

Summary of Changes to Windham's Zoning Regulations

7/3/19

Overview:

The Town Plan mandates the protection of Windham's prominent ridgelines above 2000 feet in elevation, which are to be left in their natural condition. (see p. 72, Windham Town Plan.) This is easier said than done, due to the difficulty of legally defining a ridgeline, let alone a prominent one. In addition, there is the challenge of protecting land above 2000 feet without unduly restricting the rights of the owners of property above 2000 feet throughout Windham.

Proposed Changes:

The Planning Commission proposes the following changes in our zoning regulations:

I. Creation of a new zoning district, Sec. 201.7, High Elevation Resource Protection Overlay. This overlay district includes all land above 2000 feet in elevation in all Forest Districts. The sole permitted use in this district is commercial forestry (including maple sugaring) in compliance with all state regulations, including the most current version of "Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont" (published by the Vermont Department of Forests, Parks and Recreation).

The only conditional uses are pasturing livestock on existing open land, forestry for research and educational purposes and private camps. Conditional uses shall comply with the standards outlined in Sections 206 and 209 of the Windham zoning regulations. In addition, the Zoning Board of Adjustment shall consider conditional uses in relation to existing vegetation and topography and may impose additional conditions as outlined the full text of Sec. 201.7.

A map of the High Elevation RPA has been created and is included in the revised regulations. The problematic term "ridgelines" has been eliminated throughout the zoning regulations and "land above 2000 feet in elevation in Forest Districts" has been substituted for it.

II. Rewrite Section 201.3 (Forest District) to delineate activities allowed below 2000 feet and above 2000 feet.

Proposed Permitted Uses Below 2000 feet

1. Agriculture
2. Commercial forestry
3. Forestry for research, demonstration, education and related uses
4. Private hunting or fishing camp
5. Accessory uses

Proposed Conditional Uses on land below 2000 feet elevation:

1. Single family dwelling with state approved septic system.
2. A recreational camp for seasonal or occasional use for non-commercial, limited outdoor recreation
3. Extraction of Earth Resources (must comply with Sec. 504)
4. Solar arrays and individual wind energy systems.

Proposed Permitted Uses on land above 2000 feet elevation:

1. Commercial Forestry (including maple sugaring)

Conditional Uses on land above 2000 feet in elevation

1. Pasturing livestock on previously open land.
2. Forestry for research, demonstration, education and related uses
3. Private camp

III. Change the boundary of Timber Ridge Recreational/Commercial District to include the ski trails.

(N.B. The trails were in the Forest District. Moving them into the Commercial/Recreational district allows possible solar or small wind projects without having to create a special zoning exceptions for homes in the entire Timber Ridge area. It also acknowledges the current recreational use of the trails and allows for their future commercial use subject to Sec. 201.1, if the landowner so desires.

IV. Revise Sec. 201.5 (resource Protection Overlay (RPA))

The purpose and enforcement of this section is vague in the current zoning regulations. Our revision clarifies that the purpose of the RPA overlay is to protect these important resources and provide for a diversity of wildlife habitat. The revision also gives the Zoning Board of Adjustment the responsibility of reviewing site plans and approving or denying development projects in the RPA overlay district. Permitted and conditional uses in the RPA overlay are those which exist in the underlying zoning districts subject to site plan review by the ZBA.

V. Change Sec. 207 Prohibited Use #4 to eliminate “ridgelines” and say “Development on lands above 2000 feet elevation in Forest Districts except for the conditional uses described in Sec. 201.7.”

VI. Eliminate Performance Standard #10 in Sec. 209 because the new High Elevation Resource Protection Overlay District (Sec. 201.7) makes it redundant.

VII. Revise Sec. 505 as follows:

- 1) Add a second sentence to the first paragraph to say “Wind installations are subject to restrictions set out in Sections 207 and 209 of these regulations.”
- 2) Under the heading Abandonment, change bullet point two to say “Physical removal of all above ground structures, equipment and security barriers from the site.”

VIII. Revise Sec. 506 as follows:

“Physical removal of all above ground mounted solar unit installations including the structures, equipment, and security barriers from the site.”