

TOWN OF DEERFIELD
PLANNING BOARD
DECEMBER 8, 2010

MINUTES OF MEETING

PRESENT: Board members Fred McGarry, Kate Hartnett, Fran Menard, William Perron, Peter Schibbelhute. Also present Planning Consultant Gerald Coogan and secretary Jane Boucher.

Chair Fred McGarry called the meeting to order at 7PM.

APPROVAL OF MINUTES

Fran Menard moved and William Perron seconded to approve the minutes of November 17, 2010.

The following corrections were made to the minutes:

Page 2: Last Paragraph: Correct to read "...starting with the three year UNH Cooperative Extension Community Conservation Assistance Program.

Page 2: Last Paragraph Correct " She added that Natural Resource Outreach Coalition (NROC). OSP Version I"

Page 3: Paragraph 5: Correct to read "...is to moderate taxes."

Page 3: Paragraph 8: Add "Motion carries".

Chair McGarry called for a vote on the motion. Voted in favor.

APPROVAL OF MANIFEST

William Perron moved to approve the manifest in the amount of \$1627.32 . Fran Menard seconded. (KNA \$140.88 Lahr; KNA 1477.25 Transportation Plan; Jane Boucher mileage \$19.19. Jane Boucher Time Sheet 15 1/2 hours.)Voted in favor.

7:15PM TEN YEAR HIGHWAY PLAN; TIM WHITE; SNHPC

Tim White was present.

Mr. White said he was trying to meet with Towns in the region to let them know that SNHPC is beginning into the process of developing the DOT Highway Plan 2013 -2022. He provided information regarding the process.

Mr. White noted that right now they are in the implementation process. After adoption by the Legislature, Metropolitan Planning Organizations (MPO's incorporate approved projects into their Transportation Improvement Program (TIP).

Mr. White said they are looking for input from communities. A formal notification letter will be sent about the first of the year asking what projects communities would like to see completed. Rating of projects will be done by their Technical Advisory Committee and forwarded to DOT by May 1.

He noted that currently Deerfield does not have any projects in

the Highway Plan. He asked if Deerfield would like to take a closer look if there are any projects they would like to see developed in the plan.

Fred McGarry noted that there has been discussion regarding the reconstruction of the intersection of Route 107 and Church Street. Mr. White suggested that the Town write a letter asking to be considered for the next version of the plan.

The Planning Board will discuss this with the Board of Selectmen when they meet with them.

TIERRA DEVELOPMENT

A letter was received from Attorney James Raymond advising that the Planning Board cannot approve an application for Workforce Housing as our current ordinance does not permit workforce housing as a separate use. Posting notice of a proposed zoning amendment does not give the Board the authority to approve an application that conforms to the amendment until the Town actually adopts the zoning amendment.

Gerald Coogan will advise Mr. Iacozzi, Tierra Development, of Attorney Raymond's opinion. Tierra may then appeal to the ZBA with a letter of denial from the Code Enforcement Officer or wait until the Town vote in March. Attorney Raymond noted that the Planning Board could accept the application and begin its review process but defer any action until Town Meeting. If the Town did not adopt workforce housing in March approval on the application would fail.

Peter Schibbelhute felt that it would benefit Tierra if they could make a presentation showing what they are proposing.

APPEAL TO ZBA; JAMES AND SALLY CANNON

The ZBA will hear an appeal from an Administrative Decision by James and Sally Cannon for an Impact Fee Assessment on December 28, 2010.

Kate Hartnett moved and William Perron seconded to authorize Fred McGarry to speak on behalf of the Planning Board at the ZBA Public Hearing. Voted in favor.

PROPOSED ZONING AMENDMENTS 2011

The Board will hold two Public Hearing to discuss proposed Zoning Amendments on December 29, 2010 and January 12, 2011.

Proposed Amendments will be presented for:

Section 214 Groundwater Protection (New Section)

Section 311 Multi Family Workforce Housing Overlay District (New Section)

Section 325 Workforce Housing Option for Open Space

Section 327 Buffer Standards from Water Bodies (New Section)

Copies of the proposed amendments are attached to these minutes.

REQUEST FOR ENCUMBRANCE

Fran Menard moved and Peter Schibbelhute seconded to request to encumber funds in the amounts of \$2,000.00 to prepare a new set of Site Plan Review Regulations and \$700.00 to enable Judith Marshall to continue work on the organization of Planning Board files, plans, maps and records. Voted in favor.

MEETING WITH BOARD OF SELECTMEN

The Planning Board will meet with the Board of Selectmen on December 20, 2010.

DEERFIELD OPEN SPACE PLAN

Kate Hartnett will get a price on copying the OSP.

TRAIL PLAN

Gerald Coogan noted that Neatline Associates is working on completion of the Trail Plan. Kate Hartnett suggested that they provide a draft of the plan before submitting the final plan.

The meeting was adjourned at 8:50PM.

Recorded and transcribed by Jane Boucher
Pending Approval by the Planning Board

Proposed Amendment to the Town of Deerfield Zoning Ordinance (DZO)

Background: At present, the Town of Deerfield lacks a zoning provision to protect the groundwater of the community as residents and businesses rely entirely upon public and private wells for drinking water. A Source Water Protection Plan was prepared for the Town by the Southern New Hampshire Planning Commission as a result of a grant provided by the New Hampshire Department of Environmental Services (NH DES). This plan is intended to be a planning guide for local officials to use to protect drinking water sources within their community. One of the main goals of the plan is to establish a Groundwater Protection District for the Town of Deerfield which reflects the NH DES Model Groundwater Protection Ordinance.

The following Groundwater Protection Ordinance proposed for the Town of Deerfield complies with state laws and is consistent with current approaches to groundwater protection. Combined with the proposed amendments to the Town of Deerfield Site Plan and Subdivision Regulations, the Town of Deerfield will have effective and manageable land use laws in place to protect the community’s groundwater supplies for many years. In the future, the Town may decide to provide additional controls, including inspections and monitoring of certain sites which pose a threat to groundwater.

Zoning Amendment – Groundwater Protection

Insert the following new Groundwater Protection District into Article II as a new section 214 entitled Groundwater Protection Overlay District.

Section 201: Establishment of Districts

The Town of Deerfield is hereby divided into one townwide Zoning District along with several overlay zoning districts.

<u>Full Name</u>	<u>Short Name</u>
<i>Agricultural Residential</i>	<i>AR</i>

The DZO has the following overlay districts:

- 1 Section 210 --- Wetlands Conservation District;
- 2 Section 211 --- Floodplain Development;
- 3 Section 212 --- Commercial / Industrial Overlay District; and
- 4 Section 213 --- Senior Housing Overlay District; and
- 5 Section 214 --- Groundwater Protection (proposed)

Establish a new Section 214 entitled “Groundwater Protection” to read as follows:

Section 214: GROUNDWATER PROTECTION

A. Authority.

The Town hereby adopts the following Section 214 pursuant to the authority granted under RSA 674:16, in particular RSA 674:16, II and RSA 674:21,I, (j) relative to innovative land use controls.

B. Purpose

The Town of Deerfield views existing and potential groundwater supply areas and surface waters as being a finite resource within the Town. These resources are needed for both present and future public water supplies within the Town. The purpose of this section is accomplished by regulating those land uses that could contribute pollutants to the Town's present and/or future public water supply.

C. Definitions

1. **Ambient Groundwater Quality Standards**: Maximum concentration levels for regulated contaminants in groundwater which result from human operations or activities, as delineated in RSA 485-C:6.
2. **Aquifer**: A geologic formation composed of rock, sand or gravel that contains significant amounts of potentially recoverable water.
3. **Green Yard**: A junkyard which has been certified by the NH DES as a Green Yards under Phase II: Compliance Assurance and Certification component of the NH DES Green Yards Program.
4. **Groundwater**: Subsurface water that occurs beneath the water table in soils and geologic formations.
5. **Impervious**: Not readily permitting the infiltration of water.
6. **Impervious Surface**: A surface through which regulated substances cannot pass when spilled. Impervious surfaces include concrete unless unsealed cracks or holes are present. The following surfaces are not considered impervious: earthen, wooden, or gravel surfaces; or other surfaces which could react with or dissolve when in contact with the substances stored on them.
7. **Junkyard**: An establishment or place of business which is maintained, operated, or used for storing, keeping, buying, or selling junk (ex. such as scrap metal, used appliances), or for the maintenance or operation of an automotive recycling yard, and includes garbage dumps and sanitary landfills. The word does not include any motor vehicle dealers registered with the director of motor vehicles under RSA 261:104 and controlled under RSA 236:126.
8. **Loam**: See NH Department of Transportation Section 641.
9. **Outdoor Storage**: Storage of materials where they are not protected from the elements by a roof, walls, and a floor with an impervious surface.
10. **Public Water System**: A system for the provision to the public of piped water for human consumption, if such system has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year [New Hampshire Administration Rule Env-Ws 302.02 (bg) and RSA 485:I-aXV].
11. **Regulated Substance**: Petroleum, petroleum products and substances Listed under 40 CFR 302.4, 7-1-90 Edition, or current edition [US Code of Federal Regulations], excluding the following substances: ammonia, sodium hypochlorite, sodium hydroxide, acetic acid, sulfuric acid, potassium hydroxide, potassium permanganate and propane and other liquefied fuels which exist as gases at normal atmospheric temperature and pressure. Copies of 40 CFR 302.4, 7-1-90 Edition, or current edition, are available on line at the Environmental Protection Agency (EPA) website or in the Planning Board Office.
12. **Sanitary Protective Radius**: The area around a well that must be maintained in its natural state as required by Env-Ws 378 or 379 (for community water systems) and Env-Ws 372.13 (for other public water systems).
13. **Secondary Containment**: A structure such as a berm or dike with an impervious

surface which is adequate to hold at least 110% of the volume of the largest regulated-substances container that will be stored there.

14. **Snow Dump**: For the purposes of this ordinance, a location where snow which is cleared from roadways and/or motor vehicle parking areas is placed for disposal.
15. **Stratified-drift Aquifer**: A geologic formation of predominantly well sorted sediment deposited by or in bodies of glacial melt water, including gravel, sand, silt, or clay, which contains sufficient saturated permeable material to yield significant quantities of water to wells.
16. **Surface Water**: Streams, lakes, ponds and tidal waters, including marshes, water courses and other bodies of water, natural or artificial.
17. **Top Soil**: See Loam
18. **Wellhead Protection Area**: The surface and subsurface area surrounding water well or well field supplying a community public water system, through which contaminants are reasonably likely to move toward and reach such water well or well field. [RSA 485-C:2 Definitions]

D. Groundwater Protection District

The Groundwater Protection District is an overlay district that is superimposed over the existing underlying zoning of the entire Town of Deerfield and corresponds to the map entitled "Town of Deerfield Public Water Supply and Wellhead Protection Areas" prepared by the SNHPC in 2007.

E. Applicability

This Section applies to all uses in the Groundwater Protection District, except for those uses exempt under Section K of this Article.

F. Performance Standards

The following Performance Standards are in addition to the regulations set forth in the balance of this Article and apply to all uses in the Groundwater Protection District unless exempt under Section K:

1. For any use that will render impervious more than 15% or more than 10,000 square feet of any lot, whichever is greater, a stormwater management plan shall be prepared in a manner consistent with Stormwater Management and Erosion and Sediment Control Handbook for Urban and Developing Areas in New Hampshire, Rockingham County Conservation District, August 1992 and Best Management Practices for Urban Stormwater Runoff, NH Department of Environmental Services, January 1996. The Planning Board shall determine whether or not the Stormwater Management Plan is consistent with the above referenced standards and may reject any Management Plan which fails to conform to the standards.
2. Stormwater management plans prepared pursuant to paragraph 1 above shall demonstrate that stormwater recharged to groundwater will not result in violation of Ambient Groundwater Quality Standards (Env-Ws 410.05) at the property boundary.
3. Animal manures, fertilizers, and compost must be stored in accordance with the Manual of Best Management Practices for Agriculture in New Hampshire, NH Department of Agriculture, Markets, and Food, August, 1998, and subsequent revisions.
4. All regulated substances stored in containers with a capacity of 5 gallons or more must be stored in product-tight containers on an impervious surface designed and maintained to prevent flow to exposed soils, floor drains, and outside drains.

5. Facilities where regulated substances are stored must be secured against unauthorized entry by means of a door(s) and/or gate(s) which are locked when authorized personnel are not present and must be inspected weekly by the facility owner.
6. Outdoor storage areas for regulated substances must be protected from exposure to precipitation and must be located at least 75 feet from surface water or storm drains, wetlands, private wells and outside the sanitary protective radius of wells used by public water systems.
7. Secondary containment must be provided for outdoor storage of regulated substances if an aggregate of 275 gallons or more of regulated substances are stored outdoors on any particular property.
8. Containers in which regulated substances are stored must be clearly and visibly labeled and must be kept closed and sealed when material is not being transferred from one container to another.
9. All land cleared and graded for the purpose of establishing lawns and subject to Subdivision or Site Plan Review Regulations must be finish graded with at least 4 inches of good quality loam or topsoil in order to reduce the demand for lawn irrigation.

G. Permitted Uses

All uses permitted by right, special exception or variance in the underlying district shall be permitted in the Groundwater Protection District unless identified in Section H. as a Prohibited Uses or Section I. as a Conditional Use. All Permitted Uses must comply with the Performance Standards set forth in Section F. unless specifically exempted under Section K. Exemptions.

H. Prohibited Uses

The following uses are prohibited in the Groundwater Protection District.

1. The sitting or operation of a hazardous waste disposal facility as defined under RSA 147-A.
2. The sitting or operation of a solid waste landfill.
3. The sitting or operation of a wastewater or septage lagoon.
4. The sitting or operation of a sludge monofill or sludge composting facility.
5. The storage of regulated substances, unless in a free-standing container within a building, or above ground with secondary containment adequate to contain 110% of the container's total storage capacity.
6. The storage of commercial fertilizers, unless such storage is within a structure designed to prevent the generation and escape of runoff or leachate.
7. The sitting or operation of junkyards, unless such facility is certified by the NH DES as a Green Yards under the Phase II: Compliance Assurance and Certification component of the NH DES Green Yards Program.

I. Conditional Uses

The issuance of a Conditional Use Permit is subject to Site Plan Approval by the Planning Board. The Planning Board may grant a Conditional Use Permit for a use that is otherwise permitted within the underlying district, if the permitted use is or is involved in one or more of the following:

1. Storage, handling, and use of regulated substances in quantities exceeding 100 gallons or 800 pounds dry weight at any one time, provided that an adequate plan is in place to prevent, contain, and minimize releases from catastrophic events such as spills or fires which may cause large releases of regulated substances.
2. Any use that will render impervious more than 15% or 10,000 square feet of any lot, whichever is greater. In granting such approval the Planning Board must first determine that the proposed use is not a prohibited use and will be in compliance with the Performance Standards as well as all applicable local, state and federal requirements. The Planning Board may, at its discretion, require a performance guarantee or bond, in an amount and with surety conditions satisfactory to the Board, to be posted to ensure completion of construction of any facilities required for compliance with the Performance Standards. The amount of this bond shall be in addition to any other bond required by the Board under either the subdivision or site plan regulations.
3. The siting or operation of a commercial composting facility.
4. The siting or operation of a snow dump from offsite sources.
5. The siting or operation of a commercial car wash. The facility must be designed and operated as a closed-loop system.

J. Existing Nonconforming Uses

Existing nonconforming uses may continue without expanding or changing to another nonconforming use, but must be in compliance with all applicable state and federal requirements, including NHDES Rules Env-Ws 421, Best Management Practices for Preventing Groundwater Contamination. However, under no circumstances will a nonconforming use be permitted when a continuance of that use presents a risk to public health and/or safety.

K. Exemptions

The following uses are exempt from the provisions of this Article. This exemption shall not excuse compliance with all other applicable local, state, and federal requirements:

1. Any private residence is exempt from all Performance Standards except for Section F. 1, 2, and 3.
2. Any business or facility where regulated substances are stored in containers with a capacity of five (5) gallons or less is exempt from Performance Standard F. 5.
3. Storage of heating fuels for on-site use or fuels for emergency electric generation, provided that storage tanks are indoors on a concrete floor or have corrosion control, leak detect F. 5.
4. Storage of motor fuel in tanks attached to vehicles and fitted with permanent fuel lines to

- enable the fuel to be used by that vehicle is exempt from Performance Standards F. 5. through 8.
5. Storage and use of office supplies is exempt from Performance Standards F. 5 through 8.
 6. Temporary storage of construction materials on a site where they are to be used is exempt from Performance Standards F. 5. through 8.
 7. The sale, transportation, and use of pesticides as defined in RSA 430:29 XXVI are exempt from all provisions of this Article.
 8. Household hazardous waste collection projects regulated under NH Code of Administrative Rules Env-Hw 401.03(b)(1) and 501.01(b) are exempt from Performance Standards F. 5 through 8.
 9. Underground storage tank systems and above ground storage tank systems that are in compliance with applicable state rules are exempt from inspections under Section M. of this Article.

L. Relationship between State and Local Requirements

Where both the State and the municipality have existing requirements the more stringent shall govern.

M. Maintenance and Inspection

1. Inspections may be required to verify compliance with Performance Standards. Such inspections shall be performed by the Code Enforcement Officer at reasonable times with prior notice to the landowner.
2. All properties within the Groundwater Protection District known to the Code Enforcement Officer as using or storing regulated substances in containers with a capacity of 10 gallons or more except for facilities where all regulated substances storage is exempt from this Article under Section K., shall be subject to inspections under this Section.
3. The Planning Board may require a fee for compliance inspections. The fee shall be paid by the property owner. A fee schedule shall be established by the Planning Board as provided for in RSA 41-9: a.

N. Enforcement Procedures and Penalties

Any violation of the requirements of this Article shall be subject to the enforcement procedures and penalties detailed in RSA 676.

O. Saving Clause

If any provision of this Article is found to be unenforceable, such provision shall be considered separable and shall not be construed to invalidate the remainder of the Article.

P. Effective Date

This Article shall be effective upon adoption by the municipal legislative body.

Proposed Multifamily Workforce Housing Overlay District

This proposed provision would create a new Section within the Zoning Ordinance.

Section 311 Multifamily Workforce Housing

311.1 Authority and Purpose

- A. Authority: This section is enacted in accordance with the provisions of NH RSA 674:21 I (k) (Innovative Land Use Controls – Inclusionary zoning), NH RSA 674:58-62 and NH RSA 675:1, II. The authority allows the Deerfield Planning Board (referred to as the “Board”) to grant conditional use permits, special use permits and waivers from specific requirements of this section in order to advance the purpose of this section.

- B. Purpose: The purpose of this multifamily workforce housing provision is:
 - 1 To implement the Deerfield Master Plan, which encourages the provision of safe and affordable housing opportunities for all ages and economic levels;
 - 2 To provide an opportunity for rental workforce housing within an area of 0.5 miles from Deerfield Center with the center being the Deerfield Town Hall;
 - 3 To enable the Town to comply with RSA 646:58 – 62, Workforce Opportunities; and
 - 4 To further encourage and promote the attractive features of Deerfield Center.

311.2 Definitions

- A. Inclusionary zoning: Means land use control regulations which provide a voluntary incentive or benefit to a property owner in order to induce the property owner to produce housing units which are affordable to persons or families of low and moderate income. Inclusionary zoning includes, but is not limited to, density bonuses, growth control exemptions, and a streamlined application process. See NH RSA 674:21 IV (a).

- B. Multifamily building: For this section, means a residential building containing five (5) or more dwelling units not to exceed six (6) units per building. Each of the units shall have separate entrances and exits and shall be separated by a common fire wall.

- C. Multifamily workforce housing: Means rental housing which is affordable to a household with an income of no more than 60 percent of the median income for a 3-person household for the metropolitan area or county in which the housing is located as published annually by the United States Department of Housing and Urban Development. Housing developments that exclude minor

children from more than 20 percent of the units, or in which more than 50 percent of the dwelling units have fewer than two bedrooms, shall not constitute workforce housing for the purposes of this subdivision. See NH RSA 674:58 IV.

311.3 Applicability

Eligible area: The section is an overlay district and shall apply to the land area that is within 0.5 mile from Deerfield Center with the Deerfield Town Hall as the center point.

311.4 Design Standards and Requirements

- A. Permitted Uses: In addition to those uses permitted by right and by special exception in Section 204 and 205 of the Deerfield Zoning Ordinance, this section permits multifamily buildings, multifamily workforce housing and accessory buildings in the eligible area defined in Section 311.3, provided that other provisions of this section are met and that the Board grants a Conditional Use Permit (CUP) for the proposed residential development.
- B. The maximum number of dwelling units allowed in a building will be determined by the combination of units such that no individual one-bedroom unit is less than 350 square feet, an individual two-bedroom unit no less than 750 square feet, and where there are more than four (4) dwelling units fifty (50) percent or more shall be two-bedroom units. Any units with more than two (2) bedrooms shall increase the size of the unit by no less than 150 square feet for each additional bedroom. Each dwelling unit shall have at least one (1) bedroom and not more than three (3) bedrooms.
- C. The number of workforce housing units in a multifamily building shall not be less than 50% of the total units.
- D. Defined Eligible Area: The defined eligible area includes that land area that is within a 0.5 mile radius from Deerfield Center with the Deerfield Town Hall as the center point. For lots that have a portion of their land area in the Defined Eligible Area, at least 50% of the lot's land area shall lie within the 0.5 mile radius to qualify.
- E. Land area: The minimum land area for a multifamily building lot shall be 3.0 acres, which shall consist of 1.5 acres of upland buildable soils, exclusive of wetlands and land with slope in excess of 25% and be of sufficient size to meet the dimensional requirements for residential use and meet all requirements of the NH Department of Environmental Services for subsurface waste water treatment system and setbacks from wetlands.
- F. Density: When utilizing this section, the minimum land area for a one bedroom dwelling unit located in a multifamily building shall have 10,000 square feet and each building shall not contain more than six (6) dwelling

units. The minimum land area for each successive bedroom shall be 5,000 square feet up to a maximum of three bedrooms. A building approved under this section shall have no more than two (2) three (3) bedroom units.

- G. Frontage: The minimum frontage shall be fifty (50) feet on a town or state maintained road.
- H. Dimensional Requirements: There shall be a minimum of fifty (50) feet between multifamily buildings. All other dimensional requirements shall conform to those listed as “Minimum Yard Dimensions in Feet” as found in Table 204.1 of the Deerfield Zoning Ordinance.
- I. Utilities: The community wastewater disposal system shall serve no more than six (6) dwelling units and shall be approved by the NH DES. The community water supply system shall be approved by the NH DES.
- J. Parking: The multifamily building unit shall provide a minimum of 2 parking spaces per dwelling unit.
- K. Architectural design standards: The architectural design of multifamily buildings shall be consistent with the traditional type of architecture found in a New England village and in the Town of Deerfield.
- L. Design features: The site plan should incorporate trails and or walking paths to provide a connection with other areas of Deerfield Center.
- M. Energy efficient technologies: To the extent possible, the design of multifamily buildings shall incorporate Leadership in Energy Efficiency Design (LEED) design features and other energy and sustainable building practices.
- N. Buffer area: For multifamily buildings, when there is a potential for abutting incompatible land uses, the Board may require a buffer zone of fifty (50) to one hundred (100) feet between any structure and the perimeter of the tract. The intent of the buffer zone is to provide a visual screening from an incompatible land use and the multifamily housing development.
- O. Fire protection: The Board will seek comments and recommendations from the Town of Deerfield’s Fire Chief regarding the proposed layout and design of the multifamily development as to its compliance with all appropriate National Fire Protection Association (NFPA) requirements.
- P. Waiver: The Planning Board may reduce any of the Design Standards if it finds that the purposes and objectives of this ordinance are not adversely affected by the reduction.

311.5 Procedures

- A. Planning Board Review: The Board shall review a proposal for multifamily workforce housing as a site plan and the Town's Site Plan Review Regulations and state regulations shall govern the review and approval process.
- B. Conditional Use Permit: Consistent with Section 311.1 Authority, the Board shall issue a Conditional Use Permit (CUP) for an application for a multifamily workforce housing proposal, the purpose for which is to ensure that all items in Section 311.4 have been addressed to the Board's satisfaction.
- C. Innovative land use control: The Board may grant a waiver for any of the Standards and Requirements contained in Section 311.4 provided the applicant provides a valid reason and the waiver request does not adversely impact the purpose of this provision

311.6 Other

- A. Assurance of workforce housing: The applicant, or his successor or assigns, shall verify that the multifamily workforce housing developments is occupied by tenants who meet the income definition as stated in Section 311.2 C. The applicant, or his successor or assigns, shall work with a non-profit housing organization or similar group acceptable to the town prior to entering into a rental agreement to ensure that only eligible tenants occupy a workforce housing unit. If an unqualified person or family occupies an approved workforce housing unit, the Town will consider such action to be a violation of the Deerfield Zoning Ordinance.
- B. Long term benefit: The applicant, or his successor or assigns, shall record a legal instrument with the Rockingham County Register of Deeds that states that the multifamily workforce housing development as approved under this section shall remain as such for a period of at least thirty (30) years from the date on initial occupancy permit.
- C. Maximum amount of workforce housing units: The total number of dedicated workforce housing units approved under this section shall not exceed five percent (5%) of the total number of dwelling units in the Town of Deerfield at the time application.

December 10, 2010

Proposed Workforce Housing Option for Open Space Development

In Article III, General Provisions, would replace current Section 325, Open Space Development, with this revised Section that adds a Workforce Housing Option.

Section 325 Open Space Development

325.1 Purpose and Objectives:

- A. Authority: This section is enacted in accordance with RSA 674:21 and RSA 674:58-61 and is referred to as the Open Space Development Ordinance.
- B. Purpose: The purpose of these open space development provisions is to encourage flexibility in the design and development of land in order to preserve open space and traditional rural character, meet the goal of providing safe, affordable housing opportunities as set forth in the Deerfield Master Plan and to promote the most efficient use of land in harmony with its natural features and protecting the natural resource base. The intent is to enhance and protect the health, safety, convenience, and general welfare of the inhabitants of Deerfield.
- C. Objectives: Open Space Development shall promote the following objectives.
 - 1. Preserve the natural beauty of existing rural roads, topography, agricultural and wooded areas and to provide usable open space and recreation facilities in close proximity to dwelling units; encourage the use of buffers, wildlife habitats and corridors and greenways in order to achieve the above;
 - 2. Encourage a less sprawling form of development which makes more efficient use of land, requires shorter networks of streets and utilities, and fosters less consumption of rural and/or agricultural land;
 - 3. Provide an efficient procedure which can insure appropriate, high quality design and site planning and a high level of environmental amenities;
 - 4. Avoid development of portions of sites which have poor soil conditions, high water tables, are subject to flooding, or have excessively steep slopes; and
 - 5. Provide opportunity for the development of affordable workforce housing.

325.2 Definitions: The following terms as used in this section shall have the following definitions:

- A. Open Space Development or Open Space Subdivision: A subdivision or development of land where the lot area and other dimensional standards are reduced in exchange for the preservation of permanently protected open space, recreational land, forests or farmland.

- B. Conventional Subdivision: A subdivision having lot areas setback, frontage, and street layout that conform to the requirements of Section 204 of the Town of Deerfield Zoning Ordinance.
- C. Home Owners Association: A private non-profit corporation, association, or other legal entity established to manage and support the activities of the open space development, in which membership is mandatory for owners of lots in the subdivision.
- D. Open Space: Land for which development rights have been restricted under this ordinance.
- E. Parent Lot: Any lot existing as of March 11, 2008, the date of the adoption of this ordinance.
- F. Yield Plan: A subdivision plan, with such information as the Planning Board may require, showing the subdivision of the land as a Conventional Subdivision for single-family houses.
- G. Workforce Open Space Development: An Open Space Development that provides rental or ownership housing opportunities to households based on the following standards: (1) **workforce rental housing** is defined as a housing unit that has a monthly rent not exceeding 30 percent of the gross income of a household earning no more than 60 percent of the median income for a 3-person household for the Western Rockingham Fair Market Rent Area as published annually by the United States Department of Housing and Urban Development; (2) **workforce ownership housing** is defined as housing that can be purchased at a price, including the combination of mortgage loan debt service, property taxes and insurance, that does not exceed 30 percent of the gross income of a household earning no more than 100 percent of the median income for a 4-person household for the Western Rockingham Fair Market Rent Area as published annually by the United States Department of Housing and Urban Development.
- H. Area Median Income (AMI): the median income of the HUD Fair Market Rent Area to which Deerfield belongs, as is established and updated annually by the US Department of Housing and Urban Development.

325.3 Applicability:

- A. Development in accordance with the provisions of this Section is permitted in the Agricultural/Residential District.
- B. Lots subject to this Ordinance: This Ordinance applies to any Parent Lot that is greater than twelve acres, and to any lot created by subdivision from any Parent Lot that was greater than twelve acres.

- C. Required Open Space Development. Any subdivision of any Parent Lot greater than twelve acres must be and Open Space Subdivision, unless exempted by the following subsection.
- D. Exemptions: The following lots created by subdivision are exempt from the requirement for Open Space Development (but not from any restrictions from further subdivision contained in this Ordinance).
 - 1. Three Lot Exemption: Lots created by the subdivision that meet the following requirements:
 - (a) Use Limitations : The lots are limited in use to single family dwellings,
 - (b) Number of Lots: Not more than three lots may be created under this subsection from any Parent Lot, including any later subdivision of any lots created from the Parent Lot, and
 - (c) Frontage limitation: At least 200 feet of frontage of the Parent Lot shall not be used for the lots exempted by this subsection.
 - 2. Large Lot Exemption: Any lot created by the subdivision that has at least ten (10) acres, and
 - 3. Nonresidential Lot Exemption: Lots created by the subdivision that are restricted to nonresidential uses.
 - 4. Any Open Space Development with workforce housing shall only be permitted in an area that is within a 2.5 mile radius from Deerfield Center with the Deerfield Town Hall as the center point. For lots that have a portion of their land area within the defined radius area, at least 50% of the lot's land area shall lie within the 2.5 mile radius to qualify.

325.4 Standards and Conditions:

- A. Use of Lots in Open Space Developments: The following uses are permitted on lots in an Open Space Development
 - 1. Residential uses as permitted by the Zoning Ordinance.
 - 2. Outdoor recreation, such as golf courses, riding stables, skating rinks and other forms of outdoor recreation, provided:
 - (a) The siting of all outdoor recreation facilities will be subject to approval by the Planning Board under its Site Plan Review Regulations.
 - (b) Spectator events are incidental and not operated as a primary business:
 - (c) Accessory service buildings are limited to those necessary for the pursuit of the recreational activity: and
 - (d) No area developed for active recreation is located within 150 feet of any lot used for a residence.

3. Commercial and non-commercial agriculture and forestry.

B. Maximum Density:

1. The number of dwelling units permitted in any Open Space Development shall not exceed the number of single family dwelling units permitted for a Conventional Subdivision that conforms to Section 204 of the Deerfield Zoning Ordinance and that would be approved by the Planning Board.
2. Workforce Density Incentive: The Planning Board shall allow a reduction of the minimum lot size for workforce housing to accommodate the increased site density as long as soil conditions permit the siting of septic systems and private water wells within the decreased lot size. The density incentive for workforce housing shall be in accordance with the following:

% Workforce Units	Overall Density Minimum Acres/ Unit Allowed
100	1.0
75	1.5
50	2.0
25	2.5
0	3.0

3. The allocation of workforce units shall be applied in the following order:
 - (a) The first workforce housing unit shall be sold at an initial sale price that can be affordable to a household with an income of not more than 100% of AMI,
 - (b) The second workforce housing unit shall be sold at an initial sale price that can be affordable to a household with an income of not more than 80% of AMI,
 - (c) The third workforce housing unit shall be sold at an initial sale price that can be affordable to a household with an income of not more than 60% of AMI, and
 - (d) Any remaining units shall be allocated in the same order as (a) through (c) above.

C. Uses Restricted: No lots in an open space development may be used for manufactured housing, trailers, recreational vehicles, campers, or similar semi-permanent housing, whether provided with a foundation or not.

D. Design Standards

1. Setbacks: Open Space Development are subject to the following setbacks, and

building separation, in place of the area and yard dimensions in Section 204:

- (a) Setbacks: No Structure, road (except the road giving access to the subdivision), septic system, or parking area may be located:
 - (1) Front Setback: Within one hundred (100) feet from the edge of a public right-of-way in existence prior to the open space development subdivision.
 - (2) Side and rear Setback or Buffer: Within fifty (50) feet of an abutting property line to the subdivision.
 - (b) Internal Setbacks and Separation:
 - (1) Front setback: Structures shall be located at least twenty-five (25) feet from the edge of any roads in the subdivision.
 - (2) Dwelling units Separation: Dwelling units must be located at least forty (40) feet apart. The Planning Board may approve a smaller separation if an acceptable alternative for fire safety, as determined by the Fire Chief, is provided. The location of setbacks proposed to achieve this requirement shall be depicted on all plats in the proposed open space subdivision.
2. All Open Space Subdivisions shall:
 - (a) Minimize impact to environmental resources through the use of Low Impact Design features;
 - (b) Provides a trail or green space connection with adjacent properties where applicable; and
 - (c) Incorporates the equivalent of the Energy Star rating in all building designs.
 3. All dwellings in an Open Space Subdivision shall be compatible in architectural style and exterior appearance and consistent with Deerfield's historic architectural style.
 4. Waiver: The Planning Board may reduce any of the Design Standards if it finds that the purposes and objectives of this ordinance are not adversely affected by the reduction.

E. Additional Criteria for OSD Workforce Housing

1. The workforce housing units shall retain the development criteria and affordability standards herein for a minimum period of thirty (30) years through a suitable deed restriction, restrictive covenant, easement or other instrument deemed acceptable to the Deerfield Planning Board and as monitored through reports provided to the Deerfield Planning Department prior to the time of unit sale or resale in the case of ownership, and annually in the case of rental units. Such document(s) shall be recorded at the Rockingham County Registry of Deeds with each property transfer. Reports shall be prepared by persons with appropriate training in determining affordable housing eligibility as defined by the U.S. Department of Housing and Urban Development;

2. All of the bonus units gained under this provision must meet the affordability requirements for workforce ownership housing in Section 325.2 (G) of this ordinance. In the event of a workforce unit sale or transfer, the purchaser will be certified for eligibility to be at or below 100% of AMI by a third-party agent acceptable to the town prior to sale or transfer and as further described in a suitable restrictive covenant.
3. Occupancy of the development is not restricted to any age group;
4. More than fifty percent of the workforce housing units in the development shall contain two or more bedrooms;
5. Phasing—the phasing plan for the development shall provide for the development of workforce housing units concurrently with the market-rate units.
6. The workforce housing units should be interspersed throughout the overall development

F. Landscape Buffer:

An Open Space Development shall have a landscape buffer to provide transition between abutting land uses and the development and also between the development and existing Town roads, as determined by the Planning Board. Whenever possible, the natural vegetation shall be retained. The Board may require vegetative plantings to supplement or replace inadequate natural buffers. No construction, with the exception of primary access roads, shall be permitted in the buffer, including septic systems, parking areas, driveways and other roads.

G. Minimum Open Space Area:

The Total area of Open Space shall equal at least fifty percent of the Open Space Development's gross tract area (Minimum Open Space Area). Not more than fifty percent of the Minimum Open Space Area may consist of lands within the Wetlands Conservation District or having slopes in excess of twenty percent.

H. Use of Open Space Area:

Not greater than ten percent of the Open Space may be used for active recreational uses, such as parks, swimming pools, tennis courts, playgrounds, play fields, or golf courses. The remainder of the Open Space may be used for nature trails and passive recreation, commercial and non-commercial agricultural and forestry uses, or left as undeveloped land. The Planning Board may permit a greater portion of the land to be used for active recreational uses if it finds that expansion of active recreation satisfies the purposes of this ordinance.

I. Protection of Open Space:

Open space shall be protected by deed restrictions or other permanent covenants running with the land or a conservation easement. Open Space not conveyed to the Town or to a conservation organization acceptable to the Planning Board shall be conveyed to a Homeowners Association, provided that the lots in the Open Space Development are subject to recorded covenants requiring membership by the lot owners in the subdivision and providing for:

1. Continued use of the Open Space only for its allowed purposes:
 2. Continuity of proper maintenance and monitoring of the Open Space.
 3. Availability of funds required for such maintenance and monitoring:
 4. Recovery for damages sustained as a result of casualty, condemnation or other loss of the Open Space: and
 5. Enforcement rights held by the Town of Deerfield.
- J. Other Standards and Conditions: Except as expressly modified by this section, all Open Space Developments shall be subject to all other applicable provisions of the Zoning Ordinance and the Subdivision and Site Plan Regulations.

325.5 Limitation on Further Subdivision:

No lot created by subdivision of a Parent Lot or by any subsequent subdivision of any lot that was part of a Parent Lot, may be further subdivided unless or except:

- A. The lot subject to further subdivision is at least twelve acres and the subdivision is an Open Space Subdivision under this ordinance:
- B. Lots created by the further subdivision that are greater than ten acres and are exempt from this ordinance under section 325.3C,2: or
- C. Lots created by the further subdivision that are exempt from this ordinance under section 325.3C.1, but only if the number of lots created when combined with the number of all lots previously created when combined with the number of all lots previously created from the Parent Lot that were exempt under section 325.3.C1, do not exceed three lots.

325.6 Procedure:

- A. Planning Board Review: An open space development shall be treated as a subdivision for review and public hearing purposes. Multi--family open space developments with structures containing more than two dwelling units, shall also be subject to Site Plan Review regulations. The Planning Board may impose additional conditions and limitations on any open space development, to satisfy the purposes and objectives of the ordinance.

Any applicant proposing a workforce housing OSD shall follow the same procedure as above in addition to any such procedures as provided for in regulations as may be adopted by the Deerfield Planning Board. The applicant shall also file a written statement of intent to include workforce housing as part of the application as per RSA

674:60.

- B. Yield Plans: For any Open Space Subdivision application, the applicant shall file with the Planning Board a Yield Plan showing the lots that may be created by a Conventional Subdivision, and containing such additional information as the Planning Board may require.
- C. Planning Board Development Regulation: The Planning Board may adopt regulations for Open Space Developments, which may impose additional standards and restrictions.

325.7 Other:

- A. Enforcement: Protective covenants and restrictions on Open Space required by this ordinance shall be deemed to create conservation restrictions that are enforceable by the Town of Deerfield in accordance with New Hampshire RSA 674:21-a.
- B. Statutory References: Any reference to any section of the New Hampshire Revised Statutes Annotated (“RSA”) shall refer also to any section as amended and to any successor or replacement section.
- C. Rules of Construction: In the event of any conflict between the Open Space Development Ordinance and the rest of the Deerfield Zoning Ordinance, the more restrictive provision shall control. Any reference to lots created by a subdivision of a lot subject to this Ordinance refers to all of the lots resulting from the subdivision, including the remainder portion of the original subdivided lot. Any reference to additional lots created by a subdivision refers only to the additional number of lots created by the subdivision, but not to the remainder portion of the original lot. References to the “Ordinance” in this section refer to the Open Space Development Ordinance.

December 10, 2010

Proposed Zoning Amendment

Section 327 Buffer Standards from Water Bodies

Section 327.1 Authority

As provided by RSA 483-B:8, Municipal Authority under the Comprehensive Shoreland Protection Act and RSA 674:16-17, Grant of Power and Purposes of Zoning Ordinances, the following buffer standards from water bodies are established.

Section 327.2 Purpose and Intent

The purpose and intent of these standards are to:

- (1) Protect and preserve the water quality of the town's major rivers, streams, lakes and ponds;
- (2) Provide for the preservation of a natural vegetated buffer along said rivers, streams, lakes and ponds to act as a natural filter to capture sediment and pollutants from runoff;
- (3) Stabilize stream banks;
- (4) Increase property values by improving the appearance of the town's shorelines;
- (5) Provide wildlife habitat; and,
- (6) Shade the water to maintain a healthy temperature for aquatic life.

Section 327.3 Applicability

These standards shall apply to all 2nd and higher order streams and rivers and Great Ponds as shown on the map designated as the "Town of Deerfield Riparian Buffer Map". This map is hereby deemed to be a part of the official Zoning Map of the Town of Deerfield and it may, from time to time be amended or updated.

Section 327.4 Buffer Standards

- A. A 150 foot wide buffer shall be maintained adjacent to the water's edge along the rivers, streams and Great Ponds as shown on the Town of Deerfield Riparian Buffer Map. The boundary of this buffer may vary based upon the curvature and slope of the land adjacent to the water's edge.
- B. Within the 150 foot wide buffer, the first 50 feet adjacent to the water's edge shall remain in a natural and undisturbed state. No chemical applications; no sewage sludge, septage, or bio-solid applications; no excavation or mining of minerals; no logging, no clear cutting of trees, and no cutting of existing vegetation below 3 feet in height shall be permitted. Managed tree care, pruning and the removal of dead, diseased or dangerously damaged trees is permitted.
- C. Within the area from 50 feet to 100 feet within the buffer: 50% of this land area

must be left in a natural and undisturbed state to ensure sufficient buffering capacity. No sewage sludge, septage, or bio-solid applications; no excavation or mining of minerals; no mechanized logging; and no clear cutting of trees shall be permitted. Logging, agriculture and building activity is permitted subject to the setback requirements of this ordinance and applicable state and federal law, and the submittal to the Planning Board of a DES approved storm water control and drainage plan designed to prevent any increase in runoff to the adjacent surface water.

- D. Within the area from 100 to 150 feet within the buffer: 25% of this land area must be left in a natural and undisturbed state to ensure sufficient buffering capacity. No sewage sludge, septage, or bio-solid applications; no clear cutting of trees; and no excavation or mining of minerals shall be permitted. Logging, agriculture and building activity, including the installation of septic tanks and leach fields are permitted subject to all applicable local, state and federal law.

Section 327.5 Exemptions

- A. The creation of foot path(s) to the water along the shoreline of the water body is permitted within the 150 foot wide buffer provided the foot path(s) preserve the natural root system of the surrounding trees and natural vegetation.
- B. Notwithstanding other provisions of the town's zoning ordinance, the construction of additions and their associated accessory buildings, and septic systems and any legally required replacements thereof shall be permitted within the 150 foot buffer provided that: (1) the building lawfully existed prior to the effective date of this ordinance; (2) no part of the footprint of the addition is any closer to the protected water body than was the existing structure; and, (3) the proposed construction conforms with all other applicable ordinances and regulations of the town.

Section 327.6 Conflicting Provisions

Should any of the provisions of this ordinance conflict with any other applicable provision of Federal or State law, or local Land Use Ordinance or Regulation, the provision providing the greater protection of the protected water body shall apply.

Section 327.7 Water's Edge

For the purpose of these standards, distances shall be measured as follows: for natural lakes and ponds, from the ordinary high water mark; for artificially impounded fresh water bodies, from full pool as measured from the elevation of the spillway crest; for streams and rivers, from the ordinary high water mark.

December 10, 2010