

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 the Definition of "Property Owner" in Section 602.1.9.2 by insertion of the words ", or a corporation owned by one or more natural persons," in the first sentence, such that it will read:

For purposes of this subsection, a property owner is one or more natural persons, or a corporation owned by one or more natural persons, who have 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 602.1.9.3.3 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.

E) 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).

F) 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.

G) 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)