- E) Amending Section 602.1.9.3.3 by inserting the following sentence at the end:

The accessory dwelling unit is permitted without additional requirements for lot size, setbacks, aesthetic requirements, design review requirements, frontage, space limitations, or other controls beyond what is required for a single-family dwelling without an accessory dwelling unit.

- F) Amending Section 602.1.9.3.4.1 by deleting it and replacing it with the following:

Attached accessory dwelling units shall have either an independent means of ingress and egress or ingress and egress through a common space shared with the principal dwelling. The choice of ingress and egress shall be determined by the property owner(s).

- G) Amending Section 602.1.9.3.7 by deleting it and replacing it with the following:

Pursuant to NH RSA 674:72, V, the applicant for a permit to construct an accessory dwelling unit shall make adequate provisions for water supply and sewage disposal for

the accessory dwelling unit in accordance with RSA 485-A:38, but separate systems shall not be required for the principal and accessory dwelling units. In order to comply with this paragraph and prior to constructing an accessory dwelling unit, an application for approval for a sewage disposal system shall be submitted in accordance with RSA 485-A as applicable. The approved sewage disposal system shall be installed if the existing system has not received construction approval and approval to operate under current rules or predecessor rules, or the system fails or otherwise needs to be repaired or replaced.

- H) Amending Section 602.1.9.3 by adding the following new subsection 603.1.9.3.10:

602.1.9.3.10

Accessory dwelling units may be converted from existing structures that lawfully existed on or before July 1, 2025, including but not limited to detached garages, provided that such structures meet current dimensional requirements for setbacks or lot coverage.

THE PLANNING BOARD RECOMMENDS VOTING YES/NO (0-0-0)

Planning Board Amendment #5: Setback Requirements for Open Space Residential Development

Amend the Windham Zoning Ordinance and Land Regulations as follows:

- A) Amending Section 611.6.4.3.1 by deleting it and replacing it with the following:
Front yard setback – minimum of thirty feet (30') and a maximum of one hundred feet (100') from the edge of the right of way.
- B) Amending Section 611.6.4.3.2 by deleting it and replacing it with the following:
Frontage – minimum frontage of sixty feet (60') and a maximum frontage of 120 feet (120') at the minimum required front yard setback.

THE PLANNING BOARD RECOMMENDS VOTING YES/NO (0-0-0)

Planning Board Amendment #6: Outdoor Parking of Uninspected Motor Vehicles

Amend the Windham Zoning Ordinance and Land Regulations as follows:

- A) Amending Section 704.2.1 by deleting the words “and uninspected” in the first line and by deleting the words “or uninspected vehicles or” in the third line.
- B) Amending Section 704.2.2 by deleting the words “and uninspected” in the first line.
- C) Amending Section 704.2.3 by deleting the words “and uninspected” in the first line.

THE PLANNING BOARD RECOMMENDS VOTING YES/NO (0-0-0)

Citizen Petitioned Amendment #1: Rezone Gateway Commercial district to Rural

Amend the Windham Zoning Map to eliminate the Gateway Commercial zoning district and rezone it to the Rural zoning district.

THE PLANNING BOARD RECOMMENDS VOTING YES/NO (0-0-0)

Citizen Petitioned Amendment #2: Short-Term Rentals in Single-Family Dwellings and Accessory Dwelling Units.

Amend the Windham Zoning Ordinance and Land Regulations as follows:

- A) Amend Section 602.1.9.3.2 of the Windham Zoning Ordinance to state: "The property owner must occupy either the principal or the accessory dwelling as their principal place of residence. Either the principal or the accessory dwelling unit may be rented out for any period of time, including as a short term rental."
- B) Amend the definitions in Section 200 to be "Dwelling: Single Family: A building or manufactured housing as defined in RSA 674:31, occupied exclusively for residence purposes only and having one dwelling unit, regardless of length of occupancy and explicitly including short term rentals."

THE PLANNING BOARD RECOMMENDS VOTING YES/NO (0-0-0)

Citizen Petitioned Amendment #3: Growth Management Ordinance and Deferment of Impact Fee Assessments

To see if the Town will vote to amend the Windham Zoning Ordinance by adopting the following two coordinated provisions:

1. The Growth Management Ordinance pursuant to RSA 674:22 (full text attached); and
2. A new §715.3.2.1 that defers the assessment of school impact fees for new residential development until the Planning Board determines that sufficient K-8 Functional Capacity exists under the Growth Management Ordinance to accommodate the students generated by the development without causing any grade to exceed its Functional Capacity (full text attached).

Both provisions shall take effect simultaneously upon passage.

(Full text of the Growth Management Ordinance and the school impact fee deferral amendment is attached hereto and on file with the Town Clerk.)

THE PLANNING BOARD RECOMMENDS VOTING YES/NO (0-0-0)

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TOWN OF WINDHAM, NEW HAMPSHIRE

GROWTH MANAGEMENT ORDINANCE

(Adopted Pursuant to RSA 674:22, I–III)

§ 100.00 PURPOSE AND AUTHORITY

100.01 Authority.

This Ordinance is adopted pursuant to RSA 674:22, which authorizes municipalities to regulate the timing of development to ensure that public facilities and services remain adequate. Consistent with RSA 676:4, the Planning Board may regulate the acceptance, processing, and approval of development applications; and under RSA 676:12, Certificates of Occupancy may be conditioned or withheld where public facilities are inadequate.

No application may be approved, deemed complete, or vested, nor may any Certificate of Occupancy be issued, if such action would cause projected K–8 enrollment to exceed Functional Capacity.

School impact fees for applications submitted after the effective date of this Ordinance shall be deferred under Zoning Ordinance §715.3.2.1 until sufficient K–8 Functional Capacity is confirmed pursuant to this Ordinance.

100.02 Findings Incorporated.

The factual findings set forth in **§200.00 and §300.00**—including Functional Capacity, grade-level ratios, current enrollment, NESDEC Short-Range (Years 1–3) projections, and documented grade-level adequacy failures—constitute the legislative findings required by RSA 674:22 to regulate the timing of development in order to maintain educational adequacy under RSA 189:1-a and RSA 193-E.

100.03 Purpose.

The purpose of this Ordinance is to regulate the timing of residential development so that K–8 educational facilities remain adequate under RSA 189:1-a and RSA 193-E. Development may proceed only at a pace that preserves Functional Capacity in every K–8 grade. This Ordinance does **not** restrict housing type, density, zoning district, or the total number of dwelling units ultimately permitted in Windham.

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School impact fees remain in full force under Zoning Ordinance §715, with assessment deferred per §715.3.2.1 to align with this Ordinance's capacity determinations, ensuring development pays its capital share without duplicative restrictions.

100.04 Governing Rule.

No development may be accepted, vested, approved, or issued a Certificate of Occupancy if projected K–8 enrollment—allocated by grade under §1000.02 and based on NESDEC Short-Range (Years 1–3) projections—would cause any K–8 grade to exceed its Functional Capacity.

100.05 Master Plan and CIP Alignment.

Within one year of adoption, the Planning Board shall update the Master Plan and the Capital Improvement Plan (CIP) to reflect the findings supporting this Ordinance and to coordinate future K–8 facility planning.

§200.00 STRUCTURAL FUNCTIONAL CAPACITY FINDINGS

200.01 Purpose.

This Section establishes the **structural Functional Capacity** of Windham's K–8 school buildings. Functional Capacity is determined exclusively by (a) the number of available **Content Classrooms**, and (b) the **grade-level student–teacher ratios** adopted by the School Board. Special Classrooms and PK rooms are excluded from all adequacy determinations under RSA 189:1-a and RSA 193-E.

200.02 Methodology.

Functional Capacity = **Content Classrooms × Grade-Level Ratio**

Only full-size, general-education instructional spaces qualify as Content Classrooms.

- PK rooms are excluded.
- Special Classrooms cannot be reassigned to Content Classroom use.

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200.03 Building-Level Functional Capacity.

SCHOOL	STUDENT CAPACITY	CLASSROOM S	PK ROOMS	CONTENT T	SPECIAL
GBS	1,047	65	2	49	14
WCS	456	28	n/a	19	9
WMS	456	29	n/a	19	10

Golden Brook School (K-4)

Reflecting the School District's official classroom inventory:

GOLDEN BROOK	STUDENT RATIO	STUDENT CAPACITY	CONTENT ROOMS
Kindergarten	18 to 1	180	10
1st Grade	20 to 1	200	10
2nd Grade	22 to 1	220	10
3rd Grade	23 to 1	207	9
4th Grade	24 to 1	240	10

GBS Total K-4 Functional Capacity: **1,047 students**

PK: 2 dedicated PK rooms excluded from adequacy metrics.

Windham Center School (5-6)

CENTER SCHOOL	STUDENT RATIO	STUDENT CAPACITY	CONTENT ROOMS
5th Grade	24 to 1	240	10
6th Grade	24 to 1	216	9

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WCS Total Functional Capacity: **456 students**

Windham Middle School (7–8)

MIDDLE SCHOOL	STUDENT RATIO	STUDENT CAPACITY	CONTENT ROOMS
7th Grade	24 to 1	240	10
8th Grade	24 to 1	216	9

WMS Total Functional Capacity: **456 students**

200.04 Districtwide Structural Capacity.

- **K–8 Structural Functional Capacity: 1,958 students**
 - PK classrooms and PK enrollment remain excluded from capacity calculations.
-

200.05 Structural Observation.

Because grade-level ratios vary, GBS's theoretical K–4 capacity range is **882–1,176**, depending on classroom assignment. This range is for context only; **grade-level adequacy governs capacity** under RSA 189:1-a and RSA 193-E.

§200.06 High School (9–12) Exclusion.

This Ordinance does not regulate High School (9–12) capacity. High School adequacy is governed by DOE standards, not by this Ordinance. Windham High School operates under a different instructional model than the K–8 system, utilizing subject-specific instructional spaces rather than homeroom-based Content Classrooms. Accordingly, grade-level Functional Capacity cannot be determined using the K–8 classroom-ratio methodology established in this Section.

Windham High School was designed to accommodate approximately **1,000 students**. According to the **2026–2027 NESDEC enrollment projection** (230, 195, 231, 209 for grades

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9–12), the projected **9–12 enrollment is 865 students**, which remains within the High School’s design capacity.

While the High School is not presently at risk of exceeding its design capacity and is therefore outside the regulatory scope of this Ordinance under RSA 674:22, its enrollment shall be monitored annually. Should 9–12 enrollment approach or exceed the 1,000-student design threshold, the Town shall evaluate whether High School capacity must be addressed through the Capital Improvement Plan or incorporated into a future update of this Ordinance.

§300.00 ENROLLMENT & UTILIZATION BASED ON NESDEC 2026-2027

300.01 Purpose.

This Section establishes enrollment, utilization, and grade-level adequacy findings using the **2026–2027 NESDEC projected enrollment**, the most reliable year in NESDEC’s projection methodology. NESDEC identifies Years **1–3** as its “**most reliable**” projection window and bases Year-1 projections on students **already enrolled** in the District.

These findings form the **legislative record** supporting timing regulation under RSA 674:22, II.

300.02 NESDEC Projected Enrollment (2026–2027, K–8 Only).

From the NESDEC “Projected Enrollment by Grade” table (page 4):

2026–27 K–8 Enrollment by Grade:

- **K:** 202
- **1:** 188
- **2:** 183
- **3:** 227
- **4:** 215
- **5:** 236
- **6:** 240
- **7:** 212

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Total K–8 Enrollment (projected 2026–27): 1,913

PK (74 students) is excluded from all adequacy determinations.

300.03 Grade-Level Utilization Relative to Structural Capacity.

Golden Brook School (K–4)

GRADE	PROJECTED ENROLLMENT	FUNCTIONAL CAPACITY	UTILIZATION
K	202	180	112%
1	188	200	94%
2	183	220	83%
3	227	207	110%
4	215	240	90%

Findings:

- Kindergarten and Grade 3 exceed Functional Capacity.
- Multiple grades operate above 90% utilization.
- GBS remains the structural bottleneck of the K–8 system.

Windham Center School (5–6)

GRADE	PROJECTED ENROLLMENT	FUNCTIONAL CAPACITY	UTILIZATION
5	236	240	98%
6	240	216	111%

Findings:

- Grade 6 exceeds Functional Capacity.
- Both grades operate above 95% utilization.

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Windham Middle School (7–8)

GRADE	PROJECTED ENROLLMENT	FUNCTIONAL CAPACITY	UTILIZATION
7	212	240	88%
8	210	216	97%

Findings:

- WMS remains near full utilization in both grades.

300.04 Systemwide Adequacy Findings.

NESDEC's 2026–27 projections (Year-1, most reliable) demonstrate:

1. **Three separate grade-level adequacy failures** (K, 3, and 6).
2. **Multiple grades at 90–98% utilization**, leaving no operational reserve.
3. **GBS and WCS both exceeding capacity simultaneously.**
4. **K–8 total (1,913)** is within **45 students** of districtwide structural capacity (1,958).
5. NESDEC explicitly confirms the reliability of Year-1 projections.
(Projection Methodology & Reliability, page 12)

Under RSA 189:1-a and RSA 193-E, these grade-level failures constitute a failure to maintain educational adequacy.

Under RSA 189:1-a and RSA 193-E, **no surplus capacity in other grades may be used to** offset a grade-level adequacy failure.

300.05 Statutory Interpretation (RSA 674:22, II).

Given:

- Existing adequacy failures in multiple grades,
- Projected exceedances of grade-level Functional Capacity in 2026–27,
- NESDEC confirmation that these projections are the most reliable and based on students already enrolled,

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the Town may regulate the timing of development because **public facilities are, and will imminently be, overcapacity.**

300.06 Capacity Increases.

Functional Capacity may be increased only through completed Capital Improvement Plan (CIP) projects that add Content Classrooms. Upon completion:

- (a) §300.02 shall be updated;
- (b) new values govern all permit calculations;
- (c) revised values appear in the next Annual Growth Capacity Report.

No projection or dataset may alter Functional Capacity.

§ 400.00 DEFINITIONS

400.01 Content Classroom.

A full-size instructional classroom used for grade-level K–8 academic instruction. Content Classrooms are the sole basis for determining Functional Capacity and grade-level adequacy.

400.02 Special Classroom.

A classroom used for non-core instructional or student-support functions, including but not limited to Art, Music, Band, Chorus, Digital Literacy, RTI, Special Education, Psychologist, Wellness, FACS, or Tech Education. Special Classrooms are excluded from Functional Capacity.

400.03 Functional Capacity.

The maximum number of students who can be educated in compliance with the School District's grade-level student–teacher ratios. Functional Capacity equals the number of Content Classrooms multiplied by the applicable grade-level ratio.

400.04 Grade-Level Adequacy.

A grade is adequate when projected enrollment does not exceed that grade's Functional

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Capacity. Under RSA 189:1-a and RSA 193-E, capacity is determined at the grade level, not by building averages.

400.05 Remaining Capacity; Limiting Grade.

Remaining Capacity is the number of available seats in a grade after subtracting projected enrollment—including Approved but Unbuilt Units and NESDEC Short-Range Projections—from Functional Capacity.

A grade with zero or negative Remaining Capacity is a Limiting Grade and cannot absorb additional K–8 students. A single Limiting Grade prohibits any additional K–8 enrollment from new development, consistent with RSA 189:1-a and RSA 193-E.

400.06 Restored Capacity.

A condition in which no grade exceeds Functional Capacity, whether due to reduced enrollment or CIP improvements that add Content Classrooms or otherwise increase Functional Capacity.

400.07 Approved but Unbuilt Units.

Residential dwelling units that have received subdivision or site plan approval but are not yet constructed or occupied. These units must be included in all enrollment and capacity calculations.

400.08 NESDEC Short-Range Projection (Years 1–3).

The first three years of the annual NESDEC projection. These years constitute NESDEC's most reliable forecast horizon and are the only projections permitted for capacity, allocation, and permit calculations under this Ordinance.

400.09 Student Generation Rate.

The average number of K–8 students generated per dwelling unit by housing type, as established in §700.03. Rates apply per unit and shall be applied separately to each housing type in a Mixed-Type Development.

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400.10 Mixed-Type Development.

A development containing multiple housing types or bedroom configurations. Student Generation Rates shall be applied independently to each housing type.

400.11 Allocation Factor.

The grade-specific proportion of new K–8 students historically entering each grade, as set forth in §800.03. Allocation Factors shall be used to distribute projected new students across grades for all adequacy and capacity calculations.

400.12 Student Capacity Margin.

The maximum number of additional K–8 students that can be accommodated without causing any grade to exceed Functional Capacity. It is the smallest grade-level result calculated under §1000.04 and is the controlling limit for all approvals and phasing.

400.13 Certificate of Occupancy (CO).

A municipal authorization permitting occupancy of a dwelling unit. A CO may be issued only when doing so will not cause projected K–8 enrollment in any grade to exceed Functional Capacity.

400.14 Projected Enrollment.

“Projected Enrollment” means the grade-level enrollment forecast for Years 1–3 of the NESDEC Short-Range Projection, adjusted only for:

1. **Approved but Unbuilt Units**, using the Student Generation Rates in §700.03 and the Allocation Factors in §800.03;
2. **Cohort-survival trends** documented in NESDEC’s annual report; and
3. **Documented turnover** of existing housing, based on publicly available Windham enrollment and assessing records.

No other adjustments, projection horizons, methodologies, or external datasets may be used for any adequacy or capacity determination under this Ordinance.

During the Temporary Placeholder Enrollment Adjustment period in §600.00, this definition is superseded, and Projected Enrollment shall instead be calculated strictly in accordance with §600.02–§600.03.

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§ 500.00 APPLICABILITY AND EXEMPTIONS

500.01 Applicability.

This Ordinance applies to all residential development that creates one or more new dwelling units, including:

- (a) subdivisions;
- (b) site plans;
- (c) multifamily or mixed-use developments containing residential units;
- (d) conversions to year-round residential use; and
- (e) any approval under RSA 674:36 or RSA 674:43 that authorizes the creation of new dwelling units.
- (f) Workforce Housing Priority. Any residential or mixed-use development in which at least fifty percent (50%) of the dwelling units are deed-restricted as workforce housing in full compliance with RSA 674:58–61 and Zoning Ordinance §619 (including statutory affordability thresholds, income limits, and minimum duration of restrictions) shall be exempt from the capacity limitations and phasing requirements of this Ordinance (§§1000.00 and 1100.00, except as provided herein), provided that:

- (i) The project shall receive absolute priority in the annual Student Capacity Margin (§1100.02) and order of allocation (§1100.06), behind only the Small-Project Reserve (§1100.04).
- (ii) The project shall be exempt from the per-applicant maximum share (§1100.03).
- (iii) If the project's projected K–8 student generation, calculated using the Student Generation Rates in §700.03 and Allocation Factors in §800.03, exceeds the available Student Capacity Margin in any year, the Planning Board may approve a phasing schedule (§1100.07) to distribute approvals and Certificates of Occupancy across multiple years while maintaining the project's priority status.

Projects with fewer than fifty percent (50%) workforce housing units shall be subject to all standard provisions of this Ordinance without priority or exemption. No waivers reducing the 50% requirement shall be granted.

Certificates of Occupancy shall be governed exclusively by §1100.10.

Accessory Dwelling Units (ADUs) shall be treated as new dwelling units unless legally covenanted as age-restricted.

Approved but Unbuilt Units are subject to this Ordinance and shall be included in all enrollment and capacity calculations but **may proceed in accordance with §600.00.**

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500.02 Exemptions.

This Ordinance does **not** apply to:

- (a) additions, alterations, or renovations to existing dwellings that do not create new dwelling units;
- (b) legally covenanted age-restricted housing;
- (c) reconstruction or replacement of a lawful dwelling following casualty, provided no additional dwelling units are created;
- (d) non-residential development; and
- (e) any municipal action that does not authorize or result in the creation of new dwelling units.

500.03 Clarification.

Nothing in this Ordinance limits or modifies the Planning Board's authority under RSA 674:36 or RSA 674:43 to impose conditions of approval unrelated to educational capacity. All other requirements of the Zoning Ordinance, Subdivision Regulations, and Site Plan Regulations remain fully applicable and in force.

Nothing in this Ordinance limits the Planning Board's authority under RSA 674:36 or RSA 674:43 to impose conditions of approval unrelated to educational capacity.

§ 600.00 TEMPORARY PLACEHOLDER ENROLLMENT ADJUSTMENT (TPEA)

(Transitional Capacity Method Until NESDEC Issues Updated Projections)

600.01 Purpose.

The purpose of this Section is to allow all Approved but Unbuilt Units to proceed in an orderly and predictable manner while preventing additional approvals that would exceed Functional Capacity prior to NESDEC issuing updated Short-Range Projections (Years 1–3) that incorporate those units. This Section establishes a temporary, objective, and uniformly applied Placeholder Enrollment Adjustment based on the Student Generation Rates adopted in this Ordinance.

To achieve this, the Placeholder Enrollment Adjustment incorporates the projected ninety (90) K–8 students associated with all Approved but Unbuilt Units into Projected Enrollment at the outset. This necessarily results in a temporary exceedance of Functional Capacity once these students are added. This exceedance reflects vested development rights that

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cannot be restricted retroactively under RSA 674:22 and must be accommodated through the Capital Improvement Plan (CIP) or other long-range facility planning. Nothing in this Section delays, limits, or conditions the occupancy of previously approved units; rather, this Section prevents additional development from compounding the over-capacity condition until updated NESDEC projections and CIP actions restore Functional Capacity.

Notwithstanding the definition of Projected Enrollment in §400.14, during the Temporary Placeholder Enrollment Adjustment period, Projected Enrollment shall be determined exclusively under §600.02–§600.03.

600.02 Temporary Placeholder Enrollment Adjustment.

Until NESDEC publishes Short-Range Projections (Years 1–3) that explicitly incorporate all Approved but Unbuilt Units, Projected Enrollment for all adequacy and capacity calculations under this Ordinance shall be determined as follows:

1. The 2026–2027 NESDEC Short-Range Projection (Years 1–3); **plus**
2. Ninety (90) additional K–8 students, calculated using the Student Generation Rates in §700.03 and allocated by grade under §800.03, representing the enrollment impact of all Approved but Unbuilt Units.

GRADE	NESDEC 2026-2027	NEW BUILD	TOTAL	FUNCTIONAL CAP.	UTILIZATION
K	202	45	247	180	137%
1	188	22	210	200	105%
2	183	5	188	220	85%
3	227	4	231	207	112%
4	215	4	219	240	91%
5	236	3	239	240	100%
6	240	3	243	216	113%
7	212	2	214	240	89%
8	210	2	212	216	98%

The Placeholder Enrollment Adjustment shall be used solely during the temporary period defined in this Section.

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600.03 Grade-Level Allocation of Placeholder Students.

The ninety (90) placeholder students shall be distributed across grades using the Allocation Factors established in §800.03. The resulting grade-level values shall be added to the NESDEC Short-Range Projections to determine Projected Enrollment during the temporary placeholder period.

600.04 Limitations During Placeholder Period.

While the Temporary Placeholder Enrollment Adjustment remains in effect:

- (a) No new development generating K–8 students may be approved if doing so would cause any grade to exceed Functional Capacity as calculated under this Section;
 - (b) **Certificates of Occupancy for Approved but Unbuilt Units may be issued**, regardless of whether the Placeholder Enrollment Adjustment causes one or more grades to exceed Functional Capacity, provided that all other applicable requirements of §1100.10 are met;
 - (c) For any Approved but Unbuilt Units subject to deferred school impact fee assessment under Zoning Ordinance §715.3.2.1, no Certificate of Occupancy shall be issued until both Functional Capacity is confirmed and the fee is assessed.
 - (d) Phasing schedules for any project shall not exceed the Student Capacity Margin calculated under this temporary adjustment;
 - (e) **Certificates of Occupancy for any dwelling units approved after the adoption of this Ordinance** shall not be issued if doing so would cause any grade to exceed Functional Capacity as calculated under this Section.
-

600.05 Automatic Replacement and Sunset.

Upon the Town's receipt of an updated NESDEC Short-Range Projection (Years 1–3) that explicitly incorporates all Approved but Unbuilt Units:

- (a) the Temporary Placeholder Enrollment Adjustment automatically expires without further action;
- (b) the updated NESDEC projection immediately supersedes the placeholder values for all enrollment and adequacy calculations under §1000.00; and
- (c) the Planning Board shall recalculate the Student Capacity Margin using the updated projection at the next regularly scheduled meeting.

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No separate vote, amendment, or action is required for this Section to terminate.

600.06 Sunset Clause (Hard Termination).

If NESDEC does not issue updated Short-Range Projections (Years 1–3) incorporating all Approved but Unbuilt Units within twelve (12) months of this Ordinance’s adoption, the Temporary Placeholder Enrollment Adjustment shall automatically terminate on the first business day following that twelve-month period.

Upon termination:

- (a) The Planning Board shall use the most recent NESDEC Short-Range Projection (Years 1–3) available at that time; and
- (b) Approved but Unbuilt Units shall be added to Projected Enrollment using the Student Generation Rates in §700.03 and the Allocation Factors in §800.03.

This subsection ensures that a transparent and reproducible method remains in effect even if NESDEC data is delayed, and that the Placeholder Enrollment Adjustment remains a strictly limited transitional mechanism consistent with RSA 674:22, II.

600.07 No Expansion or Alteration of Development Rights.

Nothing in this Section grants, enlarges, modifies, or reinstates any development rights beyond those previously approved. All new development remains fully subject to the capacity limitations, phasing requirements, and Functional Capacity rules established in §§600.00–800.00.

§700.00 STUDENT GENERATION RATES (SGRs)

700.01 Purpose.

The purpose of this Section is to establish uniform, transparent, and Windham-specific Student Generation Rates for all residential development. These Rates represent the average number of K–8 students generated per dwelling unit by housing type and shall be used for all enrollment projections, Placeholder Enrollment Adjustments, Remaining Capacity calculations, Student Capacity Margin determinations, and conversions to allowable dwelling units.

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700.02 Methodology.

The Student Generation Rates in this Section are derived exclusively from Windham's historical enrollment and housing records, matched by housing type to actual K-8 students over a 22-year period. No regional, statewide, census, consultant, or third-party datasets may be used to modify or replace these Rates. These Rates apply uniformly to new development and to Approved but Unbuilt Units during the Temporary Placeholder Enrollment Adjustment.

700.03 K-8 Student Generation Rates.

The following rates shall apply to all residential development:

- **Single-family detached:** 0.75 students/unit
- **Duplex (per dwelling unit):** 0.60 students/unit
- **Townhouse/condo, 3-bedroom:** 0.45 students/unit
- **Townhouse/condo, 2-bedroom:** 0.20 students/unit
- **Townhouse/condo, 1-bedroom:** 0.05 students/unit
- **Age-restricted (legally covenanted):** 0.00 students/unit

These Rates reflect Windham-specific enrollment yields and shall not be adjusted, modified, averaged, or substituted by any applicant or consultant.

700.04 Exclusive Use.

The Student Generation Rates established in this Section shall be the sole Rates used for all purposes under this Ordinance, including but not limited to Projected Enrollment, Placeholder Enrollment Adjustments, remaining capacity determinations, phasing schedules, and conversions to allowable dwelling units. No alternative Student Generation Rates may be submitted, considered, or relied upon by the Planning Board or any applicant, except through an amendment to this Ordinance adopted by the legislative body.

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§800.00 K-8 ALLOCATION FACTORS

800.01 Purpose.

The purpose of this Section is to establish uniform, transparent, and Windham-specific Allocation Factors that distribute projected K-8 students across individual grade levels. These Factors reflect the historical distribution of new K-8 students entering the Windham School District and shall be used for all enrollment projections, Placeholder Enrollment Adjustments, Remaining Capacity calculations, Student Capacity Margin determinations, and conversions to allowable dwelling units.

800.02 Methodology.

The Allocation Factors in this Section are derived from 22 years of Windham-specific cohort-survival data, representing the empirical percentage of all new K-8 students historically entering each grade. These Factors are normalized to total 100 percent. No regional, statewide, census, consultant, or third-party datasets may be used to modify or replace these Factors.

800.03 Allocation Factors by Grade.

Grade	Allocation Factor (%)	Students per 94 K-8 Students
Kindergarten	50.0%	47
Grade 1	24.4%	23
Grade 2	5.1%	5
Grade 3	4.9%	5
Grade 4	4.1%	4
Grade 5	3.4%	3
Grade 6	3.4%	3
Grade 7	2.6%	2

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Grade	Allocation Factor (%)	Students per 94 K-8 Students
Grade 8	2.1%	2
Total	100%	94

Interpretation:

For every 94 new K-8 students historically entering Windham, 47 enter Kindergarten, 23 enter Grade 1, and so on. These Factors shall be applied to all projected K-8 students generated through Student Generation Rates in §700.03, housing turnover reflected in §400.14, and all enrollment calculations under this Ordinance.

800.04 Exclusive Use.

The Allocation Factors established in this Section shall be the sole Factors used for all purposes under this Ordinance. No alternative grade-level distribution, weighting, or adjustment may be submitted, considered, or relied upon by the Planning Board or any applicant, except through an amendment to this Ordinance adopted by the legislative body.

§900.00 EXCLUDED METHODOLOGIES

900.01 Purpose.

The purpose of this Section is to ensure that all enrollment, capacity, and timing determinations under this Ordinance rely exclusively on transparent, reproducible, Windham-specific data consistent with RSA 189:1-a, RSA 193-E, and RSA 674:22. This Section identifies methods and sources that may not be used for any calculation or determination.

900.02 Non-Local or Non-Reproducible Methods Prohibited.

Any methodology, study, or dataset that cannot be replicated using publicly available Windham K-8 enrollment data and Town assessing records, or that does not evaluate grade-level K-8 adequacy, shall not be used for any purpose under this Ordinance.

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900.03 Prohibited Sources and Methods.

The following methods, studies, or datasets shall not be used in any enrollment, adequacy, or timing determination:

- (a) statewide or regional projections not derived exclusively from Windham-specific data;
- (b) student-yield ratios based on non-local, non-reproducible, proprietary, or undisclosed datasets;
- (c) reports or studies relying on K-12 averages, building-wide capacities, population projections, “per-acre” productivity metrics, density-based fiscal methods, or any other non-grade-level methodologies;
- (d) projections beyond the NESDEC Short-Range (Years 1–3) horizon;
- (e) any consultant report, model, projection, or ratio that does not disclose all underlying datasets, assumptions, and calculations in a publicly reproducible form;
- (f) any enrollment or yield methodology that converts K-12, district-wide, or statewide averages into K-8 ratios or capacities.

900.04 Exclusive Use of Accepted Methods.

All determinations under this Ordinance shall rely exclusively on:

- (a) the NESDEC Short-Range Projection (Years 1–3), or the temporary projection method in §600.00;
- (b) the Windham Enrollment–Housing Dataset forming the basis of the Student Generation Rates in §700.03;
- (c) HUD PUMS validation ranges, used solely for cross-checking and not as a substitute for Windham-specific Student Generation Rates; and
- (d) the grade-level Functional Capacity values established in §300.00.

No other data source, dataset, projection, ratio, or methodology may be substituted for any purpose under this Ordinance. HUD PUMS ranges are used only to confirm that locally derived SGRs fall within nationally documented ranges; they are not used in any calculation.

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§ 1000.00 PERMIT CALCULATION METHOD

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1000.01 Purpose.

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To establish a uniform, objective, and reproducible method for determining whether the K-8 students generated by new residential development can be accommodated without

exceeding Functional Capacity in any K–8 grade. Because new students do not enter all grades equally, enrollment impacts shall be allocated using the Allocation Factors in §800.03.

1000.02 Allocation of Projected Students.

All projected K–8 students from a proposed development shall be allocated to individual grades using the Allocation Factors in §800.03. These Factors shall be used in all adequacy, capacity, and phasing determinations.

1000.03 Remaining Capacity by Grade.

Before approving any dwelling units, the Planning Board shall determine Remaining Capacity in each K–8 grade as follows:

1. Functional Capacity.

Use the grade-level Functional Capacity values established under §300.00.

2. Projected Enrollment.

Use the NESDEC Short-Range Projection (Years 1–3), adjusted for:

- Approved but Unbuilt Units;
- documented turnover of existing housing; and
- cohort-survival trends.

3. Remaining Capacity.

$$\text{Remaining Capacity}_g = \text{Functional Capacity}_g - \text{Projected Enrollment}_g$$

A grade with zero or negative Remaining Capacity is a Limiting Grade and cannot absorb additional students.

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1000.04 Student Capacity Margin.

1. Grade-Level Calculation.

For each grade, Remaining Capacity shall be limited to zero if negative.

2. Systemwide Student Capacity Margin.

$$\text{Student Capacity Margin} = \sum_{g=K}^8 \max(0, \text{Remaining Capacity}_g)$$

If the Margin is zero or negative, no additional K–8 students may be added without exceeding Functional Capacity.

1000.05 Converting the Student Capacity Margin to Allowable Dwelling Units.

1. Projected Students from a Development.

$$\text{Projected Students} = \sum_t (\text{Units}_t \times \text{SGR}_t)$$

2. Approval Standard.

A development may be approved only if its Projected K–8 Students, when allocated under §800.03, do not cause any grade to exceed Functional Capacity.

3. If the Project Exceeds the Margin.

If Projected K–8 Students exceed the Margin or cause any grade to exceed Functional Capacity, the Planning Board shall:

- (a) reduce the number of units;
- (b) phase construction or occupancy; or
- (c) defer approval or Certificates of Occupancy.

1000.06 Floor Function.

All fractional results shall be rounded down to the nearest whole student or dwelling unit. Fractional values shall not be used for any adequacy, capacity, or permit determination under this Ordinance.

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§ 1100.00 PHASING AND FAIR ALLOCATION OF ANNUAL STUDENT CAPACITY

1100.01 Purpose.

To ensure that annual K–8 capacity is allocated in a fair, orderly, and predictable manner; to prevent monopolization of the annual Student Capacity Margin; to preserve opportunities for individual property owners and small projects; and to maintain grade-level Functional Capacity under RSA 189:1-a, RSA 193-E, and RSA 674:22.

1100.02 Annual Capacity Allocation.

Each calendar year, the Planning Board shall determine the Student Capacity Margin under §1000.04. The Margin represents the maximum number of additional K–8 students that may be approved during that year without exceeding Functional Capacity in any grade.

1100.03 Per-Applicant Maximum Share.

No single application, or group of applications under common ownership or control, may receive more than 50% of the annual Student Capacity Margin.

1100.04 Small-Project Reserve.

To preserve opportunities for small-scale residential development, 20% of the annual Student Capacity Margin shall be reserved for:

1. the construction of a single dwelling unit on an existing lot;
2. projects creating no more than two (2) new dwelling units; or
3. residential applications creating one or two new units that do not require subdivision or site plan approval under RSA 674:36 or RSA 674:43.

Reserved capacity shall be unavailable to larger developments before December 1 of each year.

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1100.05 Release of Unused Reserved Capacity.

Any reserved capacity remaining unused on December 1 shall be released to the general capacity pool and may be allocated consistent with §§1000.05 and 1100.03. Annual capacity shall not carry forward into future years.

1100.06 Order of Allocation (First-Come, First-Served).

Except for the Small-Project Reserve in §1100.04, annual capacity shall be allocated in the order applications are deemed complete under RSA 676:4, I(b). Capacity shall not be allocated to incomplete applications.

1100.07 Phasing of Individual Projects.

If a project cannot be approved within a single year without exceeding the annual Student Capacity Margin or the per-applicant limit, the Planning Board may approve a phasing schedule distributing approvals and Certificates of Occupancy across multiple years, provided that projected enrollment in no grade exceeds Functional Capacity after allocation under §800.03.

1100.08 Anti-Segmentation Rule.

Applications that are part of the same development, or under common ownership or control, shall be treated as a single project for purposes of the per-applicant limit in §1100.03. In making this determination, the Board may consider shared infrastructure, coordinated plans, common design or permitting strategy, or overlapping ownership interests.

1100.09 Prohibition on Monopolization.

No approval, phasing plan, or allocation sequence may be structured to allow a single developer or commonly controlled entity to monopolize annual capacity or defeat the fairness provisions of this section.

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1100.10 Certificates of Occupancy.

Certificates of Occupancy for Approved but Unbuilt Units shall be issued in accordance with §600.04(b).

Certificates of Occupancy for all other dwelling units shall be issued only in accordance with allocated capacity under this section and any phasing required under §1100.07. A Certificate of Occupancy may not be issued if doing so would cause projected K–8 enrollment in any grade to exceed Functional Capacity.

§1200.00 REPORTING AND ANNUAL COORDINATION

1200.01 Annual Data Submission (School Board).

By March 31 of each year, or upon release of updated data thereafter, the School Board shall submit to the Planning Board:

- (a) current K–8 enrollment by grade and building;
- (b) the latest NESDEC Short-Range Projection (Years 1–3) available at the time of submission;
- (c) the number of Content Classrooms by grade and building;
- (d) the grade-level student–teacher ratios in effect for the upcoming school year.

These data shall be used in the Annual Capacity Determination under §§1000.00 and 1100.00.

1200.02 Development Pipeline Reporting (Community Development Department).

The Community Development Department shall submit an annual report identifying:

- (a) all Approved but Unbuilt Units;
- (b) all pending subdivision and site plan applications;
- (c) all Certificates of Occupancy issued in the prior year.

1200.03 Coordination with School Board.

The Planning Board shall meet with the School Board at least once annually to review enrollment trends, capacity pressures, and the impact of Approved but Unbuilt Units.

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1200.04 CIP and Master Plan Integration.

The Planning Board shall update the CIP and Master Plan annually to reflect:

- (a) school expansion needs;
- (b) enrollment and capacity trends;
- (c) the status of planned or funded educational facilities.

1200.05 Public Transparency / Annual Growth Capacity Report.

All data, reports, and calculations used in the Annual Capacity Determination shall be compiled into an Annual Growth Capacity Report, which shall include:

- (a) K-8 enrollment trends;
- (b) remaining K-8 Functional Capacity by grade and building;
- (c) all Approved but Unbuilt Units;
- (d) the latest NESDEC Short-Range Projection (Years 1-3);
- (e) the Student Capacity Margin for the upcoming year;
- (f) any active or approved phasing schedules under §1100.07;
- (g) progress on CIP items related to K-8 school facilities.

The Report shall be publicly available and provided to the School Board.

§ 1300.00 MANDATORY FIVE-YEAR REVIEW

1300.01 Review Requirement.

At least once every five (5) years, the Planning Board shall conduct a comprehensive review of this Ordinance to evaluate:

- (a) K-8 enrollment trends and updated grade-level Functional Capacity;
- (b) the accuracy and continued validity of the Student Generation Rates in §700.03;
- (c) the effectiveness of the phasing and allocation provisions in §1100.00;
- (d) progress on CIP items related to K-8 school facilities;
- (e) whether conditions continue to satisfy RSA 674:22, II.

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1300.02 Public Hearing.

As part of each five-year review, the Planning Board shall hold at least one public hearing to receive public comment.

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1300.03 Report to the Legislative Body.

Following the review, the Planning Board shall prepare a written report summarizing its findings and recommendations and provide it to the Board of Selectmen for inclusion in the next Annual Town Report.

1300.04 Continuity.

Failure to complete the review within the prescribed interval shall not invalidate this Ordinance; however, the Planning Board shall complete the review as soon as practicable.

§ 1400.00 SEVERABILITY

1400.01 Severability.

If any provision of this Ordinance is held invalid, the remaining provisions shall remain in full force and effect.

1400.02 Savings Clause.

Nothing in this Ordinance shall repeal or supersede the Zoning Ordinance, Subdivision Regulations, Site Plan Regulations, or any other municipal regulation, except where a direct conflict exists. Any such conflict shall be resolved only to the minimum extent necessary to prevent Functional Capacity from being exceeded and to maintain compliance with RSA 674:22, RSA 189:1-a, and RSA 193-E.

1400.03 Educational Adequacy Clause.

In the event of ambiguity, this Ordinance shall be interpreted to preserve PK-8 educational adequacy as required by RSA 189:1-a and RSA 193-E.

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§ 1500.00 EFFECTIVE DATE

1500.01 Effective Date.

This Ordinance shall take effect immediately upon its passage at the 2026 annual town meeting.

Adoption shall be coordinated with any simultaneous amendment to Zoning Ordinance §715.3.2.1, with both effective on the same date to ensure operational alignment.

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EXHIBIT A

Proposed Amendment to Windham Zoning Ordinance
(Coordinated with Growth Management Ordinance)

New § 715.3.2.1 Deferral of School Impact Fee Assessment – K–8 Functional Capacity

§ 715.3.2.1 Deferral of School Impact Fee Assessment – K–8 Functional Capacity

Notwithstanding any contrary provision in § 715.3.2 or elsewhere in this Section 715, for any residential subdivision, site plan, or other development application that creates one or more new dwelling units and that is submitted on or after the effective date of the Growth Management Ordinance adopted pursuant to RSA 674:22:

(a) The assessment of the school impact fee otherwise required under this Section 715 shall be deferred until the Planning Board affirmatively determines, pursuant to the Growth Management Ordinance, that sufficient K–8 Functional Capacity (as defined and calculated therein) exists to accommodate the K–8 students projected to be generated by the proposed development without causing any K–8 grade to exceed its Functional Capacity.

(b) Upon such determination by the Planning Board, the school impact fee shall be assessed in the full amount and manner otherwise required by this Section 715.

(c) This subsection shall not apply to any development application that has received final subdivision or site plan approval and for which a school impact fee has already been assessed prior to the effective date of this § 715.3.2.1.

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