

# 2021 ZONING ORDINANCE AMENDMENTS

## Amendment #1: Add the following section:

### ARTICLE V – ZONING DISTRICT REGULATIONS

#### F. RIDGELINE PROTECTION OVERLAY ZONE, Zone RLP

##### I. Purpose

The purpose of the Eaton Ridgeline Protection (RLP) Ordinance is to protect scenic resources associated with lands characterized by high elevation and visual sensitivity in a manner that adheres to carefully designed, low-impact development.

To avoid over-regulation of property within the RLP Zone, only land with high visual impact as determined by this Ordinance and as reflected in the Ridgeline Protection Zone Map provided herein will be subject to the provisions of this Ordinance. These restrictions may affect building location and height, landscaping, access and utility location.

Eaton's undeveloped ridgelines are one of the Town's principal scenic qualities. Protecting ridgelines from unregulated and unsightly development is essential to Eaton's aesthetics and economic welfare. Thus, the objectives of this Ordinance are:

1. To provide a regulatory guideline to protect the pastoral and visual character of the Town by maintaining the appearance of a natural unbroken forest cover along ridges. [L]  
[SEP]
2. To guide the siting of structures on or near ridgelines so that the sky remains the backdrop when viewed from Route 153 or Brownfield Road. [L]  
[SEP]

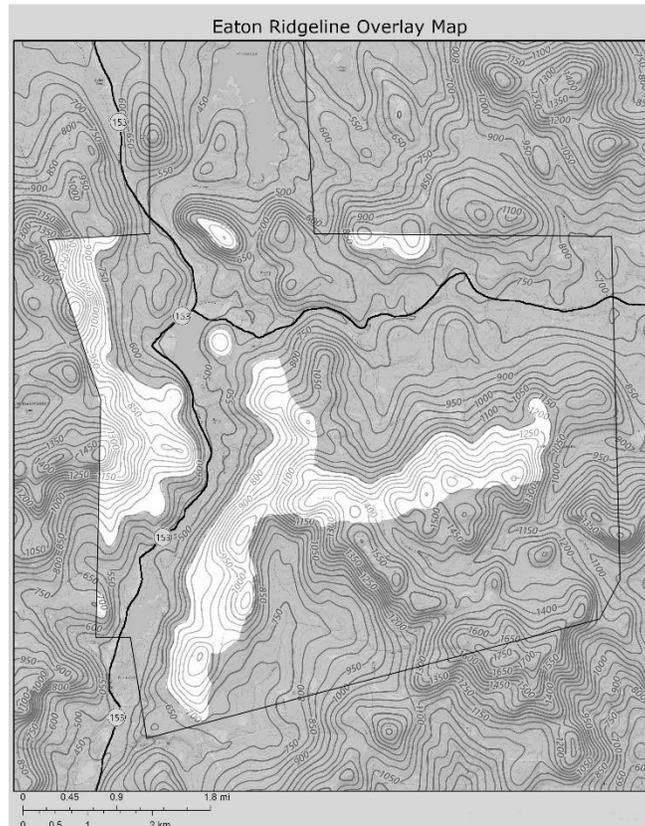
##### II. Delineation

This Ordinance shall apply to all ridges that can be viewed from the Brownfield Road or Route 153. The areas are shown on the Eaton Ridgeline Protection Overlay Map. Future logging or clearing along Route 153 or Brownfield Road may allow increased visual access to ridgelines from these two roads. Thus, screening by buildings or vegetation adjacent to these roads shall not be considered when determining compliance with this Ordinance.

The final determination of a Ridgeline Protection area shall be made by the Planning Board or its agent, who may require a site-specific survey at the Applicant's expense.

Specifically the Ridgeline Protection Overlay Zone consists of the long ridgeline above 1200 feet visible to the south of Brownfield Road made up of Stewart Hill, Kent Hill and Manson Hill; Birch Hill to the north of Brownfield Road above 900

feet; Atkinson Mountain north of Brownfield Road and east of Route 153 above 800 feet; the small hill to the east of Crystal Lake above 600 feet; the hills to the east of Crystal Lake and Hatch Pond and running south to Towle Hill above 700 feet; the eastern shoulder of Lyman Mountain to the west of Route 153 above 700 feet; and the Rockhouse Mountain ridge to the west of Route 153 above 800 feet.



*This map is adapted from a map produced with the USGS National Map.*

### III. Definitions

**Abutter:** Any person whose property, located in New Hampshire, adjoins or is directly across the street or stream, or any property sharing common boundaries with contiguous parcels, or any property within 200 feet from the land under consideration by the local land use board. For purposes of receiving testimony only, and not for purposes of notification, the term “abutter” shall include any person who is able to demonstrate that his/her land will be directly affected by the proposal under consideration. For purposes of notification and receiving testimony, “abutter” shall also mean all affected Towns and the Regional Planning Commission(s) in the case of a development having regional impact, as determined by the Planning Board. In the case of an abutting property being under condominium or other collective form of ownership, the term “abutter” means president or registered agent of the collective or association, as defined in RSA 356-B:3 xxiii.

**Best Management Practices:** Accepted structural, non-structural, or vegetative measures the application of which reduces erosion, sedimentation or peak storm discharge, or improves the quality of storm water runoff. These measures or practices are found in the NH Stormwater Manual, Volumes 1 & 2 (NHDES December 2008).

**Critical Area:** An area within 100 feet of a stream, bog, water body or very poorly drained soils; areas exceeding 2,000 square feet in highly erodible soils.

**Development:** Any construction or road building other than for agricultural and silvicultural practices; any alteration of terrain or grading activities.

**Directly Visible:** Visibility along a direct line of sight without intervening vegetation.

**Impervious Surface:** Any modified hard surface including, but not limited to, the area of a building footprint, paved or crushed stone driveways, parking areas, and walkways unless designed to effectively absorb or infiltrate water.

**Ridgeline:** A line formed along the highest points of a mountain ridge; an area of higher ground separating two watersheds.

**Site Disturbance:** Any activity that removes the vegetative cover and/or creates erosion from the land surface.

**Soils:** As defined and classified by "Key to Soil Types," High Intensity Soil Maps for NH SSSNNE Special Publication No. 1, as amended.

**Vegetative Cover:** Grasses, shrubs, trees, and other vegetation that hold and stabilize soils.

#### IV. Applications Requirements

The Eaton RLP Ordinance applies to upland slopes and ridges that are visible from Route 153 and Brownfield Road.

It is recognized that not all areas within the RLP Overlay Zone have high visual sensitivity. Areas where natural topographical features shield the proposed development from view are excluded from the provisions of this ordinance.

An application must be submitted to the Planning Board for any tract of land being developed in the RLP Overlay Zone where one or more of the following are proposed:

1. Construction of any structure;
2. Construction or reconstruction of a street, road or driveway;
3. Disturbance of a critical area.

It is the responsibility of the applicant to demonstrate that a proposed development may be excluded from the requirements of the RLP Ordinance.

### Specific Provisions

The following specific provisions shall govern all development within the RLP Overlay Zone:

1. On any ridgeline or ledge where the sky is the backdrop when viewed from Route 153 or Brownfield Road, structures will be located and limited in height so as not to allow any portion of the building to have the sky as a backdrop as seen from said roadways.
2. No structures, parking areas or cleared areas shall be directly visible from Route 153 or Brownfield Road in the town of Eaton, but must be screened or capable of being screened. Screening by buildings or vegetation adjacent to these roadways shall not be considered when determining compliance with this provision.
3. Exterior lighting producing more than 2000 lumens of light per fixture shall be shielded in such a manner as to conceal the light source and the illuminated area from view beyond the perimeter of the area to be illuminated.
4. The applicant must demonstrate that no practicable alternatives exist to the proposal under consideration, and that all measures have been taken to minimize the impact that construction activities will have.

### Ridgeline Application

The Ridgeline Application with appropriate fee and the following are required to be submitted:

1. Site Plan showing the area subject to site disturbance, and all adjacent areas within 200 feet of the area subject to site disturbance, in two-foot contours, including all surface waters and wetlands, and proposed and existing physical features, structures, utilities, storm water control systems, septic and well structures, and access ways;
2. Plan showing footprint and elevation of all proposed structures that clearly depicts what may be visible from Brownfield Road and Route 153.
3. A landscaping plan showing existing vegetation and proposed landscaping and clearing.

### Additional Requirements

1. Requests for waivers and actions thereon shall be made in writing by the applicant with supporting technical documentation to demonstrate minimal environmental impact.

2. The applicant shall bear all financial responsibility for plans and layouts deemed necessary by the Planning Board according to the Ridgeline Protection Ordinance.
3. The applicant shall bear final responsibility for the installation, construction, inspection and disposition of all storm water management and control measures required by the provisions of this regulation.

#### V. Performance Standards

All uses permitted in the underlying District may be permitted in the Ridgeline Protection Overlay Zone, but must meet the following conditions for approval:

1. The grading cut and fill should not exceed a 2:1 ratio. Cuts and fills shall be minimized.
2. Existing natural and topographic features, including the vegetative cover, will be preserved to the greatest extent possible. In the event that extensive amounts of vegetation are removed, the site shall be replanted with indigenous vegetation and shall replicate the original vegetation as much as possible.
3. No section of any driveway may exceed a 10 percent slope for residential or 8 percent slope for nonresidential site plans.
4. During construction, the plan must meet the Best Management Practices for Stormwater Management and Erosion and Sediment Control as cited in the NH Department of Environmental Services "Stormwater Management and Erosion and Sediment Control Handbook for Urban and Developing Areas in New Hampshire" December 2008 and subsequent revisions.

#### VI. Approval of Ridgeline Application

1. Ridgeline application approval shall be granted by the Planning Board upon a finding that the proposed use is consistent with the Ordinance and following receipt of a review and recommendation of the Conservation Commission and any other professional expertise deemed necessary by the Board.
2. A building permit may be granted by the Board of Selectmen upon approval by the Planning Board that the proposed use is consistent with the intent of the Ordinance.
3. The approval from the Planning Board shall be valid for a period of two years from the date of issue and shall expire if not implemented by that time, unless a longer period is specified and approved by the Planning Board.
4. The Planning Board may waive the requirements for all, or part, of the approval if it determines that the requirements are unnecessary because of size, character, or natural conditions of a site.
5. If not approved, a written list of plan deficiencies and the procedure for filing a revised plan will be given to the applicant.

## VII. Costs and Performance Security

All costs pertaining to the consideration of an application, including consulting fees, on-site inspections, environmental impact studies, notification of interested persons, and any other costs associated with Planning Board review under this section, shall be borne by the applicant and paid prior to the Planning Board taking final action.

Performance Security shall mean (1) an irrevocable letter of credit with an automatic call provision issued by a State of New Hampshire bank or national bank with banking offices located within the State of New Hampshire (LOC) or (2) cash in United States currency held in escrow by the Town (cash bond).

A Ridgeline Performance Security may be required in an amount sufficient to ensure there is no cost to the Town for replacement of removed vegetation and for stabilization measures to prevent water or soil damage, including inspection or consultation fees, in the event of abandonment or deferment of the project.

Work shall be completed within two (2) years of approval of the plan and the Performance Security shall not be discharged before one (1) year following completion of the plan.

Review of the application by an independent State of New Hampshire licensed professional engineer, at the Applicant's expense, may be required to develop a cost estimate for the Performance Security. The engineer will assist the Planning Board in setting the amount of the Performance Security and to ensure that the application adequately addresses all issues related to the Town's interests as defined herein.

The Performance Security shall not be released until the Town is satisfied that the project plan has been accomplished and is satisfied that all conditions of the approval and any other pertinent regulation and permit requirements have been met.

## VIII. Town Liability

In any case where changes in topography alter the course of water flow so as to cause damage to the neighboring properties or those down-stream, environment, or critical habitat, the Town of Eaton shall be held harmless from any claims for damage resulting from the applicant's action, even if the applicant's Operational Plan has been approved by the Eaton Planning Board.

## IX. Enforcement

Any person in violation of this Article or portion thereof, shall be penalized in accordance with NH RSA 676:15-17

X. Statutory Authorization

- A. RSA Title LXIV, Chapters 674:16, Grant of Power
- B. 674:21, Innovative Land Use Controls
- C. 674:21(j), Environmental Characteristics Zoning
- D. 673:16, II; 676:4, I(g); and 674:44,V collectively authorize planning boards to collect fees from applicants to cover the costs of hiring outside experts to review subdivision applications and site plans.

Amendment #2 – Amend Article II by striking language and adding the bold language:

- A. **Districts:** For the purpose of this ordinance the Town of Eaton is divided into the following ~~five (5)~~ **three (3)** zoning districts, hereafter called "district", **with three (3) overlay zones, hereinafter called “zone”**: (As amended 3/14/89, 3/10/2020)

Village (V) District  
Rural Residential (RR) District  
Wetland Conservation (WC) ~~District~~ **Overlay Zone**  
Commercial and Light Industrial (CI) District  
Steep Slope Protection (SSP) ~~District~~ **Overlap Zone**  
**Ridgeline Protection (RLP) Overlay Zone**

Amendment #3 – Amend Article II by striking language and adding the bold language:

- B. **Zoning Maps:** The zoning districts **and zones** listed above shall be bounded as shown upon the map entitled "Town of Eaton Zoning Map of 1973 (as amended in 1988)", ~~and the "Town of Eaton Wetland Conservation District Map of 1979"~~, **the “Steep Slope Protection Map of 2021” and the “Ridgeline Protection Overlay Map of 2021.”** The above ~~two~~ **four** maps are considered and made part of this ordinance. (Amended 3/14/89)

Amendment #4 – Amend Article IV by striking language and adding the bold language:

T. **Signs:**

- ~~1. No land or water in Eaton may be used as a placement for any signs except for highway, safety and regulatory purposes and for enterprises conducted in Eaton.~~
- ~~2. In no case shall any sign exceed eight (8) square feet in area.~~
- ~~3. No person or business shall be permitted to erect more than three (3) signs inclusive of those on the premises where such product, facility or service is~~

~~offered and in no case shall any off-premises sign(s) exceed three (3) square feet in area.~~

- ~~4. Placement of signs shall require a Building Permit except for those that measure less than three (3) square feet. (Amended 3/12/2019)~~

**A. Signs are permitted on privately-owned land in Eaton with the following conditions:**

- 1. Only one sign greater than four (4) square feet shall be permitted on any lot. No more than a total of three (3) signs shall be permitted on any lot.**
- 2. In no case shall any sign exceed eight (8) square feet in area.**
- 3. In no case shall any off-premises sign(s) exceed four (4) square feet in area. Off-premise signs shall require written permission by the property owner.**
- 4. Placement of signs shall require a Building Permit except for those that measure less than four (4) square feet.**
- 5. No interior-lit signs shall be permitted. Lighting of signs shall not produce more than 2000 lumens of light per sign and shall be shielded in such a manner as to conceal the light source and the illuminated area from view beyond the perimeter of the area to be illuminated.**
- 6. All signs shall be set back a minimum of 6 feet from the edge of any travel lane and at least 30 feet from all other property boundaries.**

**B. No town-owned land or water in Eaton may be used as a placement for any signs except for Town public notices, highway, safety and/or regulatory purposes. Board of Selectmen approval shall be necessary for placement of these signs.**

Amendment #5 – Amend Article IV by striking language and adding the bold language:

**N. Structure:** Structures requiring a Building Permit and adherence to Town setbacks include, but are not limited to: buildings, barns, gazebos, **event tents**, storage containers, patios, pools, signs, solar panels (roof and pole mounts), retaining walls greater than 4 feet in height, fences over 6 feet tall or obstructing a driver's line of sight, and vehicular gates. A structure also includes all buildings made of fabric or material other than wood.

Septic systems, flagpoles, well houses, dog houses, play sets and other customary landscaping elements such as bird baths, stone steps, **and** raised flower or vegetable beds ~~and event tents~~ are not considered structures but must

~~meet Town setback requirements~~ **be set back a minimum of 30 feet from all property boundaries** and cannot be on land in Current Use. (Amended 3/12/1991, 3/12/2019)

Amendment #6 – Amend Article V by striking language and adding bold language:

E. Steep Slope Protection District, Zone SSP (Added 3/10/2020)

V. Performance Standards

C. No section of any driveway may exceed a 10 percent slope for residential subdivisions or 8 percent slope for nonresidential site plans.

Amendment #7 – Amend Article V Section A

To change the name from the “Rural Residential District Zone – RR” to “Rural Residential District – RR” and change through the Zoning Ordinance all references from “Rural Residential District Zone” to “Rural Residential District”.

Amendment #8 – Amend Article V Section B

To change the name from the “Village District Zone – V” to “Village District – V” and change through the Zoning Ordinance all references from “Village District Zone” to “Village District”.

Amendment #9 – Amend Article V Section C

To change the name from the “Wetland Conservation District, Zone WC” to “Wetland Conservation Overlay Zone – WC” and change through the Zoning Ordinance all references from “Wetland Conservation District” to “Wetland Conservation Overlay Zone”.

Amendment #10 – Amend Article V Section D

To change the name from the “Commercial and Light Industrial District, Zone CI” to “Commercial and Light Industrial District – CL” and change through the Zoning Ordinance all references from “Commercial and Light Industrial District Zone” to “Commercial and Light Industrial District”.

## Amendment #11 – Amend Article V Section E

To change the name from the “Steep Slope Protection District, Zone SSP” to “Steep Slope Protection Overlay Zone – SSP” and change through the Zoning Ordinance all references from “Steep Slope Protection District” to “Steep Slope Protection Overlay Zone”.

## Amendment #12 – Amend Article V Section E

To add the Steep Slope Protection Map of 2021 under II. Delineation:

