

TOWN OF WINDHAM

MORATORIUM ON SUBDIVISIONS IN THE FARM ZONE

WHEREAS, the town of Windham (hereinafter “the Town”) adopted an updated Comprehensive Plan on June 13, 2017 which specifies certain rural areas in which new growth and development should be limited;

WHEREAS, rural areas make up approximately 81% of the town's land area and the majority of that area is currently zoned within the Farm (F) zoning district;

WHEREAS, the Town has experienced an increase in residential development proposals in the Farm zoning district at a rate exceeding recent trends;

WHEREAS, there is a strong likelihood of continued residential development pressure at unanticipated rates in the Farm zoning district due to the high demand for such development within the Town;

WHEREAS, the Town of Windham Land Use Ordinance has not been updated to implement the goals stated in the 2017 Comprehensive Plan related to limitation of further development in rural areas;

WHEREAS, excessive residential development in the Farm zoning district could pose serious threats to the public health, safety and welfare of the residents of the Town by promulgating a pattern of growth that is incompatible with the rural character of certain areas of the Town and has the potential to cause adverse impacts to traffic flow, municipal services, groundwater, surface water and land use compatibility;

WHEREAS, the Town Council on September 25, 2018 directed the Long Range Planning Committee (the "LRPC") to prepare amendments to the Land Use Ordinance and zoning Map for the Farm and Farm Residential zoning districts; and

WHEREAS, the Town will require at least one hundred eighty (180) days to develop and implement the necessary amendments to the Land Use Ordinance, and possibly to other ordinances of the Town, to adequately address the impacts of residential development in designated rural areas;

NOW, THEREFORE, be it ordained by the Town Council of the Town of Windham, that the following Moratorium Ordinance on Subdivisions in the Farm Zone (the “Moratorium Ordinance”) be, and hereby is, enacted as follows:

1. There shall be a moratorium on new subdivisions within the Farm Zone. This Moratorium shall apply to applications for the approval of new subdivisions, as defined in 30-A M.R.S. § 4401, as well as amendments to previously approved subdivision plans within the Farm Zone that seek to add two or more new lots to a previously approved subdivision.

2. This Moratorium shall not rescind or invalidate any municipal approval granted prior to its Enactment Date. “Approval” for the purposes of this section shall mean final approval by the reviewing authority, regardless of whether any appeal is contemplated or pending.

BE IT FURTHER ORDAINED, that, in view of the facts cited herein, this Moratorium Ordinance shall take effect immediately upon enactment and, notwithstanding the provisions of 1 M.R.S. § 302, shall be applicable, to the maximum extent permitted by law and subject to the severability clause below, to all proceedings, applications and petitions not pending as of January 8, 2018, the date upon which this Moratorium Ordinance was first discussed by Town Council. For the purposes of this Moratorium Ordinance, an application shall not be considered “pending” until a minor subdivision final plan application has been deemed complete by the Planning Board or a major subdivision preliminary plan application has been deemed complete by the Planning Board. Consideration during a pre-application meeting or sketch-plan review as set forth in Sections 906 and 907 of the Land Use Ordinance shall not qualify an application as “pending”. The Moratorium shall apply to any amendments made during the review of a pending application which seek to add two or more lots not depicted on the last version of the subdivision plan filed with the Town prior to enactment of this Moratorium. This Moratorium Ordinance shall remain in effect for 180 days from the date of enactment, unless sooner repealed or extended by the Town Council.

BE IT FURTHER ORDAINED, that from the date of enactment and during the time this Moratorium Ordinance remains in effect, no officer, official, employee, office, administrative board or agency of the Town shall accept, process, approve, deny, or in any other way act upon any application for a license, permit or any other type of land use approval, permit or license related to the development activities described above.

BE IT FURTHER ORDAINED, that those provisions of the Town’s current Code of Ordinances that are inconsistent or conflicting with the provisions of this Ordinance, are hereby repealed to the extent that they are applicable for the duration of the moratorium hereby ordained, and as it may be extended as permitted by law, but not otherwise; and

BE IT FURTHER ORDAINED, that if any activities described in Section 1 are conducted in violation of this Moratorium Ordinance, each day of any continuing violation shall constitute a separate violation of this Moratorium Ordinance, and the Town shall be entitled to all rights available to it in law and equity, including, but not limited to, fines and penalties, injunctive relief, and its reasonable attorney’s fees and costs in prosecuting any such violations; and

BE IT FURTHER ORDAINED, that should any section or provision of this Moratorium Ordinance be declared by any court of competent jurisdiction to be invalid, such a declaration shall not invalidate any other section or provision.

Emergency Declaration

The Town Council declares the existence of an emergency because the Code of Ordinances is insufficient to prevent serious environmental and public harm and loss of rural character that could be caused by further subdivision development within the Farm Zone, thereby necessitating

a moratorium to provide an opportunity for the Town to review and amend its Code of Ordinances to mitigate the potential impact and harm of development within the Farm Zone and to implement the intentions of the Comprehensive Plan.

In accordance with Article II, Section 11(D) of the Town Charter, this Moratorium shall be enacted as an emergency ordinance. It shall stand repealed as of the sixty-first (61st) day following enactment, unless the Town Council shall have acted to reenact it.

Enactment Date:_____.