



Town of Windham

Town Offices
8 School Road
Windham, Maine

Legislation Text

File #: 17-167, Version: 1

I. Council Action Requested.

To adopt an emergency ordinance establishing a moratorium on certain development activities in the Highland Lake watershed.

II. Basis for Council Action.

Council approval of this item is required because;

- a. Pursuant to Article I, Section 2 of the Charter the town “may enact reasonable by-laws, regulations and ordinances for municipal purposes, not inconsistent with the Constitution and laws of the State of Maine,”
- b. Pursuant to Article I, Section 2 of the Charter “the administration of all the fiscal, prudential and municipal affairs of said Town, with the government thereof, except as otherwise provided by this Charter, shall be and are vested in one body of seven (7) members, which shall constitute and be called the Town Council,”
- c. Pursuant to Article II, Section 3(I) of the Charter the Council shall have the power to “exercise all the legislative, financial, borrowing and other powers now or hereafter given by statute to inhabitants of towns acting in Town Meeting except as otherwise provided herein, and also exercise all the powers now or hereafter given by statute to municipal officers of towns,” and
- d. Pursuant to Article II, Section 11(D) of the Charter and “to meet a public emergency affecting life, health, property or the public peace, the Council may adopt one or more emergency ordinances.”

III. Issue Summary.

Please refer to the attached full text of the moratorium ordinance.

As discussed at the Council meeting of September 5, 2017 (item CD 17-258), in considering whether to impose a moratorium, particularly as an emergency ordinance, among the points the Council should consider are:

- a. Whether, as required by 30-A MRSA §4356, it is needed because the application of existing comprehensive plans, land use ordinances or regulations or other applicable laws, if any, is inadequate to prevent serious public harm from residential, commercial or industrial development in the affected geographic area,
- b. Whether the situation represents a “public emergency affecting life, health, property or the public peace,” and
- c. Whether the moratorium will be effective in preventing that serious public harm due to development.

Pursuant to Windham’s Charter an emergency ordinance may be adopted without a public hearing

but may only remain in effect for sixty (60) days. In order to remain in effect beyond sixty (60) days the Council will have to hold a public hearing and vote on the ordinance again within that time frame. A public hearing and vote are scheduled tentatively for the meeting of October 10, 2017.