

## **Town of Bedford, NH 2025 Zoning Amendments – Legal Notice**

The Bedford Planning Board will hold public hearings at 6:30 PM on Monday, January 13, 2025, in the Bedford Meeting Room at BCTV, 10 Meetinghouse Road, Bedford, NH 03110, to hear comments from interested persons on proposed amendments to the Bedford Zoning Ordinance, as follows:

### **ZONING AMENDMENTS PROPOSED BY THE PLANNING BOARD:**

#### Amendment No. 1

Are you in favor of the adoption of Amendment No. 1 as proposed by the Planning Board for the Bedford Zoning Ordinance to amend Article I, Section 275-6, Definitions, Article III, Section 275-21 and Table 2 - Table of Uses, Article III, Sections 275-21B(4), Workforce housing and 275-21B(2-3), Elderly Housing, and Article VIII Section 275-61, permitted uses in the Performance Zone, as follows:

This amendment modifies Bedford’s workforce housing zoning regulations to bring them into required compliance with New Hampshire State law and updates the elderly housing regulations with regards to permitted density, location, and affordability requirements.

[This amendment makes changes to the workforce housing zoning regulations to bring it into compliance with New Hampshire State law. The amendment also updates the elderly housing regulations to rename the use “senior housing” and aligns senior housing with workforce housing with regards to permitted density, location, and affordability requirements.]

The significant changes include permitting senior housing in the Performance Zone, removing the existing restriction that limits workforce housing to sites without frontage on the FE Everett Turnpike and South River Road, removing the restriction that workforce housing in the Performance Zone cannot contain more than 12 units within a building, and reducing the required number of affordable units for workforce and senior housing from 25% to 10% of the total units proposed. The amendment also permits the development of a single “back lot” with a reduced frontage of not less than 50 feet in the Residential & Agricultural Zone, provided the lot is deed restricted as a workforce ownership unit.

This amendment is the result of the Planning Board’s Housing Opportunity Planning project which included public outreach, research, and extensive discussion. The complete text of the 4-page amendment is on file for public viewing at the Town Clerk’s Office and on the Town’s Website.]

#### Amendment No. 2

Are you in favor of the adoption of Amendment No. 2 as proposed by the Planning Board for the Bedford Zoning Ordinance to amend Article III, Section 275-22 Dimensional Regulations, and Table 1, Table of Dimensional Regulations, and Section 275-21, Table 2, Table of Uses, as follows:

This amendment reduces the dimensional requirements for single-family lots in the General Residential Zone by reducing the front setback from 35 feet to 15 feet and the side and rear setback from 25 feet to 10 feet. The minimum required lot size would also be reduced from ½ acre to 10,000 sq. ft. with 80 feet of road frontage required for lots served by both public water and sewer, for lots served by public water or sewer the lot size would be reduced from 1.0 acre to 20,000 sq. ft. with 100 feet of road frontage required. The amendment also permits a detached accessory apartment by conditional use permit in the General Residential Zone provided the lot is served by public water or sewer and contains at least 1.0 acre.

[This amendment is intended to better align the dimensional standards in the General Residential Zone with the existing smaller lot sizes and land use patterns, by reducing the minimum lot sizes and building setbacks and to permit a detached accessory apartment by conditional use permit on lots with a minimum size of 1.0 acre, provided the lot is served by public water or sewer. The complete text of the 1-page amendment is on file for public viewing at the Town Clerk’s Office and on the Town’s Website.]

Amendment No. 3

Are you in favor of the adoption of Amendment No. 3 as proposed by the Planning Board for the Bedford Zoning Ordinance to Amend Article III, Section 275-21 and Table 2 - Table of Uses, to create a new Sub-Section for Cottage Court Housing, as follows:

To allow for the development of Cottage Court Housing by conditional use permit in the General Residential Zone, Commercial Zone, Commercial-2 Zone, Office Zone and Performance Zone at a density of 10 units per net developable area, and with a requirement to connect to public water. Cottages are single-family homes, not larger than 1,500 SF and 1 ½ stories tall, arranged around common open space, subject to design criteria and architectural review by the Planning Board.

[This amendment is intended to allow for the development of Cottage Court Housing by conditional use permit in the General Residential Zone, Commercial Zone, Commercial-2 Zone, Office Zone and Performance Zone, subject to design criteria and architectural review by the Planning Board. The complete text of the 4-page amendment is on file for public viewing at the Town Clerk’s Office and on the Town’s Website.]

Amendment No. 4

Are you in favor of the adoption of Amendment No. 4 as proposed by the Planning Board for the Bedford Zoning Ordinance, Chapter 275 of the Code of Ordinances, to create Article XV, Stream Protection Ordinance, including Sections 275-101 thru 275-108, as follows:

To create a Stream Protection Ordinance for the protection of Bedford’s named streams and the establishment of a 50-foot non-disturbance vegetative buffer along either side of Bog Brook, Bowman Brook, McQuade Brook, McQuesten Brook, Patten Brook, Pointer Club Brook, Pulpit Brook, Riddle Brook, Sebbins Brook, and Baboosic Brook.

[This amendment is intended to protect named streams in Bedford, including Bog Brook, Bowman Brook, McQuade Brook, McQuesten Brook, Patten Brook, Pointer Club Brook, Pulpit Brook, Riddle Brook, Sebbins Brook, and Baboosic Brook, by establishing a 50-foot non-disturbance vegetative buffer along both sides of the named streams listed above. Existing structures, areas of disturbances and lawns would be grandfathered. The ordinance allows for the removal of damaged trees and construction of trails. Driveways, utilities, and stream crossings would be allowed by conditional use permit by the Planning Board. The complete text of the 5-page amendment is on file for public viewing at the Town Clerk's Office and on the Town's Website.]

## Amendment No. 1

### Workforce Housing and Senior Housing Amendments

Are you in favor of the adoption of Amendment No. 1 as proposed by the Planning Board for the Bedford Zoning Ordinance to amend Article I, Section 275-6, Definitions, Article III, Section 275-21 and Table 2 - Table of Uses, Article III, Sections 275-21B(4), Workforce housing and 275-21B(2-3), Elderly Housing, and Article VIII Section 275-61, permitted uses in the Performance Zone, as follows:

1. Amend Article III, Section 275-21, Table 2 - Table of Uses, by deleting Footnote 1, relative to duplex and multifamily dwellings in the Apartment Residential (AR) Zone, in its entirety.
  - ~~1. There shall be a minimum of 800 square feet of new floor space for each one bedroom dwelling unit and an additional 150 square feet of net floor area for a second Bedford. No more than two bedrooms per dwelling are permitted, and no more than 12 dwelling units shall be permitted in any one building.~~
2. Amend Article III, Section 275-21, Table 2-Table of Uses, by deleting Footnote 1, relative to the location of Workforce Housing in the PZ zone, in its entirety.
  - ~~10. Provided that the lot does not have frontage on the F.E. Everett Turnpike or U.S. Route 3.~~
3. Amend Article III, Section 275-21B (4)(a), Workforce Housing, by adding the words in bold and deleting the words in strikethrough, as follows:
  - (4) Workforce housing. **Townhouse** Workforce ownership and rental housing shall be permitted in the General Residential (GR), Apartment Residential (AR), Service Industrial (SI) and Performance (PZ) Zoning Districts. **Garden Style Multifamily buildings shall be permitted in the Performance Zone (PZ), Apartment Residential (AR) and Service Industrial (SI) Zone**, subject to the following provisions:
    - (a) Development criteria.
      - (1) At least ~~¼~~ **10% of the units** in the development shall meet the affordability requirements for Workforce Housing in § 275-6 of this chapter.
      - (7) Townhouse and Garden Style Multifamily buildings are subject to architectural design review by the Planning Board.**
4. Amend Article III, Section 275-21B (4)(b)(1), Workforce Housing, Dimensional regulations, by adding the words in bold and deleting the words in strikethrough, as follows:
  - (b) Dimensional regulations.
    - (1) In the AR, ~~CO, CO-2, OF~~, **Performance Zone (PZ) and Service Industrial (SI) Zones**:
      - (d) The building height shall be compatible with the character of the surrounding neighborhood and shall not exceed Maximum building height shall be 48 feet in the Apartment Residential (AR) and Service Industrial (SI) Zones and 60 feet in the Performance Zone (PZ).**

5. Amend Article III, 275-21B(4)(c), Workforce Housing Density, by adding the words in bold, as follows:

(c) Density.

- (1) In the AR, ~~CO-2~~, PZ and SI Zones a maximum of 12 dwelling units per acre of net developable area shall be permitted. ~~There shall be a maximum of 12 units in any one building in the AR and PZ Zones and no restrictions as to the number of units in one building in the CO-2 and SI Zones.~~ **There shall be a maximum of 6 attached dwelling units in any Townhouse structure in the PZ, AR & SI Districts and no limitation as to the maximum number of dwelling units permitted in any single Garden Style Multifamily building in the PZ District.**
- (2) ~~In the GR Zone each building shall have a minimum lot area of 40,000 square feet plus 4,000 square feet per dwelling unit. There shall be a maximum of 12 units in any one building.~~ **In the General Residential (GR) District, density shall be limited to a maximum of 6 dwelling units per net developable area, with a maximum of 4 attached Townhouse dwelling units in any single building or structure.**

6. Amend Article III, Section 275-21B. (5), Workforce ownership housing, by adding the words in bold and deleting the words in strikethrough, as follows:

- (5) Workforce ownership housing **in the Residential and Agricultural (R&A) District** ~~in Residential and Agricultural Zone. Workforce ownership housing shall be permitted in the Residential and Agricultural and the General Residence Zoning Districts~~ subject to the following provisions:
  - (a) **In the Residential & Agricultural (R&A) District, a landowner may subdivide a back lot for the exclusive use of siting not more than one single-family detached workforce ownership housing unit. The lot shall comply with the development criteria in Section 275-2 B(4). The minimum road frontage for a back lot may be reduced to not less than 50-feet and the lot must contain a minimum width of 150-feet at the location selected for residential building construction. The back lot shall otherwise conform with all applicable requirements of Table 1 – Table of Dimensional Regulations.** ~~Each workforce ownership housing structure may contain up to four dwelling units or single family detached workforce ownership housing structures may be constructed on individual lots having a lot frontage and lot area that is 1/3 smaller than is otherwise permitted in the zoning district. These provisions do not supersede compliance with ENV Ws 1005.06 of the Subdivision and Individual Sewage Disposal System Design Rules of the New Hampshire Department of Environmental Services.~~
  - (b) ~~All of the bonus units gained under this provision must meet the affordability requirements for workforce ownership housing in § 275-6 of this chapter.~~
  - (c) Workforce ownership units must retain the development criteria and affordability standards herein for a minimum period of 30 years through a suitable deed restriction, easement or other instrument deemed acceptable to the Bedford Planning Board (the "affordability restriction") and as monitored through reports provided to the Bedford Planning Department prior to the time of unit sale or resale; and the thirty-year

affordability restriction shall recommence upon the sale of workforce ownership property subject to the affordable restriction if the workforce ownership property is sold prior to the expiration of the current affordability restriction.

~~(d) Occupancy in the development is not restricted to any age group.~~

~~(e) Developments with workforce ownership housing units shall provide more than 50% of the units in the development with two or more bedrooms.~~

~~(f) Workforce ownership housing units must be constructed in proportional relationship to market rate units in the development, and all workforce housing units must be completed and made available for sale before the final 10% of the market rate units are approved for occupancy.~~

~~(g) Workforce ownership housing units shall be similar in scale and exterior appearance and be otherwise visually indistinguishable from market rate units in the development and dispersed geographically throughout the development.~~

7. Amend Article I, Section 275-6, Definitions, to add the new definitions as follows:

**TOWNHOUSE: A single dwelling unit in a structure of three or more units, attached foundation to roof with open space on at least two sides.**

**GARDEN STYLE MULTIFAMILY: A multi-family building typically characterized by low-rise construction, usually no more than two – four stories, with dwelling units accessed via a common interior hallway.**

8. Amend Article III, Section 275-21, Table 2 - Table of Uses as follows:

Delete the Use category “Workforce housing” and “Multiple Dwelling” in its entirety.

Amend the Table of Uses to add “Garden Style Multifamily” as a use category and list that it shall be Permitted (P) in the Performance Zone (PZ), Apartment Residential (AR) and Service Industrial (SI) Zoning Districts subject to Footnote 35.

Amend Table of Uses to add “Townhouse” as a use category and list that it shall be Permitted (P) in the General Residential (GR), Apartment Residential (AR) and Service Industrial (SI) Zoning Districts subject to Footnote 35.

Amend Footnote 35 to read: Townhouse and Garden Style Multifamily Workforce Housing shall be subject to the provisions of § 275-21B(4) of this chapter.

Delete Footnote 36 in its entirety: ~~Workforce ownership housing shall be subject to the provisions of § 275-21B(5) of this chapter.~~

Delete Footnote 10 in its entirety: ~~Provided the lot does not have frontage on the F. E. Everett Turnpike or U.S. Route 3.~~

9. Amend Article VIII, Section 275-61X by adding the words in bold as follows:

**X. Townhouse and Garden Style Multifamily Workforce housing and Senior Housing.**

10. Amend Chapter 275 by replacing the term “Elderly Housing” with “**Senior Housing**” throughout the entire chapter.
11. Amend Article III, Section 275-21, Table 2 - Table of Uses, to include “Senior Housing” as a permitted “P” use in the Performance (PZ) District subject to Footnote 28.
12. Amend Article III, Section 275-21B (2)(a)[1], by adding the words in bold and deleting the words in strikethrough, as follows:
  1. Any housing intended and operated for occupancy by at least one person 55 years of age and older. All ~~Elderly Housing~~ **Senior Housing** developments shall include a minimum of ~~25%~~ **10%** of the units as affordable housing for low-income ~~elderly~~ **senior** persons. ~~Affordable housing as used in this section, shall mean rental, lease, or ownership interest in housing which is subsidized for a minimum period of 30 years through either governmental, public, or private mechanisms, including tax credits, for persons with a household income limit not exceeding 80% of the area median income for households of various sizes (AMI) established by the United States Department of Housing and Urban Development for the metropolitan statistical area which includes the Town of Bedford.~~ **The affordable owner-occupied or rental units shall be subject to the income limits and maximum monthly rent and purchase price limitations as specified in the definition “Workforce Housing” provided in Subsection 275-6 of this Ordinance.**
13. Amend Article III, Section 275-21B (2)(a)[2] by deleting the text in its entirety.
  2. ~~Elderly housing shall provide, and make available to residents therein, significant on-site facilities and services specifically designed to meet the physical or social needs of older persons, including but not limited to dining facilities; housekeeping services; security services; group transportation; and personnel response services. The Planning Board may waive some or all of the facilities or services where: (a) The proposed development provides alternative arrangements that are satisfactory to the Planning Board; or (b) The development provides more than the required 25% of affordable housing as defined above.~~
14. Amend Article III, Section 275-21B (2)(c), Density, by adding the words in bold and deleting the words in strikethrough, as follows:
  - c. Density. A maximum of ~~18~~ **12** dwelling units **per acre of Net Developable Area** shall be permitted. **Net Developable Area is the area of that portion of the tract which remains after deducting the cumulative areas of all surface water bodies; wetlands; and public/private rights-of-way for streets and utilities. In the case of mixed-use sites, building footprints and paved areas for parking and circulation, which do not also serve the Senior Housing development, shall be deducted.**
15. Amend Article III, Section 275-21B (2)(d), Special Conditions, by adding the words in bold and deleting the words in strikethrough, as follows:
  - d. Special conditions. ~~Elderly~~ **Senior** Housing shall be served by municipal sewer, municipal water, ~~group transit services~~, and structures shall be fully sprinkled.

## Amendment No. 2

### General Residential Zone Amendments

Are you in favor of the adoption of Amendment No. 2 as proposed by the Planning Board for the Bedford Zoning Ordinance to Amend Article III, Section 275-22, Dimensional regulations, Table 1, Table of Dimensional Regulations, and Article III, Section 275-21, and Table 2 - Table of Uses and Section 275-21 J, as follows:

1. Amend Article III, Section 275-22, Dimensional regulations, and Table 1 – Table of Dimensional Regulations – Footnote 12 as applicable to uses in the GR Zoning District, by deleting existing language in its entirety and replacing it as follows:

**Minimum lot size (area) and frontage shall be as follows:**

- a. When served by **both public water and sewer utilities, minimum lot area and frontage dimensions are 10,000 square feet and 80-feet respectively.**
  - b. When served by **either public water or sewer utilities, minimum lot area and frontage dimensions are 20,000 square feet and 100-feet respectively.**
  - c. When served by **neither public water nor public sewer utilities, minimum lot area and frontage dimensions are 1.5 acres and 150-feet respectively.**
2. Amend Article III, Section 275-22, Dimensional regulations, and Table 1 – Table of Dimensional Regulations, by deleting required **35-foot** Front Yard Setback and replacing it with a **15-foot** Front Yard Setback, and deleting the **25-foot** Rear and Side Yard Setback and replacing it with a **10-foot** Rear and Side Yard Setback.
  3. Amend Article III, Section 275-21, and Table 2 - Table of Uses, by allowing accessory detached apartments in the General Residential (GR) by Conditional Use Permit (CU).
  4. Amend Article III, Section 275-21 J(1) by adding the words in bold as follows:

The Planning Board may grant a Conditional Use Permit to allow one accessory detached apartment on parcels containing a single-family dwelling in the Residential and Agricultural District (R&A) **and the General Residential District**. An application for a Conditional Use Permit shall provide adequate documentation in order for the Planning Board to make a finding that the modification meets the criteria listed below. The Planning Board may, in its discretion, decline to grant a conditional use permit if the Board determines the criteria below are not satisfied.

5. Amend Article III, Section 275-21 J(2)(e), by adding the words in bold as follows:

The property shall be at least 1.5 acres in size **for parcels in the Residential and Agricultural District and 1.0 acre for parcels in the General Residential District. Parcels in the General Residential District shall also be served by public water or sewer.**



**Amendment No. 3**

**Cottage Court Housing Amendment**

Are you in favor of the adoption of Amendment No. 3 as proposed by the Planning Board for the Bedford Zoning Ordinance to Amend Article III, Section 275-21 and Table 2 - Table of Uses to include a new Sub-Section for Cottage Court Housing, as follows:

1. Amend Article III, Section 275-21 to add new Sub-Section 275-21.L to read as follows:

L. Cottage Court Housing

- 1) Pursuant to authority of RSA 674:21, the Planning Board may grant a Conditional Use Permit (CU), allowing for the development of Cottage Court Housing in the General Residential (GR), Commercial (CO), Commercial-2 (CO2), Performance Zone (PZ) and Office (OF) Districts.
- 2) The Planning Board may grant a Conditional Use Permit in accordance with this sub-section, upon reaching a determination that an applicant has successfully demonstrated that the proposal meets the Purpose statements and Development Standards specified below.
- 3) Purpose: The purpose of Cottage Court Housing includes the following:
  - a. Encourage innovation and variety in housing design and site development while ensuring compatibility with existing neighborhoods;
  - b. Promote infill development and redevelopment within established neighborhoods that is built at a scale and character consistent with existing development patterns;
  - c. Encourage efficient use of land and compact development that is pedestrian-scaled, attractive, healthy, and safe;
  - d. Promote a variety of housing choices within Bedford to meet the needs of a population diverse in age, income, household composition and individual needs; and
  - e. Provide property owners with flexibility to achieve high quality design and develop projects that strengthen existing neighborhoods.
- 4) Cottage Court Housing Development Standards.
  - a. Cottage Court Housing shall be served by a public water supply.
  - b. Properties with access to public water and municipal sewer may be permitted a maximum of 10 units per acre of Net Developable Area.

1. Net Developable Area is the area of that portion of the tract which remains after deducting the cumulative areas of all surface water bodies; wetlands; and public/private rights-of-way for streets and utilities. In the case of mixed-use sites, building footprints and paved areas for parking and circulation, which do not also serve the development, shall be deducted.

- c. The density for properties without access to municipal sewer shall be limited by the characteristics of the onsite soils as determined by NHDES standards for subsurface disposal system. In no case shall the density exceed 10 units per Net Developable Area as defined above.
  - d. The Minimum Lot Size for the development tract for Cottage Court Housing shall be the same as the respective zoning district, detailed in Table 1 - Table of Dimensional Regulations.
  - e. The Maximum Building Coverage for the development tract for Cottage Court Housing shall be the same as the respective zoning district, detailed in Table 1 - Table of Dimensional Regulations.
  - f. The Cottage Court housing shall contain a minimum of four units. The units may be designed to be in clusters of not more than 12 units.
  - g. Cottage units shall be a condominium form of ownership.
- 5) Cottage Court Housing Design Standards. The design standards contained in this section are intended to create a small community of cottages oriented around common open space, that is pedestrian-oriented and minimizes the visibility of off-street parking. These design standards are intended to ensure that Cottage Court Housing includes pedestrian amenities and preserves existing natural features on the site including topography and vegetation. The cottage housing development design standards are also intended to set consistent design standards for the cottages and to ensure the developments are consistent with the community character.
- a. Building Height.
    - 1. Cottages shall be designed to be a single or 1 ½ stories.
  - b. Covered Porches.
    - 1. All residences in cottage housing developments shall be provided with a covered main entry porch to create a private outdoor space protected from the weather and provide a transition from the interior private residential space to the semi-private outdoor space.
    - 2. Covered porches shall be usable both in design and dimension and shall be at least 60 square feet in size. The floor of the covered main entry porch shall have minimum dimensions of not less than five feet in any direction.
  - c. Common open space.
    - 1. Common open space is land that is commonly owned by all members of the Cottage Court Housing development. It is intended that the common open space be centrally located and used by all occupants of the development.
    - 2. A minimum of 800 square feet of contiguous common open space per cottage unit is required. The parking areas, yard setbacks, spaces between buildings of 10 feet or less in width, private open space, landscape islands within parking areas, and driveways do not qualify as common open space.

3. At least 90% of the cottage units shall abut a common open space and all cottage units shall be within 60 feet of walking distance to the nearest point of the common open space. The common open space shall have cottages abutting at least two sides.
- d. Private open space.
1. Each residential unit in a cottage housing development shall be provided with a minimum area of outdoor private open space not less than 150 square feet and not narrower than 8 feet.
  2. The private open space shall create a sense of privacy and shall be oriented to take advantage of solar orientation and other natural features to create a small but pleasant private yard area.
  3. The private open space may be separated from the common open space with a small hedge, picket fence, or other similar visual separation to create a sense of separate ownership.
- e. Architectural Standards.
1. The maximum ground floor area shall not exceed 1,000 square feet and the gross floor area of the cottage shall be a minimum of 500 square feet and shall not exceed 1,500 square feet.
  2. The Planning Board shall have architectural design review of the cottage units. The units shall be designed with careful attention to detail and shall have a common design theme.
  3. Garages shall be located to the side or rear of the cottage unit.
- f. Dimensional setbacks and building separation.
1. The front, rear and side setbacks for the cottage housing unit shall be a minimum of 20 feet from all exterior property lines.
  2. All principal buildings within a Cottage Court Housing development shall maintain a minimum separation of 10 feet.
- g. Landscaping and tree conservation.
1. Cottage Court Housing developments shall be designed to incorporate existing trees to the greatest extent possible. New trees shall be located to create amenities in the common open space, private open space, provide shade where appropriate, to create separation between buildings, and to screen and soften the perimeter of parking areas and street facing sides of cottage housing developments.
- h. Off-street Parking and Pedestrian Pathways.
1. A minimum of 1.5 parking spaces shall be provided per unit.
  2. Off-street parking shall be located to side or rear of the cottages or accessed by common private driveways.

3. Parking areas shall be attractively landscaped to screen parking from adjacent properties and street rights-of-way and shall meet applicable parking lot landscape standards.
    5. The parking, cottages, and common open space shall be connected with pedestrian pathways to the greatest extent possible.
  - 6) Site Plan Review. Applications for Cottage Court Housing shall be subject to Site Plan Review and the Site Plan Application and Conditional Use Permit shall be filed concurrently.
  - 7) Conditional Use Permit. In granting a Conditional Use Permit pursuant to this section, the Planning Board may impose any reasonable conditions or restrictions deemed necessary to carry out the intended purpose of Cottage Court Housing.
2. Amend Article III, Section 275-21, Table 2 - Table of Uses as follows:
- Amend the Table of Uses to add Cottage Court Housing as a new use category and list that it shall be permitted by Conditional Use Permit (CU) in the General Resident (GR), Commercial (CO), Commercial-2 (CO2), Performance Zone (PZ) and Office (OF) Districts subject to Footnote 42.
- Amend the Table of Uses to add Footnote 42 to read: Cottage Court Housing shall be subject to the provisions of §275, Section 275-21.L of this chapter.
3. Amend Article VIII, Section 275-61, Permitted uses, to add the following new section Z:
- Z. Cottage Court Housing

**Amendment No. 4**

**Stream Protection Ordinance**

Are you in favor of the adoption of Amendment No. 4 as proposed by the Planning Board for the Bedford Zoning Ordinance, Chapter 275 of the Code of Ordinances, to create Article XV, Stream Protection Ordinance, including Sections 275-101 thru 275-108, as follows:

**Article XV. Stream Protection Ordinance**

**275-101 General provisions.**

- A. This Ordinance shall be known as the “Stream Protection Ordinance of the Town of Bedford.”
- B. The Stream Protection Ordinance is established in accordance with the provisions of RSA 674:21, Innovative Land Use Controls, and RSA 483-B, Comprehensive Shoreland Protection Act. Wherever a Conditional Use Permit is authorized by this Section, the authority to administer or grant Conditional Use Permits shall be vested in the Planning Board after receiving comments from the Conservation Commission.
- C. The purpose of the Stream Protection Ordinance is to:
  - (1) Protect the flowing streams of the Town of Bedford;
  - (2) Protect the water quality of these resources;
  - (3) Protect the Town of Bedford’s stream and aquatic ecosystems;
  - (4) Support the Town’s EPA Municipal Separate Storm Sewer System permit and associated Stormwater Management Plan to improve water quality; and
  - (5) Provide for the environmentally sound use of the Town of Bedford’s land resources.
- D. The Town of Bedford finds that Stream Buffers adjacent to flowing waters provide numerous environmental benefits. Stream Buffers serve to:
  - (1) Maintain water quality;
  - (2) Moderate the temperature of near shore waters;
  - (3) Prevent or control water pollution;
  - (4) Reduce or eliminate flooding and accelerated erosion;
  - (5) Maintain stream flows during low flow periods;
  - (6) Connect and protect fish spawning grounds, aquatic life, and bird and other wildlife habitats;
  - (7) Maintain the public health and safety; and
  - (8) Conserve and protect natural beauty and scenic qualities, and the economic benefits that these provide.
- E. The Town of Bedford adopts this ordinance to protect and maintain the native vegetation along named streams by implementing standards for uses and developments in the Stream Buffer within the jurisdiction of the municipality.
- F. Standards established herein shall constitute the rules of overlay zoning and shall be superimposed over all other zoning districts, or portions thereof, within the Town. The provisions

herein shall apply in addition to all other applicable ordinances and regulations, including, but not limited to, the Town of Bedford's Wetland Conservation Ordinance.

**275-102 Applicability.**

- A. The Stream Protection Ordinance applies a Stream Buffer to the following named streams within the Town of Bedford:
  - (1) Baboosic Brook,
  - (2) Bog Brook,
  - (3) Bowman Brook,
  - (4) McQuade Brook,
  - (5) McQuesten Brook,
  - (6) Patten Brook,
  - (7) Pointer Club Brook,
  - (8) Pulpit Brook,
  - (9) Riddle Brook, and
  - (10) Sebbins Brook.
- B. The Stream Protection Ordinance does not apply to ponds, beaver ponds, or bogs. These systems are regulated by the Town of Bedford Wetlands Ordinance.
- C. All applications for a building permit, subdivision, or site plan approval shall be subject to the provisions of this Article. Any applicant seeking said approval(s) will be responsible for providing the required information before the appropriate approval or permit can be granted.
- D. Sebbins Pond, Baboosic Brook, and the Merrimack River are subject to the Shoreland Water Quality Protection Act, NH RSA 483-B, as may be amended from time to time. The Shoreland Water Quality Protection Act addresses activities within two hundred and fifty (250) feet of great ponds and fourth order streams. Sebbins Pond is a great pond and the Merrimack River and Baboosic Brook are fourth order or higher streams. Additional standards apply to the 250-foot shoreland zone along the Merrimack River in the Performance Zone as detailed in Article VIII, Section 275-71 of the Zoning Ordinance.

**275-103 Stream Buffers Defined.**

- A. The Stream Buffer shall encompass all land within a 50-foot horizontal distance of the reference line of the named streams in the Town of Bedford listed in Section 275-102. The buffer is a non-disturbance area characterized by native vegetation.

**275-104 Requirements in the Stream Buffer.**

In addition to the requirements of all other applicable ordinances and regulations, including, but not limited to, the Town of Bedford's Wetland Conservation Ordinance, the following requirements apply within a Stream Buffer:

- A. All existing trees and vegetation contained therein shall be maintained in its natural condition, except as follows:

- (1) Dead, diseased, unsafe, or fallen trees may be removed. All stumps and their root systems, stones, and duff shall be left intact. Landowners should collect photographic documentation of pre-clearing conditions prior to removal of vegetation in any Stream Buffer;
- (2) Saplings and ground cover may be cleared to establish a 6-foot-wide pervious path or view corridor to the water;
- (3) Ground cover may be trimmed to no less than 3 feet in height;
- (4) A pervious pathway, not wider than 6 feet, and pedestrian bridge may be constructed;
- (5) Stream crossings for farm vehicles, livestock, or timber harvest conducted in accordance with RSA 227-J may cross through the Stream Buffer. However, no mechanical logging or clearcutting is allowed in the Stream Buffer;
- (6) Lawns existing at the time of passage of this Ordinance may be maintained but not expanded;
- (7) Invasive plant species included on the Invasive Upland Plant Species list maintained by the NH Department of Agriculture, Markets and Food, Plant Industry Division, may be removed or treated in the Stream Buffer in accordance with best management practices including those described by the following sources:
  - (a) NH Department of Agriculture, Markets and Food, Plant Industry Division;
  - (b) UNH Cooperative Extension;
  - (c) Hillsborough County Conservation District;
  - (d) Application of herbicides by a licensed pesticide applicator; or
  - (e) Invasive plant removal involving more than 20 percent of the total area of the Stream Buffer on the subject property will require a Conditional Use Permit for Stream Buffer restoration as described in Section 275-104.

**275-105 Conditional Use Permits in the Stream Buffer.**

- A. The Planning Board may grant a Conditional Use Permit for the disturbance of Stream Buffers after receiving comments from the Conservation Commission for the following uses:
  - (1) Streambank stabilization and/or Stream Buffer restoration;
  - (2) Construction of stormwater outfalls; and
  - (3) Roads, driveways, bridges, and utilities, which will cross a Stream Buffer.
- B. In granting a Conditional Use Permit, the Planning Board may require a wider Stream Buffer in other locations on the property, additional plantings in the Stream Buffer, and performance guarantees to ensure survival of plantings. An applicant for a Conditional Use Permit shall provide adequate documentation for the Planning Board to make a finding that the proposed disturbance of the Stream Buffer meets the following conditions:
  - (1) The proposed disturbance to the Stream Buffer cannot practicably be located to eliminate or reduce the impact to the Stream Buffer and the adjacent named stream;
  - (2) The proposed disturbance to the Stream Buffer represents the minimum extent of disturbance necessary to achieve the reasonable use of, or provide access to, land outside of the buffer area; and

- (3) The proposed disturbance to the Stream Buffer minimizes the environmental impact to the adjacent named stream.
- C. The following materials shall be included with all applications in addition to any other requirements:
- (1) Photographs of the subject property that display the condition and extent of existing vegetation in the Stream Buffer;
  - (2) A plot plan stamped by a licensed surveyor showing the location of the Stream Buffer including the location of the reference line and the existing tree line;
  - (3) A plan for the control of erosion and sedimentation to named streams in Bedford.
- D. Where a natural vegetative buffer does not exist in the Stream Buffer, or exists only in part, its restoration shall be required in conjunction with the issuance of a CUP. Plants used in restoration shall be selected from *Native Shoreland/Stream Buffer Plantings of New Hampshire*, by Jen Drociak, NHDES, Water Division, Watershed Management Bureau. March 2006, or as amended.

**275-106 Marking of the Buffer.**

- A. The Stream Buffer shall be marked with 5” x 5” metal tags, spaced not more than 50 feet apart, provided by the Planning Department. This applies to all projects requiring a building permit, subdivision, or site plan approval and for properties found to be in violation of this ordinance as a condition of compliance with the ordinance.

**275-107 Penalties.**

- A. A violation(s) of the Stream Protection Ordinance shall constitute a zoning violation enforceable by the Zoning Administrator under Section 275-87 Violations and Penalties of the Zoning Ordinance. The removal of each tree in the Stream Buffer shall each constitute a separate zoning violation.

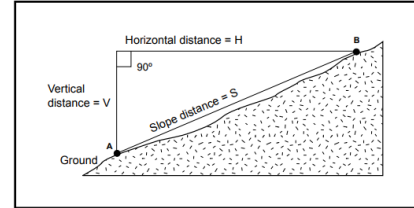
**275-108 Definitions.**

The following definitions apply to the following terms as used in this section of the Zoning Ordinance.

**GROUND COVER:** Any herbaceous or woody plant which normally grows to a mature height of two feet or less, especially mat forming vegetation which stabilizes the soil.



**HORIZONTAL DISTANCE:** The horizontal distance is measured on a horizontal plane that is parallel to the ground and perpendicular to the vertical plane. See graphic for example of horizontal distance measurement.



**PERVIOUS SURFACE:** A surface that effectively absorbs or infiltrates water.

**REFERENCE LINE:** The reference line is the ordinary high water mark. The ordinary high water mark is the line on the shore, running parallel to the main stem of the stream, established by the fluctuations of water. It is indicated by physical characteristics such as a clear, natural line impressed on the immediate bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas. Where the ordinary high water is not easily discernible, it may be determined by a certified wetland scientist.

**STREAM BUFFER:** The Stream Buffer encompasses all land within a 50-foot horizontal distance of the reference line of the named streams in the Town of Bedford listed in Section 275-102 of this Article. The Stream Buffer is a non-disturbance area characterized by native vegetation.

**SAPLING:** A young tree less than four inches when measured at a point 4.5 feet above ground level and less than 20 feet in height.

**TIMBER HARVEST:** The cutting and removal of timber for the primary purpose of selling or processing forest products.

**TREE:** Any living, self-supporting woody perennial plant at maturity, which attains a trunk diameter of at least three inches or more when measured at a point 4.5 feet above ground level and which normally attains an overall height of at least 15 feet, usually with one main stem or trunk and many branches.