

**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: Windham surface Water Watershed Protection Overlay District (WPOD).**

**Amend Section 616.4 (Windham surface Water Watershed Protection Overlay District (WPOD)) of the Windham Zoning Ordinance By:**

Amending Section 616.4 by adding the following definition for “Stabilized” with the following:

When the soil erosion rate approaches that of undisturbed soils. Soils which are disturbed will be considered stabilized when covered with a healthy, mature growth of grass, or good covering of straw mulch or other equivalent (seedless) mulch (of not less than two [2] tons/acre). Mulch is only a temporary measure; ultimately, the site needs vegetation.

**Planning Board Amendment #2: Windham surface Water Watershed Protection Overlay District (WPOD).**

**Amend Section 616.4 (Windham surface Water Watershed Protection Overlay District (WPOD)) of the Windham Zoning Ordinance By:**

Amending Section 616.4 by deleting the definition for “Tributary Stream” and replacing it with a new definition for “Tributary” with the following:

Any perennial, intermittent or ephemeral stream or other flow of concentrated surface water (i.e. not sheet flow or runoff) caused by geographic contours (either natural or man made) flowing either directly or indirectly into a public water body as defined herein. This shall include any stream or concentrated water flow section contained within a stream bed, ditch, pipe system or other modified channel.

**Planning Board Amendment #3: Windham surface Water Watershed Protection Overlay District (WPOD).**

**Amend Section 616.5 (Windham surface Water Watershed Protection Overlay District (WPOD)) of the Windham Zoning Ordinance By:**

Amending Section 616.5.2 by insertion of the following new subsection:

616.5.2.8. Fertilizer may not be applied within 200 feet of the prevailing high water mark of any public water body. In all other areas within the District, only low phosphate, slow release nitrogen fertilizers are permissible for application.

**Planning Board Amendment #4: Windham surface Water Watershed Protection Overlay District (WPOD).**

**Amend Section 616.6 (Windham surface Water Watershed Protection Overlay District (WPOD)) of the Windham Zoning Ordinance By:**

Amending Section 616.6.1 by deleting the same and replacing it with the following:

Development within the WPOD requires the submittal and approval of one of the following applications: Site Plan/Subdivision Watershed Application, Major Watershed Application, or Minor Watershed Application. All plans submitted for any permit must show the location of tributaries, tributary buffers, wetlands, and wetland (WWPD) setbacks within 100-feet of the

subject property except where access to such adjoining properties has been requested, but not granted.

**Planning Board Amendment #5: Windham surface Water Watershed Protection Overlay District (WPOD).**

**Amend Section 616.6 (Windham surface Water Watershed Protection Overlay District (WPOD)) of the Windham Zoning Ordinance By:**

Amending Section 616.6.2 by deleting the same and replacing it with the following:

Residential Building Permit Applications for new home construction, additions and reconstruction of existing homes must include an erosion and sedimentation control plan developed with Best Management Practices. The erosion and sedimentation control plan shall be prepared by an engineer licensed in the State of New Hampshire or a qualified professional who is familiar with erosion control measures and procedures and acceptable to the Town Engineer. The erosion and sedimentation control plan shall be submitted as part of the Major or Minor Watershed Application. The Planning Board may require additional erosion control measures if deemed necessary.

**Planning Board Amendment #6: Windham surface Water Watershed Protection Overlay District (WPOD).**

**Amend Section 616.6 (Windham surface Water Watershed Protection Overlay District (WPOD)) of the Windham Zoning Ordinance By:**

Amending Section 616.6.4.5 by deleting the same and replacing it with the following:

Grading and removal of vegetation at a development site is minimized and erosion and sedimentation control measures are in place and properly installed. Development sites shall have a maximum disturbance (which includes, but is not limited to clearing, grading, excavation, removing stumps and other activities that expose soil) of one acre at a time. Only after the prior stage is stabilized can the developer clear the next one acre. Drainage measures shall be installed prior to any other earth moving operations. If a development site is over three (3) acres, the Planning Board may allow more than one acre to be disturbed at a time.

**Planning Board Amendment #7: Windham surface Water Watershed Protection Overlay District (WPOD).**

**Amend Section 616.8 (Windham surface Water Watershed Protection Overlay District (WPOD)) of the Windham Zoning Ordinance By:**

Amending Section 616.8.1 by deleting the same and replacing it with the following:

A 100-foot wide buffer zone shall be maintained along the edge of any tributary discharging into the protected water body and along the edge of any wetlands associated with those tributaries. The required setback distance shall be measured from the centerline of such tributary and from the delineated edge of a wetland. Streams shall be delineated from their mean high-water mark. The buffer zone shall be maintained in its natural state to the maximum extent possible.

**Planning Board Amendment #8: Windham surface Water Watershed Protection Overlay District (WPOD).**

**Amend Section 616.8 (Windham surface Water Watershed Protection Overlay District (WPOD)) of the Windham Zoning Ordinance By:**

Amending Section 616.8.2 by deleting the same and replacing it with the following:

Any reduction in the required buffer zone width may be granted by the Planning Board upon presentation of a hydrologic or other study that provides documentation and justification, acceptable to the Planning Board, that even with the reduction, the same or a greater degree of water quality protection would be afforded as would be with the full-width buffer zone. In granting such a reduction, the Planning Board may require certain conditions of approval which may include, but are not limited to, restrictions on use, type of construction, and erosion, runoff or sedimentation control measures as deemed necessary to protect water quality. No reduction granted shall be greater than 60% of the full-width buffer.

**Planning Board Amendment #9: Flood Plain District.**

**Amend Section 607 (Flood Plain District) of the Windham Zoning Ordinance By:**

- A. Amending Section 607.1 by adding the following definition for “Base Flood Elevation (BFE)” with the following:

means the elevation of surface water resulting from the “base flood.”

- B. Amending Section 607.1 by adding the following definition for “Flood Opening” with the following:

means an opening in a foundation or enclosure wall that allows automatic entry and exit of floodwaters. See FEMA “Technical Bulletin 1, Openings in Foundation Walls and Walls of Enclosures.”

- C. Amending Section 607.1 by deleting the following definition for “Functionally Dependent Use” in its entirety:

Means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking and port facilities that are necessary for the loading/unloading of cargo or passengers, and ship building/repair facilities but does not include long-term storage or related manufacturing facilities.

- D. Amending Section 607.1 by deleting the definition for “Mean Sea Level” and replacing it with the following:

Means the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) of 1988, or other datum, to which base flood elevations shown on communities Flood Insurance Rate Map are referenced.

- E. Amending Section 607.1 by deleting the following definition for “100-year Flood” in its entirety:

See “Base Flood:”

- F. Amending Section 607.1 by deleting the definition for “Substantial Improvement” and replacing it with the following:

means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage,” regardless of the actual repair work performed. The term does not, however, include either:

- a. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- b. Any alteration of a “historic structure,” provided that the alteration will not preclude the structure's continued designation as a “historic structure.”

- G. Amending Section 607.1 by deleting the definition for “Water Surface Elevation” and replacing it with the following:

Means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) of 1988, (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplains.

- H. Amending Subsections 607.2.1-607.2.4 by deleting the same and replacing it with the following:

**607.2.1**

All proposed development in any special flood hazard area shall require a permit.

**607.2.1.1**

The Code Enforcement Administrator and/or Building Inspector shall develop and implement an application for such permit.

**607.2.1.2**

In the case of proposed development that requires a permit from the Planning Board under the provisions of Section 601 (WWPD) or Section 616 (WPOD), such application shall be filed with the Planning Board application, and the granting of such permit by the Planning Board shall operate as an approval of the permit request hereunder unless notified by the Code Enforcement Administrator and/or Building Inspector within 30 days of the filing of the Planning Board application.

**607.2.1.3**

In the case of proposed development that does not require a permit from the Planning Board, but does require a variance from the Zoning Board of Adjustment, such application shall be filed with the Zoning Board of Adjustment application, and the granting of the variance by the Zoning Board of Adjustment shall operate as approval of the permit request hereunder unless notified by the Code Enforcement Administrator and/or Building Inspector within 30 days of the filing of the variance application.

**607.2.1.4**

In the case of proposed development that does not require a permit from the Planning Board, or a variance from the Zoning Board of Adjustment, such application shall be filed with the Code Enforcement Administrator and/or Building Inspector prior to or contemporaneous with any building permit application, if needed, or 30 days prior to commencing work on the project if no building permit is needed. Such application shall be considered approved (Permit by Notification PBN) 30 days after filing unless notified by the Code Enforcement Administrator and/or Building Inspector within 30 days of the filing of the permit request.

**607.2.2**

The Code Enforcement Administrator and/or Building Inspector shall review all building permit applications for new construction or substantial improvements to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is located in a special flood hazard area, all new construction or substantial improvements shall:

**607.2.2.1**

Be designed (or modified) and adequately anchored to prevent floatation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy,

**607.2.2.2**

Be constructed with materials resistant to flood damage,

**607.2.2.3**

Be constructed by methods and practices that minimize flood damages,

**607.2.2.4**

Be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

- I. Amending Section 607.4.1 by deleting the same and replacing it with the following:

The as-built elevation (in relation to means sea level) of the lowest floor (including basement) and include whether or not such structures contain a basement.

- J. Amending Section 607.4.2 by deleting the same and replacing it with the following:

If the structure has been floodproofed, the as-built elevation (in relation to means sea level) to which the structure was floodproofed.

- K. Amending Section 607.6.1 by deleting the same and replacing it with the following:

In riverine situations, prior to the alteration or relocation of a watercourse the applicant for such authorization shall notify the Wetlands Bureau of the New Hampshire Department of Environmental Services and submit copies of such notification to the Code Enforcement Administrator and/or Building Inspector, in addition to the copies required by RSA 482-A:3.

Further, the applicant shall be required to submit copies of said notification to those adjacent communities as determined by the Code Enforcement Administrator and/or Building Inspector, including notice of all scheduled hearings before the Wetlands Bureau, the Windham Conservation Commission, and the Windham Planning & Zoning Board.

- L. Amending Section 607.7.1.1 by deleting the same and replacing it with the following:

In special flood hazard areas the Code Enforcement Administrator and/or Building Inspector shall determine the base flood elevation in the following order of precedence according to the data available:

- M. Amending Section 607.7.1.2 by deleting the same and replacing it with the following:

In Zone A the Code Enforcement Administrator and/or Building Inspector shall obtain, review, and reasonably utilize any base flood elevation data available from any federal, state or other source including data submitted for development proposals submitted to the community (i.e., subdivisions, site approvals). Where a base flood elevation is not available or not known for Zone A, the base flood elevation shall be determined to be at least 2 feet above the highest adjacent grade.

- N. Amending Section 607.7.2 by deleting the same and replacing it with the following:

The Code Enforcement Administrator and/or Building Inspector's base flood elevation determination will be used as criteria for requiring in Zones A and AE that:

- O. Amending Section 607.7.2.1 by deleting the same and replacing it with the following:  
All new construction or substantial improvement of residential structures have the lowest floor (including basement) elevated to or above the base flood elevation;

- P. Amending Section 607.7.2.2 by deleting the same and replacing it with the following:

That all new construction or substantial improvements of non-residential structures have the lowest floor (including basement) elevated to or above the base flood level; or together with attendant utility and sanitary facilities, shall:

- Q. Amending Section 607.7.2.2.1 by deleting the same and replacing it with the following:

Be flood-proofed so that below the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water;

- R. Amending Section 607.7.2.4.3 by deleting the same and replacing it with the following:

Shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria: A minimum of two flood openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The

bottom of all flood openings shall be no higher than one foot above grade. Flood openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwater.

- S. Amending Section 607.7.2.4.4 by deleting the same and replacing it with the following:

Recreational vehicles placed on sites within Zones A and AE shall either (i) be on the site for fewer than 180 consecutive days, (ii) be fully licensed, on wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions, or (iii) meet all applicable standards of this and the elevation and anchoring requirements for “manufactured homes” of this ordinance.

- T. Amending Section 607.8.2 by deleting the same and replacing it with the following:

If the applicant, upon appeal, requests a variance as authorized by RSA 674:33, I, the applicant shall have the burden of showing in addition to the usual variance standards under state law: