



# Farming and Forestry Strategies

South County Watersheds Technical Planning Assistance Project





RHODE ISLAND  
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

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Dear Rhode Islander:

Rhode Island has many special places and the watersheds of Washington (South) County are no exception. Washington County provides habitat for 75% of all species found in Rhode Island, including the majority of the State's rare species. The EPA has designated all of Washington County as a sole source aquifer because it serves as the only source of drinking water for the residents. While 65% of the area is undeveloped, the county is the third fastest growing region in New England with a population increase of 20% in the last decade.

A University of Rhode Island survey determined that the top three priorities for South County local officials were 1. to protect public drinking water; 2. to more effectively plan for growth; and 3. to protect farmland and open space. To respond to these priority community goals, DEM, in partnership with the Rural Lands Coalition, the South County Planners, the Washington County Regional Planning Council and the South County Watershed Partnership, obtained a \$100,000 EPA Grant to assist the Washington County communities in exploring more creative land use techniques to accommodate growth while minimizing impacts to the environment and community character. This project was a community-based effort where the scope of work and the hiring of consultants were done in consultation with local officials.

The land use techniques studied addressed issues such as: creating new growth centers to avoid sprawl, encouraging village revitalization and infill development, transferring development rights, preserving meaningful open space, and preventing strip commercial development. Other topics studied included strategies to encourage the continuation of agriculture and forestry and how to more effectively evaluate the environmental impacts of development. The purpose of the project was not to stop or impede growth but to develop better growth planning options. Since there are always many more special natural, cultural, and recreational resources that communities wish to protect than they have the funds to purchase, a major emphasis of this project was to demonstrate how proactive planning, with more flexible land use techniques and careful site design can preserve the environment and the quality of life for all Rhode Islanders. Dodson Associates, the consultants for the project used planning scenarios to illustrate how parcels will look under conventional versus creative land use techniques to make it easier for local officials to determine which land use techniques are best for their community. Model ordinances were also developed that correspond to each planning scenario to allow communities to implement the techniques that they may choose to adopt.

With these techniques, local officials and developers can work together to guide growth where it is most suitable from the context of the individual site, community and watershed. This project is another significant tool, along with land acquisitions, brownfields cleanups and public education to assist Rhode Islanders to protect our natural resources and quality of life while growing efficiently in the future. The impressive results of this project are a tribute to working in partnerships where a broad based stakeholder group, comprised of community officials, planners, builders, realtors, farmers, landowners, watershed organizations, environmental groups and interested citizens collaborated to find solutions to concerns that were identified by the community. I commend the hard work and extra effort of the consultant team, EPA New England for their support, and the stakeholders of the project advisory committee who unselfishly volunteered their time to insure this project would be a success. I am pleased that DEM was able to assist and participate in this exciting effort that can be used by all Rhode Island communities to plan for growth to protect the environment and our quality of life.

Sincerely,

A handwritten signature in black ink, appearing to read "Jan H. Reitsma".

Jan H. Reitsma  
Director

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Written by Frederick S. Taintor

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## South County Watersheds Technical Planning Assistance Project

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Rhode Island  
 Department of  
 Environmental  
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 COUNCIL



South County Watersheds Partnership



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## **A UNIQUE PLACE AND TIME**

The landscape of South County is unlike any other in the Northeast, if not the whole country. Thousands of years of glaciation, erosion, and gradual development of plant and animal communities, followed by centuries of human use and modification, have created a unique landscape, where geology, history, nature and culture enrich and enliven each other. Each of these elements creates a kind of order in the landscape that ties the whole together, and they interact in a hundred ways. The result is a landscape that is rich in both natural resources and physical beauty, with constant variation within the unifying structure of a few continuous themes. One of these themes, for example, concerns the movement of water across the landscape. Draining the long narrow upland valleys in the Northwestern towns of the county, the tributaries of the Pawcatuck River descend gradually to the sea. Backed up behind the hills left by the glacier's terminal moraine at the end of the last ice age, these streams are forced west, through a series of ponds and wetland systems, all the way to Westerly and the Little Narragansett Bay. This diverse landscape and the many native plant and animal species that depend on it would be special enough; adding immeasurably to the complexity and vitality of the scene is a different theme, one flowing from human use of the rivers, forests, and rich agricultural soils of the region over centuries of intensive settlement. Mill villages sprang up wherever water could be harnessed to turn a wheel; agricultural settlements and outlying farmsteads dot the uplands; harbor towns grew up to store and ship the crops and goods produced in the interior, and gather in the harvest of the sea. These two patterns, the one natural and the other human, or cultural – overlay each other and interact in a way that is both a visual historical record and an ongoing source of livelihood for South County's residents. The result is an extraordinarily beautiful landscape, a wonderful place to live, work, and recreate.

Of course, all this is threatened directly by the trends and forces that drive development in the modern age. In contrast to the historic development process, where homes and businesses, villages and towns grew up organically in balance with development of natural resources, agriculture and manufacturing, modern development is a market-driven process where land is bought wholesale, subdivided and sold at retail, often with little relationship to the underlying land. Planning and zoning are supposed to provide this connection, locating development where it is best suited and at appropriate densities. However, most communities have very rigid land use regulations that actually encourage or require developers to destroy the unique character defining features of the land without preserving any meaningful open space. These same inflexible zoning regulations also promote environmental impacts from development. The market, meanwhile, no longer finds as much value in the natural resources that are on the land – our lumber, food, fiber, and recreation are shipped in from elsewhere – so landowners can receive a greater economic return from selling their property for development.

Density and location aside, the pattern of development itself increasingly follows a simplified national model that seems alien to local traditions. Zoning based in the laudable goal of making development safe and predictable has the unintended consequence of reducing every landscape to the lowest common denominator, and favors developers who bring in simple cookie cutter subdivisions with wide, flat roads. In commercial development these same trends towards simplicity and homogenization are driven by engineering standards, as well as trademarked corporate architecture designed to be recognizable from coast to coast. At the same time the economies of scale favored by the market have led to ever larger buildings, culminating in the category-killing, big-box super stores now popping up on the edge of every town in the country.

Perhaps the largest factor in all of this is our dependence on the automobile. Driven by an understandable and almost universal individual goal of owning one's own car and home, corporate America and government at all levels have spent the last 50 years building highways and suburbs, and more suburbs and highways – draining the vitality from city centers and forcing a dependence on the automobile. Today many people can't get to work, shopping, schools, or recreation without cars. An investment of trillions in the interstate highways, together with inexpensive cars and the fuel to power them, supports an increasingly decentralized pattern of development. All of which is fine with most people, as long as there's enough money to repave the highways and buy the gas. Yet in metropolitan regions like Washington, DC, Atlanta, Los Angeles and San Francisco traffic congestion has doubled and tripled commuting times, turning a personal inconvenience into a drag on the economy. And it's not easy to put the genie back in the bottle after development has spread out across the countryside – which is why corporations, and their employees, are starting to take a second look at dense traditional cities like Providence, or regions like New York City, where millions of people have access to dependable mass transit systems. The economic advantage of regions that control their dependence on cars and trucks for transport of people and goods will be increasingly evident as energy prices continue to rise and subsidies for road construction and repair dwindle.

Despite these powerful national trends, and sprawl-inducing local zoning, South County remains mostly open and rural, with thousands of acres of undeveloped land and a high quality of life. A few key facts and figures from the Pawcatuck Watershed Partnership's [Watershed Report](#) help to set the scene:

- A population of about 60,000 people on 300 square miles, an increase of 20% in the last decade.
- Approximately 65% of the land is still undeveloped, of which 31% is already permanently protected natural habitat.

- 20% open farmland, most of it managed by 70 large-scale farmers.
- 80% covered by forest, including most of the 14% of the watershed that is wetlands.
- A mix of northern and southern plant and animal communities on a rich habitat, with 63% of Rhode Island's rare plants and animals.
- Underlying everything, an EPA-designated Sole-Source Aquifer – South County's only existing or potential future water supply.

South County thus represents a unique place at a unique time, a time when residents of the region still enjoy the benefits of its natural and cultural history, which are threatened as never before by development patterns that ignore that history and treat everything as a blank slate. A unique time because South County will never again have the chance to shape growth as much as it can now. And there isn't much time to talk about it: long before every house site and commercial zone is developed the unifying natural and cultural landscapes will be fractured and fragmented by a hundred small projects. What will be left is a region without the rural character that draws people here in the first place and makes for a high quality of life. It will feel much more suburban, with roads lined by commercial strips and subdivisions, and nature restricted to parks and preserves surrounded by houses -- not a bad place to live, but dramatically different from what exists today.

## **THE SOUTH COUNTY WATERSHEDS TECHNICAL PLANNING ASSISTANCE PROJECT**

The problems of suburban sprawl are not unique to Rhode Island, of course, and planners at the state and local level have been working steadily to apply the lessons learned elsewhere to the local situation. In 1999 this effort crystallized around a project developed by a coalition of groups including the Rhode Island Department of Environmental Management, the Rhode Island Rural Lands Coalition, and the South County Planners. The idea was to prepare a comprehensive review of the best possible solutions from around the country and show how they could be applied locally. Under a grant from the US Environmental Protection Agency, this became the South County Watersheds Technical Planning Assistance Project. Under the management of the Sustainable Watersheds Office of Rhode Island DEM, a multi-disciplinary consultant team led by Dodson Associates was hired to do the project. Working with an Advisory Committee of more than sixty town planners, elected officials, and citizens that were selected by the nine South County towns, the consultants developed a suite of “Smart Growth” tools – including these *Strategies to promote Farming and Forestry*, the South County Design Manual, a set of Model Zoning Ordinances, a study of Transfer of Development Rights, and a Development Site Assessment Guide. Each of these products was designed to take the best examples from around the country and shape them into tools that would be most effective in South County but could also serve as a model for other rural and suburban communities. Some, like the Design Manual, are primarily educational in nature; others offer specific tools and regulatory language for shaping development – it is hoped that together, these will help towns on many levels as they work to plan for growth in this unique corner of New England.

## THE DESIGN MANUAL APPROACH

The Design Manual is a record of a process the Advisory Committee went through in order to identify the key issues and potential solutions to problems faced by South County Towns. From a list of about 25 possible sites, eight were chosen to represent a cross section of possible development types, transportation issues, environmental challenges and social contexts. Some of the sites, for instance, are directly off I-95, while others have potential rail access or are constrained by poor road connections. Some of the sites are within or on the edge of existing towns and villages, while others are out in the countryside. Ranging from tens of acres to several thousand, the sites also explore issues at a range of scales, from detailed issues of infill within a streetscape, to large-scale development patterns across a rural district.

Base maps and resource overlays were prepared for each site based on information from Rhode Island Geographic Information System. Aerial photographs of each area were taken to serve as the basis for illustrations. Grouping the sites by theme – residential, commercial, mixed-use, etc. – Dodson Associates led a series of workshops with the Advisory Committee to explore how each site could be developed. First, the group examined how each site would most likely be developed under current zoning regulations and market trends. For residential zones in South County, this usually means subdivision roads and one or two acre house lots. For commercial zones, the conventional development plan most often leads to development of frontage lots along existing highways – the commercial strip. The second scenario explored how it might be possible to fit the same amount of development on a site as allowed under the conventional plan, but in more creative and sustainable way. This often means allowing more of a mix of uses on sites, promoting pedestrian access, and encouraging flexible development standards within an overall master plan. Each of the design scenarios, then, is completely imaginary – but they are based on careful study of the physical and regulatory constraints that affect actual sites. As a result, many of the issues and problems inherent in developing in South County were identified early on, so that the consultants could look for potential solutions, whether through zoning changes, flexible development standards, planning concepts or detailed design approaches.

To illustrate these complex planning issues, and potential design solutions for each site, birds-eye view drawings were prepared that show both large-scale planning ideas and detailed design of streets, buildings, parking lots, etc. In each case, the first drawing illustrates existing conditions on the site. The second image shows what is likely to happen under current zoning and development trends. A third image illustrates a more creative approach, in many cases based on pedestrian-friendly, mixed-use development. The design manual is built around this set of three images of each site, surrounded by descriptive text and photographs illustrating existing conditions and examples of conventional and

creative approaches to development. It is designed primarily as an educational resource, but could also be used as a reference in regulatory review of site planning and design.

# **THE CREATIVE VISION OF THE DESIGN MANUAL**

## **Model Land Use Ordinances**

As each of the planning and design scenarios were being developed and discussed by the steering committee, the consultant team worked to identify the planning, policy and regulatory changes that are needed to implement the creative plan. In most towns, zoning and other regulations make it impossible to build anything other than the conventional plan, at least by right. A set of alternative Model Zoning Ordinances, prepared by Attorneys Mark Bobrowski and Andy Teitz, was prepared to promote the creative development recommended in the design scenarios: they include elements to help towns more effectively plan for growth, particularly through better design review procedures, fees for design review, and growth rate controls; they also include alternatives to the usual forms of residential clustering and planned commercial districts that have failed towns in the past. The suggested models keep the basic idea of these older approaches, but go a step further, by promoting the idea of several different kinds of flexible and planned district development to be applied depending on the specific context of a project site. For example, the project team noted that the one-size-fits-all cluster zoning common to a number of towns treats all areas of a town alike. While it allows smaller lots and requires preservation of open space, it is a very blunt instrument in promoting better design. So the model ordinances suggest several alternatives customized to specific situations. In rural districts where preservation of large contiguous tracts of farmland, forest, or river corridors is paramount, a Conservation Subdivision Ordinance emphasizes site plans that reflect an understanding of town-wide open space systems. In village locations a different approach, termed Flexible Development, emphasizes the design of streets, houses, and neighborhood structure over open space protection, per se. Similarly, the models provide two different options for mixed-use commercial development in planned development districts, depending on whether the site is in the countryside or close to an existing village or town.

## **Working Landscape Preservation**

The second implementation element was this report that outlines strategies to promote Farming and Forestry in South County. This study was prepared by Rick Taintor of Taintor & Associates, and combined regulatory approaches such as a Rural Village Development district, and an ordinance governing farm-based retail sales, with incremental approaches to promoting farm-based service businesses, lowering tax burdens on farmers, and generating local funding support.

## **Transfer of Development Rights**

Another element prepared by Taintor & Associates was a study of the possible application of Transfer of Development Rights (TDR) to South County. TDR, as he describes it, “is a land use regulatory tool under which development rights can be severed from a tract of land and sold in a market transaction. The parcel from which the rights are transferred is then permanently restricted as to future development, and the purchaser of the rights may assign them to a different parcel to gain additional density... Usually, TDR programs designate sending areas from which rights may be transferred, and receiving areas to which the rights may be sent.” This creative management tool takes the kind of flexibility that towns often allow to shift house lots around on one parcel, and makes it possible to transfer houses from one parcel to another elsewhere in the town. In theory this makes it possible to preserve sensitive farmland or open space entirely, without having to spend any public funds to buy it.

## **Site Assessment Guide**

The last element prepared by the consultant team was prepared by Lorraine Joubert and Jim Lucht of URI Cooperative Extension. As part of a general study of best management practices for minimizing the effect of development on the environment, the URI-CE team developed a Rapid Site Assessment Guide that towns evaluate the suitability of sites for development. Utilizing the extensive data available from on the Rhode Island Geographic Information System, the Rapid Site Assessment system allows planners, developers and town boards to evaluate possible environmental impacts very early on in the development review process – heading off poor planning decisions before land owners and developers have spent a lot of money on site surveys and engineering.

## PLANNING APPROACHES

As these different creative approaches to design, growth management and regulation were presented by the consultant team, it became clear that little is going to change without the support of town officials and private citizens. Better design or creative regulation won't be adopted as official policy without a shared consensus about what needs to be preserved and what needs to be developed. The only way to achieve that consensus is through comprehensive planning activities on both the town and regional scale. Planners in most towns, for example, realize that subdivisions often get built in the wrong places -- far from services, near sensitive wetlands, on poor soils, etc. Zoning usually requires larger lots in such places, but otherwise developers build the same subdivision roads out in the countryside as in the town center. The answer is to pursue planning at a more detailed scale within neighborhoods and districts within the town, figuring out ahead of time the areas should be protected, and the areas that are more suitable for development. This has been done in most towns at the scale of the whole town -- the problem is the level of detail is rarely enough to show which parcels should be protected, much less delineating areas within parcels.

With the advent of Geographic Information Systems, and particular the data that is available from Rhode Island GIS, it is possible to do this kind of detailed planning for many times less than you could even ten years ago. A companion, called the South County Greenspace Protection Project, is designed to demonstrate how RIGIS data, and the knowledge of local volunteers, can be used to identify the areas and corridors of open space that should be protected within and between towns. A parallel project, known as the South County Economic Development Planning Project, is designed to complement the identification of desirable open space resources with an investigation of appropriate locations and types of economic development across the region. Both these projects represent regional planning at a scale and level of detail that can be truly effective in informing local planning and management decisions.

Improvements in the speed and efficiency of GIS will increasingly allow towns to pursue this kind of detailed physical planning as part of their comprehensive planning efforts. Now, most towns have a land use plan and zoning map, which shows the location, allowable uses, and density of development in each neighborhood. Few towns, however, talk about the appearance of the development, size and scale of structures, etc. This creates a lot of uncertainty. Zoning changes meet resistance because people don't know what to expect, there's no agreement ahead of time on anything but goals that are so broad to sometimes be meaningless. But, if you can establish specific, physical planning goals up front, zoning changes become much easier -- simply a tool to implement an accepted plan. In theory, zoning is meant to implement the land use element of the comprehensive plan, and in most towns there is an explicit connection; the problem is the land use plan itself is rarely detailed or specific enough.

## **BALANCING DIVERSE OBJECTIVES**

The purpose of this report is to present strategies for protecting and expanding existing community jobs and businesses linked with forestry and agriculture.

Preservation of the South County's existing agricultural and rural character incorporates at least three distinct specific concerns:

- (1) preservation of prime farmland to ensure the continued viability of the area's agricultural economy,
- (2) preservation of open space to maintain the rural character of the area, and
- (3) concentration of development in existing centers (and perhaps new ones), and prevention of suburban and commercial sprawl.

It is important to recognize that these individual concerns, while leading toward similar results, may arise from different concerns. That is, the objective of preserving "rural character" does not necessarily imply a strong concern for maintaining an active agricultural or forestry component to the economy; nor does support for farming and forestry automatically coincide with a concern for protecting the appearance or image of the community. Nevertheless, there is at least a partial convergence of interests which presents an opportunity for a coordinated approach to managing growth and change.

In attempting to implement a farming- and forestry-based economic development program, the concern for preservation of farm land and forest land must be balanced with the legitimate concerns of landowners to preserve the value of their land for a variety of uses. The conflict is not between open space and development, or between agricultural or forestry use and residential use (although there are certainly potential conflicts in these areas). Rather, the fundamental problem is how to absorb growth in a manner that preserves the capacity of the area to continue to support agriculture and forestry, that minimizes changes in visual and economic character, and that minimizes impacts on the land.

It is important to emphasize that the focus of this strategy is on supporting farm and forest-related jobs within the context of broader community life issues in South County. This is in contrast to a strategy focused primarily on preserving open space or limiting development. This distinct focus means that policies and actions might result in increases in the overall level of development compared to existing rules and regulations.

## **ELEMENTS OF A FARMING AND FORESTRY STRATEGY**

There is no single solution to supporting farming- and forestry-related jobs at the community level. A community-based strategy should take into account land use regulation, development standards, taxation and other aspect of farm operations and finances. Communities can encourage landowners to keep large tracts of land in open space or agricultural use by lowering their costs or by enhancing the revenue potential of alternate development patterns. Education of community residents is also important.

The elements that individual towns can adopt to support farming and forestry include both regulatory and non-regulatory techniques. It is important to emphasize that by the term “regulatory” is not meant agricultural zoning as practiced elsewhere in the country. Several meetings during the course of this and related planning projects in the region have clearly indicated the opposition of farmers to any regulation which would restrict their ability to convert farmland to house lots. Consequently, it was decided not to pursue development regulations that would restrict suburban residential densities or discourage suburban residential development.

The techniques are:

- ◆ Zoning changes to expand the types and scales of retail uses that are allowed in rural residential zoning districts;
- ◆ Zoning changes to expand the types and scales of non-retail business activities that are allowed in “rural residential” zoning districts;
- ◆ Incentive zoning to encourage landowners to develop a small portion of a tract of land, as an alternative to residential subdivision of a large portion of the tract;
- ◆ Local property taxation policies that eliminate or significantly reduce the tax burden for land preserved in agriculture or forestry; and
- ◆ Local funding programs to support farmland and forest land preservation.

## FARM-BASED RETAIL SALES

Many zoning ordinances provide for retail sale of farm products, usually with limitations on the total amount of sales area, the percentage of sales that may be derived from goods not grown or produced on the property, or both. However, farmers are under increasing competition for customers, and direct sale to the public is often the best way for these producers to compete. Given the competition facing farmers, it makes sense to allow as much flexibility as possible as long as the farm remains the principal use and the rural character of the area is not compromised.

Existing zoning ordinances in South County tend to be restrictive regarding farm-based retail sales, as indicated by the following examples:

- ◆ **Richmond, Hopkinton and West Greenwich** allow sale of “farm products – raw materials” by special use permit only in business and industrial districts (not in residential or agricultural overlay districts); and allow florists and “farm and garden supply stores” as of right or by special use permit in business and industrial districts. There do not appear to be any specific provisions for farm-related retail sales in rural districts in these towns.
- ◆ **Westerly** permits “sale of products raised on premises” in two zoning districts (Rural Residential and Low Density Residential); and permits “farm and garden supply stores” by special use permit in the LDR district, as well as by right in commercial and industrial districts.
- ◆ **Exeter** allows “erection of a roadside stand, not to exceed 200 square feet, for the sale of agricultural products, as an accessory use” to principal agricultural uses in all districts (special use permit required in some areas). Florists, greenhouses and nurseries are permitted in several districts, either as of right or by special use permit.
- ◆ **North Kingstown** allows “the sale of farm, garden and/or nursery products grown on site” as a principal use in two low-density residential districts, and as an accessory or use in other residential and business districts; and allows commercial greenhouses and nurseries as of right in business districts and by special use permit in three residential districts.

Thus, these ordinances tend either to prohibit retail sales on farms that are located in a rural-residential zoning district, or to limit such sales to farm products grown on the same premises. Notable exceptions include the towns of South Kingstown and Charlestown, which have comprehensive ordinances addressing a variety of farm-based retail sales operations. These ordinances provide the basis for a model ordinance, which is presented and discussed in detail below.

## Farm-Based Retail Sales Issues

When preparing an ordinance to allow retail businesses on farms, communities should consider the following questions:

1. ***Where should the uses be allowed?*** For example, should farm-related retail sales be allowed everywhere in the community, or only in rural-residential zoning districts?
2. ***What kinds of properties are appropriate for this type of business?*** Should retail sales be allowed on any tract of land regardless of its size (for example, a small farm stand on a vacant corner lot); or should they be limited to large tracts of farmland. Should the retail sales be allowed as the principal use of the property, or should the operation be accessory to an active farm?
3. ***What types of products may be sold?*** Should the retail business be limited to sales of products grown or produced on the same property, or by the farm owner? Should sales of products grown or produced elsewhere in the same community or in adjacent communities be permitted? If products that do not fall into these “local origin” categories are permitted, should there be a cap on their percentage of all goods sold in the business (for example, “at least 50 percent of the goods sold shall have been grown or produced within the community”)? Should manufactured or processed products, not produced on local farms, be permitted—for example, craft products (weaving, pottery, carvings), baked goods, wine, cheese, honey, syrups? What about gardening supplies, such as peat moss, packaged fertilizers and seeds, or garden implements? Should outdoor furniture be included?
4. ***What kinds of structures should be allowed?*** Should farm-based retail businesses include temporary structures as well as permanent ones? Should any design standards be applied?
5. ***How should outdoor display and sales be addressed?*** Some communities restrict or regulate outdoor displays and sales of merchandise because of the potential for negative visual and aesthetic impacts. Conversely, many farm stand regulations set a limit on the floor area of a farm stand building, but do not restrict the outside area devoted to display and sales. To the extent that sales of non-agricultural products are permitted (e.g., lawn and garden tools or furniture), communities may wish to address the size of the outside display area.
6. ***How large should the businesses be?*** Should an upper limit be established on total building area, or total retail sales area? What about upper limits on the number of employees or number of parking spaces?
7. ***How should access and parking be managed?*** If farm-based businesses are limited to small farm stands, the principal access issues may relate to safety as cars pull off to the roadside. However, for larger businesses, more attention needs to be paid to ingress and egress from

the public way, to circulation within the parking area, and to environmental impacts of the parking area. As a farm-based retail enterprise approaches other retail businesses in building size and variety of products, it will become more important to treat them as businesses.

8. *What types of signs should be permitted?* Should signs be restricted to those otherwise permitted in the rural-residential zoning district (e.g., small unlighted signs), or should larger displays be allowed? Consider issues such as changeable text, movable signs, and illumination.

## **Incremental Approaches**

At a very basic level, towns may wish to address the issues of small-scale, farm-based retail sales by creating specialized regulations for specific types of businesses. The town of Pembroke, New Hampshire, defines three kinds of “agricultural retail outlets” in its zoning ordinance and establishes simple standards and criteria appropriate to each, as follows:

### **A. Cut or Pick-Your-Own Outlets:**

- (1) Cut or pick-your-own outlets shall not be subject to the requirement for site plan review by the Planning Board;
- (2) An area suitable for the off-street parking of vehicles shall be provided; and
- (3) Side street parking is allowable if sales occur during a period of one (1) season or less.

### **B. Farm Stand (Roadside Stand):**

- (1) Farm stands shall be considered minor site plans and subject to the requirements for site plan review by the Planning Board;
- (2) Off street parking shall be provided in accordance with section \_\_\_\_;
- (3) Farm stands shall be set back a minimum of thirty (30) feet from abutting right-of-way lines, and conform to the side yard requirements of the district in which the farm stand is located;
- (4) The average yearly dollar volume of products purchased and resold shall not exceed the yearly sales of products produced by the farm owner;
- (5) Products for sale at the farm stand shall be locally grown and a majority of products (over 50%) shall be grown on the site or grown on other land of the owner of the farm stand; and
- (6) Outdoor display of produce, plants, gardening supplies, etc. may be provided on the site, but storage of equipment, produce containers, waste produce and the like shall be enclosed or otherwise screened from view.

### **C. Farmer's Market:**

- (1) Farmer's markets shall be considered minor site plans and subject to the requirements for site plan review by the Planning Board;
- (2) Off street parking shall be provided in accordance with section \_\_\_\_;
- (3) The building(s) for the farm market shall conform to the setback requirements of the district in which it is located; and
- (4) Outdoor display of produce, plants, gardening supplies, etc. may be provided on the site, but storage of equipment, produce containers, waste produce and the like shall be enclosed or otherwise screened from view.

## **South Kingstown's Approach**

The Town of South Kingstown has adopted a comprehensive ordinance addressing several levels of farm-based retail sales. (A similar ordinance has also been adopted by the Town of Charlestown.) South Kingstown previously had a requirement that 100 percent of the products sold in a farm stand had to have been grown on the same tract of land. Farmers in the Town wished to expand this provision to allow permanent buildings and sale of produce grown off-site. A working committee was created, including town representatives, farm owners and others, to develop a new ordinance that would address these concerns while protecting other values within the Town.

The ordinance has several interesting features:

- ◆ First, it distinguishes the activity ("farm-related sales activity") from the physical location within which this activity is conducted.
- ◆ Second, it addresses three such types of locations: "farm retail sales building," "farm stands," and outdoor sales.
- ◆ Third, it creates two separate permitting procedures: a license for the farm-related sales *activity*, and development plan review for the farm retail sales *building*. Farm stands and outdoor retail sales without a permanent building thus require the license, but do not need to go through the development plan review process.

The ordinance has been in effect for about two years. So far, two "farm-related sales activities" with "farm retail sales buildings" have been established under the ordinance: Highland Farm on Route 1, and The Farmer's Daughter on Route 138. An interview with a representative of one of these establishments provided an understanding of the ordinance and the approval process from the applicant's perspective. Key points raised in the interview were as follows:

### What was good about the process?

- ◆ The regulations allow for a level playing field whereby everyone seeking a farm stand is bound by the same rules.
- ◆ The ordinance is very detailed in what can be allowed and is not allowed.
- ◆ The ordinance ensures that farm stands are not created on non-farm properties and are aesthetically pleasing.
- ◆ The ordinance prevents the establishment of farm stands on every other property and maintains the rural character of the area. By doing this, traffic congestion and volume are minimized.

### What was bad about the process?

- ◆ The ordinance is very restrictive with regard to size of the retail selling space (1,200 square feet). This space includes space allocated for the greenhouse, therefore the allowed space is not large enough to sustain a successful business. The regulations are such that consumers can only be allowed in the 1,200 square feet of retail space and therefore the greenhouses have to be inaccessible. This means any of the flowers, plants or shrubs grown in the greenhouses have to be moved from the greenhouse into the retail selling area and moved back at the end of the day. This makes the store very inefficient. The greenhouses are needed as the store is open in the early spring and merchandise would be damaged by frost if it were left outside.
- ◆ The regulations treat farm-based businesses as commercial activities. However, they are based in residential areas and should not have to be bound by the same types of rules as other commercial uses. Examples of burdensome regulations cited include requirements for a fire alarm system and for a wheelchair ramp. (It should be noted that the requirement for accessibility is not just a town requirement, but rather relates to the federal Americans With Disabilities Act.)
- ◆ The ordinance is too restrictive on the items that can be sold. Need to allow more hard items (lawn ornaments, garden supplies and lawn furniture) in order for these businesses to be profitable.
- ◆ The regulations do not permit lighting on outdoor signs, making it very difficult for motorists to see the farm stand at night, this needs to change.

In general, the representative believed that the Town does not recognize that farm stands are an asset to the Town, and also that farm businesses should have the flexibility to change with the times, rather than being burdened with strict regulations.

## Model Ordinance – Farm-Based Retail Sales

The model ordinance presented below is closely based on the ordinances adopted by South Kingstown and Charlestown. A number of modifications have been made to clarify points or to address concerns raised by those familiar with the South Kingstown ordinance.

### Farm-Based Retail Sales

#### A. Purpose

The purpose of this Section is to encourage farming and agricultural operations within the Town by permitting, in addition to the principal agricultural activities conducted upon the site, retail sales of certain farm and farm-related products.

#### B. Definitions

##### FARM

Agricultural land of at least ten (10) acres in area, together with principal and accessory buildings, upon which agricultural operations are conducted.

##### FARMER

A farmer is an individual, partnership or corporation who operates a farm and has filed a US Internal Revenue Form 1040 (Schedule F) with the Internal Revenue Service, has a State of Rhode Island farm tax number, and has earned at least ten thousand dollars (\$10,000) gross income on farm products in any of the two (2) preceding years.

##### FARMSTAND

A rustic, freestanding structure or vehicle located upon a farm, not exceeding 200 sq. ft. in total floor area, the principal use of which is the sale of farm products at retail to the general public as provided in Section \_\_\_\_.

#### ***“Farmer”***

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*The ordinance uses this definition to restrict the availability of a farm stand license to bona fide farmers, preventing the ordinance from becoming a loophole that would allow retail activities in residential areas by non-farmers.*

#### ***“Farm stand”***

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*The “farm stand” is a small structure or vehicle, which supports a use that is clearly incidental and accessory to the principal use of the land.*

## FARM PRODUCT

All agricultural, horticultural, vegetable, fruit, or other products of the soil, livestock products, poultry, eggs, dairy products, nuts, mushrooms, honey and beeswax; provided however that this definition does not include finished forest products, such as lumber or building materials unless the raw materials for such products are grown and processed on the site.

## FARM RELATED PRODUCTS

Products, other than Farm Products as defined above, which are capable of being built, constructed, crafted or manufactured on a farm by a farmer and/or his/her family members such as crafts, art, books, clothing or quilts. This definition also includes lawn and garden supplies such as potting soil, peat moss or other soil amendments, seed, pots, planters and the like. This definition specifically excludes products other than those described above, which, by their very nature must be manufactured in a commercial or industrial location, including, but not limited to, automotive products, farm machinery, lawn mowers, chain saws, fabricated metal products, tools, or hardware.

## FARM RETAIL SALES BUILDING

A building located upon a farm, in which farm products or farm-related products are sold at retail to the general public as provided in Section \_\_\_\_.

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## ***“Farm Product”***

*The ordinance defines two types of products: “farm products” and “farm related products.” “Farm products” are directly related to the raising of animals, crops, flowers, trees, etc.; while “farm related products” include other types of goods that are typically associated with farm families and rural life.*

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## ***“Farm Related Products”***

*The ordinance allows a wide range of goods to be sold—anything that is “capable of” being produced on a farm by a farmer or farm family, regardless of whether it actually was so produced. This is a significant departure from the practice in most communities, which frequently limit both the types of goods and their origin.*

### **Retail Sales Allowed As Of Right**

*South Kingstown's ordinance allows retail sales of any farm product raised or produced on the farm, as well as the additional items listed in this section. The list of allowed products is extensive but might be further expanded. For example, sale of "vegetative products not raised on the premises" is permitted, but not sale of "products of animal origin" (see subsection D) unless they are produced on the farm. While products of animal origin might be allowed under the "farm-related products" category, such sales are restricted by floor area.*

*The distinction may lead to some unintended consequences. For example, fabrics made of cotton and flax could be permitted as of right, while wool fabrics would be restricted to a small sales area. Similarly, the ordinance treats vegetative-based foods such as wine and preserves more favorably than animal-based foods such as cheese.*

### **C. General**

Upon any farm, as defined herein, the retail sales activities listed below are permitted by right subject to Development Plan Review pursuant to the Land Development and Subdivision Regulations.

1. Retail sales of farm products normally associated with the operation of a farm, and raised or produced on the premises.
2. Sale of vegetative products not raised on the premises (see subsection D, below).
3. Sale of compost or manure produced on the premises only.
4. Sale of mulch composed of vegetative origin, such as bark mulch. No more than 150 cubic yards of mulch not produced on the farm itself may be stockpiled on the premises at any one time. Sale of mulch composed of earth products such as stone, sand or loam shall be prohibited.
5. Retail sales of farm-related products as defined herein.
6. Sale of timber or other wood products from raw material grown on the site. The processing of wood, including cutting, sawing, stacking and drying shall be allowed for raw material grown on the site and specifically excluding trees brought in from off the site.

Retail sales of products on a farm as permitted by this Ordinance may take place (1) outdoors anywhere upon the lot constituting the premises of the farm; or, (2) within a Farm Retail Sales Building (see subsection E, below) located on the premises of the farm; or (3) at a Farm stand (see subsection F, below).

***D. Sale of Vegetative Products Not Raised on the Farm Premises***

Upon any farm, as defined herein, the sale of vegetative farm products not raised on the premises shall be permitted, in addition to sale of any farm products raised or produced upon the farm premises itself. The purpose of this provision is to permit vegetative farm products grown, produced or raised off premises to be sold upon any farm anywhere in the Town. Sale of such imported vegetative products, if conducted out of doors, shall not be limited in terms of area, location or extent. Such products may also be sold within a farm retail sales building or farm stand, as defined herein.

As used in this section, the term vegetative products shall mean any farm product of horticultural origin, including, but not necessarily limited to fruits, vegetables, live trees, Christmas trees, shrubs, firewood, sod, hay, and flowers, but excluding products of animal origin such as livestock, poultry, eggs, milk, cheese, fish or other seafood, bees, or the like. Also excluded from this definition are forest products including lumber, logs or similar building materials.

***Sale of Vegetative Farm Products***

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*This provision allows sale of any “vegetative farm product” as part of the Farm Retail Sales Activity, regardless of its origin. Unlike most communities, South Kingstown does not require that all or the majority of goods sold at a farm stand or in a farm-based retail business be grown or produced on the farm or in the same town. This is an extremely important feature that recognizes the need for such businesses to offer a range of products in order to compete with grocery stores and other types of outlets.*

### **Standards for Farm Retail Sales Buildings**

*The restriction as to floor area appears to be the most contentious element of South Kingstown's ordinance. Under this definition, greenhouses and similar farm structures are included in the total floor area to the extent that they are open to the general public. This means that a farmer who wants to sell flowers or plants may have to continuously move stock between greenhouses (not open to the public) and a public sales area*

*The principal concern expressed about this limitation has to do with public access to greenhouses. South Kingstown's 1200 sq. ft. limitation effectively eliminates greenhouses from being used as public sales areas (although relief is available through the special use permit process).*

*The model ordinance addresses this concern by excluding greenhouses from the floor area limitation.*

### **E. Farm Retail Sales Building**

Retail Sales of farm products and farm-related products may be conducted upon a farm (1) within a principal dwelling; or (2) within a barn, garage, storage shed or similar accessory farm building; or (3) within a single building devoted solely to retail sales subject to the requirements of this section. Any building or portion of a building in which such sales occur shall be considered a Farm Retail Sales Building.

1. The total floor area of all Farm Retail Sales Buildings on a farm shall not exceed \_\_\_\_\_ square feet.
  - a. A barn, garage, or a greenhouse shall not be considered to be a Farm Retail Sales Building if no retail sales are conducted anywhere within the building and if such buildings are not open to the public.
  - b. Storage areas not open to the public shall not be counted toward the maximum floor area, provided that all such areas shall be clearly identified and marked as such. If any portion of a Farm Retail Building is open to and accessible by the public, including but not limited to storage areas, it shall be counted toward the maximum floor area.
  - c. A greenhouse that is open to the public shall not be counted toward the maximum floor area provided that only plants grown in the greenhouse may be stored or sold in the greenhouse.

2. Sale of food or food products within a Farm Retail Sales Building is permitted as follows:

- a. Prepared food items such as baked goods, canned goods, preserves, herbs and the like may be sold [, provided that all food preparation and cooking is conducted upon the farm and within a kitchen licensed by the State].
- b. Fresh or frozen meats, prepared or smoked meats, poultry or other perishable foods raised or produced on the farm premises may be sold [, but the sale of freshly cooked meats or poultry is specifically prohibited]. Slaughterhouses are also prohibited.
- [c. All food shall be prepared and packaged upon the farm premises.]
- [d. No food shall be sold to the public for consumption on the premises.]

***Sales of Food and Other Products***

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*The South Kingstown ordinance permits a narrow range of prepared foods to be sold in a Farm Retail Sales Building. All such foods must have been prepared on the farm, must be sold indoors, and must not be consumed on the premises.*

*It is recommended that communities consider allowing the sale of foods prepared off the farm premises. For example, farmers often have take their berries to a commercial facility to be processed and packaged as preserves, or have their apples pressed at a cider mill; but then sell the preserves or cider at their own farm. Allowing sales of foods processed off-site would both support the farmer and help to preserve farm-related jobs in the food processing sector.*

*The prohibition on consuming food on site has merit based on the potential for traffic and other neighborhood impacts. However, farm-based restaurants offer a potential for supplementing farm income, as do more farm eating places such as ice cream stands on dairy farms.*

*The text in brackets indicates provisions that might be modified to loosen these restrictions.*

***Limitation on Sale of Farm-Related Products***

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*The ordinance allows sale of farm-related products—crafts, art, lawn and garden supplies, etc.—regardless of their origin, but the total area devoted to such sales is limited to a specified percentage of the Farm Retail Sales Building’s total floor area. This percentage limitation supports the ordinance’s objective of allowing farmers to sell their own products on their own property.*

*Communities should recognize the inter-relationship between this cap and the limitation on total sales floor area. For example, South Kingstown’s ordinance limits the total area devoted to sales of farm-related products to 25% of the total floor area. Combined with the overall maximum of 1200 sq. ft. of floor area per farm, this means that such goods may not represent more than 300 square feet of sales area.*

***Location on a Farm***

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*Both farm stands and farm retail sales buildings must be located on a farm that is owned or leased by a farmer.*

3. Farm-Related Products, as defined herein, may be sold indoors only within a Farm Retail Sales Building, provided that the floor area devoted to such sales does not exceed \_\_\_\_\_ percent (\_\_\_%) of the total floor area of the Farm Retail Sales Building(s).

***F. Farm stand***

A Farm stand is a rustic, freestanding structure or vehicle used only for the seasonal sale of farm products as permitted by this Ordinance. Farm stands may be structures or may be motor vehicles, wagons or trailers.

Farm stand structures, other than motor vehicles, shall not exceed 200 sq. ft. in total floor area and twelve (12) feet in height. There shall be no space available to patrons inside the farm stand. Farm stands may, however, provide a front counter security shutter that lifts to form a canopy roof when open for business, to shield patrons at the counter from rain and sun. Yard setbacks shall be regulated by the appropriate dimensional regulations for accessory structures as provided in Section \_\_\_\_.

The floor area devoted to a farm stand shall be considered to be in addition to any floor area permitted for a Farm Retail Sales Building in subsection E above.

No electric service shall be provided to any farm stand structure. Motorized vehicles may be provided with batteries as required for normal operation of a motor vehicle, but such electric service shall not be used for signs, outdoor lighting or refrigeration.

***G. Location***

Farm stands and Farm Retail Sales Buildings are permitted only upon the premises of a farm owned or leased by the licensee pursuant to subsection J below.

## **H. Signs**

One freestanding or wall-mounted sign each shall be permitted in any zoning district to identify a Farm Retail Sales Building or a Farm stand, up to a maximum of 2 signs per farm. The maximum area of each sign shall be 12 square feet (per side, if freestanding).

### **I. Off-Street Parking and Loading**

Off-street parking for Farm Retail Sales Buildings and Farm stands shall be one space per 200 sq. ft. floor area devoted to retail sales, with a minimum of 5 spaces provided. All such parking areas shall be set back at least 10 feet from the paved portion of the street and shall be physically restricted or channeled on the lot to define a readily recognizable driveway between the highway and the parking area, and to prevent parking directly along highway shoulders. Parking areas for Farm Retail Sales Buildings and Farm stands do not need to be paved.

There are no minimum off-street loading requirements for Farm Retail Sales Buildings or Farm stands.

### **J. Farm Sales License Required**

All Farm Retail Sales activities shall be required to obtain an annual Farm Sales License from the Town of \_\_\_\_\_. As a prerequisite for issuance of an annual Farm Sales License, licensees shall be required to furnish proof of the following:

1. that the licensee is a farmer, as defined herein; and,
2. that the premises proposed for use for farm retail sales activity qualifies as a farm, as defined herein; and,
3. that the licensee is the owner or lessee of the farm premises proposed to be used for the farm retail sales activity; and

## **Sign Regulations**

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*South Kingstown's ordinance provides for ample signage—a total of 24 square feet visible from the street. If not addressed elsewhere in the zoning ordinance, the sign regulations for farm businesses should also specify sign heights and setbacks, as well as the type of illumination allowed.*

### **Parking Requirements**

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*Given the small floor area of Farm Retail Sales Buildings and Farm stands, the off-street parking requirements do not need to be elaborate. At a ratio of one space per 200 sq. ft. of floor area, only 6 parking spaces would be required for a 1200 sq. ft. retail building. In keeping with the rural character of the farms, paving is not required.*

*If the allowable floor area were significantly increased, the parking requirements might need to be enhanced.*

### **Farm Sales License**

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*A Farm Sales License is required for both Farm Retail Sales Buildings (which require development plan review) and Farm stands (which do not require such review). This license is separate from the land use control, and is renewable annually in order to ensure that the conditions for allowing such uses continue to be met.*

4. that all necessary zoning approvals and any other necessary permits have been received

No more than one (1) license shall be issued annually for retail sales activity upon any single farm as herein defined. Provided, however, that an individual farmer may be issued any number of annual permits for each separate farm he/she owns or leases.

***K. Modifications***

Where special circumstances exist that are peculiar to the site in question, relief from any requirement of this Section \_\_\_ shall be available only by Special Use Permit provided that the conditions in Article \_\_ of this Ordinance are met.

## **FARM-BASED NON-RETAIL BUSINESSES**

Farming on a small scale is seldom profitable enough to be the sole source of income for farm families. In 1997 only about half of the farm operators in Rhode Island (and fewer than half of the operators in Washington County) listed farming as their principal occupation.<sup>1</sup> Even when farming is the principal occupation and income source, farmers often supplement their incomes by conducting some other economic activity on a part-time basis, or by renting out space in outbuildings to others for non-farming businesses. When these types of non-agricultural activities are prohibited, the regulations may be striking at the economic viability of the agricultural uses that they are intended to preserve.

Thus, in order to maintain existing farm-related employment it is important not only to provide flexibility in zoning ordinances with respect to agriculture-related uses such as farm stands, but also to consider allowing limited non-agricultural uses as well. Examples of the latter might include construction businesses, small machine shops or assembly operations, etc., as well as service businesses such as bed-and-breakfasts (which might be linked with farm-based tourism activities). The primary emphasis should be on providing economically viable options for farm owners while protecting existing neighborhoods from impacts of noise, non-agricultural odors, and aesthetic degradation.

### **Home-Based Contracting Businesses**

One example of a zoning regulation intended to achieve this balance is provided below. The ordinance was developed for a town on the metropolitan fringe which wished to preserve its wooded and agricultural character and to recognize the important part played in its economy by small contractors—landscapers and excavators, as well as tradesmen in all aspects of construction and home repair. The ordinance therefore provides for “home-based contracting business” as an accessory use to a principal residential use, subject to a special use permit (as specified in the table of use regulations elsewhere in the zoning ordinance).

*Definition:*

#### **Home-Based Contracting Business**

The use of a portion of an owner-occupied dwelling or of a building accessory thereto as a place for incidental work and storage in connection with an off-premises trade by a resident builder, carpenter, electrician, painter, plumber, arborist, logger, landscape gardener, or similar

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<sup>1</sup> U.S. Department of Agriculture, New England Agricultural Statistics Service, 1997 Census of Agriculture, State Profile and County Profile.

contractor, where such use is clearly secondary to the use of the premises for dwelling purposes and involves no retail sales from the premises.

*Standards:*

\_\_\_ **Home-Based Contracting Business**

A home-based contracting business, as defined in Article \_\_\_, shall meet all the following criteria:

- \_\_\_1 The business is carried on pursuant to a valid business certificate issued by the Town Clerk, or through other registration with a State agency; or is assessed for personal property valuation by the municipal tax assessor.
- \_\_\_2 There shall be no more than four (4) employees on the premises who are not resident thereon and no more than four (4) non-resident vehicles.
- \_\_\_3 The external appearance and general aspect of the building so used shall be in conformity with the residential character of the neighborhood.
- \_\_\_4 The business shall be compatible with any potentially affected residential premises.
- \_\_\_5 Machinery and materials used in the conduct of the business, if stored outside, shall be hidden from public view, either by existing topography and/or vegetation or by provision of new screening. Such screening shall, at a minimum, comply with the standards for screening of parking and loading areas in Section \_\_\_, and shall ensure that there is no outward evidence that the premises are being utilized for any purpose other than residential.
- \_\_\_6 No vehicles with gross vehicle weight greater than 30,000 lbs. shall be stored or used on the property unless otherwise stipulated by special use permit.
- \_\_\_7 Hours of activity shall be restricted to 7:00 am until 7:00 pm unless otherwise stipulated as part of the special use permit.
- \_\_\_8 A home-based contracting business which was in existence on \_\_\_\_\_, and which meets the criteria outlined above, will have a period of two (2) years from the adoption of this section in which to receive a special use permit and site plan approval.

**Farm-Based Service Businesses**

The Town of Amherst, Massachusetts, has two provisions in its zoning that accommodate specific farm-based uses other than retail sales: farm conference centers, and farm stand restaurants. <sup>2</sup>

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<sup>2</sup> Note that the language in these provisions has been modified to reflect Rhode Island terminology.

## **Farm Conference Center**

The Zoning Board of Review may authorize, by issue of special use permit, the use of a portion of a property as a Farm Conference Center, in the \_\_\_\_\_ Districts only, provided that:

1. The use shall be located on a parcel of land of at least five acres in size, on which there is an existing principal use that is agricultural in nature.
2. The Farm Conference Center uses shall be related to, and incidental to agricultural uses.
3. The subject property shall have a lot frontage of at least 200 feet on a heavily traveled road and shall be located close to business, commercial and/or educational districts.
4. All buildings associated with this use shall be connected to the public sewer system prior to occupancy.
5. All buildings used for the conference center shall be located at least 100 feet from all property lines.
6. The parking for such use shall be located at least fifty feet from all property lines and shall be screened from residential abutters.
7. The Zoning Board of Review may authorize the provision of temporary accommodations in conjunction with the Farm Conference Center. However, no permanent or continuing residential occupancy shall be authorized under this section.
8. Parking shall be provided in accordance with Section \_\_\_\_\_ of the Zoning Ordinance.

## **Farm Stand Restaurant**

The Zoning Board of Review may authorize, by the issuance of a special use permit, the use of a portion of a property as a farm stand restaurant in the \_\_\_\_\_ districts only, provided that:

1. The use shall be located on a parcel of land of at least five (5) acres in size on which there is an existing principal use that is agricultural in nature.
2. The restaurant use shall be related to and incidental to the agricultural use and farm stand, and some of the food products served therein shall have been produced by the owner of the land on which the restaurant is located.
3. The subject property shall have a frontage of at least 200 feet on a heavily traveled road and shall be located close to business and/or commercial districts.
4. For the purposes of this section, the farm stand restaurant shall be deemed incidental to the principal use if the farm stand restaurant area accessible to the public does not exceed 40% of the total floor area in the building in which it is located which would not include any outside area eating accommodations as may be approved by the Zoning Board of Review.
5. All buildings associated with this use shall be connected to the public sewer system prior to occupancy. The Zoning Board of Review may waive this requirement based upon a finding that

public sanitary sewer is not reasonably available to the site, that such waiver is not detrimental to the neighborhood and that the existing or proposed septic system is approved by the Rhode Island Department of Environmental Management.

## **FARM-BASED RESIDENTIAL DEVELOPMENT**

Historically, farming communities have often provided lower-cost housing opportunities in connection with specific farms. Such housing could include one (or a few) additional single-family homes on the farm tract, which can provide homes for members of the farmer's extended family or low-rent housing for farm employees. Unlike housing for migrant farm workers, these dwellings provided year-round housing for permanent residents closely connected with the work of the farm, whether as family members or employees.

Some communities in Rhode Island used to permit accessory dwellings on a farm without the need for subdivision. However, newer zoning codes have generally removed this option, prohibiting more than one residential structure on a lot. In this respect, farm-related housing is treated in the same way as any other residential development: the farmer must subdivide the farm if he or she wants to provide an additional dwelling.

It may be appropriate in some towns to provide a "Farm Accessory Housing" option, which would allow, by special use permit, a second dwelling unit on a farm provided that the occupant of the dwelling either is an immediate relative of the farm owner or is employed on the farm. In such a case, the tract of land (including the farm, the principal residence and the accessory residence) should have an area of at five acres (for the farm itself) plus at least two and one-half times the minimum required lot area for the zoning district (for the two dwellings).

## INCENTIVE ZONING APPROACHES TO FARMLAND AND FOREST LAND PRESERVATION

Farming in South County faces competition for land from residential and, to a lesser extent, commercial development. However, while most farmers would like to continue farming and managing the land as they have for years, and in some cases generations, they generally oppose any regulations that would limit their ability to convert the land to non-agricultural use. Ultimately, if the farmer wants to retire and finds that residential subdivision offers the best financial return, he or she does not want to be limited in selling the land for house lot development.

The Rural Lands Coalition and the Technical Advisory Committee have agreed that mandatory approaches to regulation along the lines of an Agricultural Preservation District are generally not appropriate for Rhode Island. Therefore, land use management strategies must encourage farmland and forest land owners to preserve the opportunity for farming and forest management through incentives rather than restrictions on land use.

The concept of incentive zoning is that the community rewards development that meets standards or provides public benefits above and beyond what would be required by the basic zoning. Thus, if the underlying zoning district specifies a maximum density of one house per four acres, the town might encourage a non-standard form or type of development by allowing one house per three acres. For example, in 1990 the Town of Acton, Massachusetts, changed its zoning to give just such a density bonus to a variety of alternative development options (such as cluster developments and planned unit developments): for example, conventional subdivisions are limited to one dwelling per two acres in some zoning districts, but the more flexible development options can achieve one dwelling per acre (double the conventional density). Acton also adopted village zoning provisions that allow increased density for mixed-use buildings (e.g., commercial with residential above).

By taking this incentive-based approach to land use regulation, a town can encourage landowners to manage and develop their land in ways that support local goals such as preservation of farmland and other open space areas. However, it is important to recognize that this approach leaves the town in the position of officially promoting suburban residential development through its comprehensive plan and zoning ordinance. In other words, incentive-based zoning can be a compromise position, with the community retaining an underlying policy in support of residential subdivision while using incentives to promote alternative development practices.

The two model ordinances presented in the following sections provide methods for implementing incentive zoning by giving landowners alternatives to the parcelization of their land as permitted by the basic underlying zoning. The *Open Space Residential Development* ordinance allows dwellings to be clustered on a small portion of the tract (40 percent or less), leaving the balance open for a variety of uses including agriculture and forestry. The *Rural Village Development* ordinance permits a more

intensive development of an even smaller portion of a tract (10 percent or less) as a rural business center. In each case, communities can vary the allowed intensity of development and the required amount of land to be kept open in order to make the alternative development option attractive to landowners. In making these judgments, communities will be balancing their desire to preserve farmland and forest land with their concerns about the impacts of increased development.

## CLUSTERING RESIDENTIAL DEVELOPMENT

Zoning for residential cluster development (open space residential development, flexible zoning, etc.) will not in and of itself promote the preservation of land for farming and/or forestry. However, it can be a useful tool when combined with other mechanisms.

This section presents an Open Space Residential Development (OSRD) alternative to conventional subdivision, which is implemented through amendments to both the Zoning Ordinance and the Land Development Regulations. The proposed OSRD regulations are based on a model developed by the Town of Acton, Massachusetts, and adapted and expanded over the past decade. Acton's Planned Conservation Residential Community (PCRC) is an extremely flexible approach, and one which has been very successful, particularly in the last several years. Acton's PCRC provisions have been used to create single-family cluster subdivisions, single-family condominium developments, and townhouse developments (Acton's zoning bylaw permits buildings with up to four dwelling units), as well as a co-housing development.

The maximum number of dwelling units in an OSRD is determined by dividing the total tract area (excluding wetlands and floodplains) by the minimum lot area for the zoning district, without deducting land for streets. For some parcels this could represent a marginal increase in potential density as compared to a conventional subdivision; however, the marginal impact on the total number of homes is outweighed by the benefit of preserving significant open spaces.

The model Open Space Residential Development ordinance also incorporates a four-step design process recommended by Randall G. Arendt in *Conservation Design for Subdivisions* (Washington, DC: Island Press, 1996). In his book, Arendt proposes a model ordinance with much more detail than is included in the attached ordinance. Communities may wish to review Arendt's recommendations and consider incorporating these more detailed regulations.

### Open Space Preservation Benefits

In a review carried out as part of Acton's 1998 Master Plan Update, the impacts of PCRC and Open Space Development (OSD) cluster development were examined. The review covered 13 developments containing 668 acres and 406 dwelling units, and found that while the maximum number of dwellings possible under the flexible zoning options was significantly higher than the number possible through a conventional subdivision, the *actual* number of units created was less than the maximum possible under conventional subdivision. The review also found that these 13 developments had conserved 434 acres of open space, or 65 percent of the total land area encompassed in these developments.

The actual densities using Acton's PCRC bylaw have reached their theoretical maximum in only one project, which was developed as single-family condominiums with a common septic system. In most situations, the requirements for individual septic systems establish the density. Also, although wetlands are not deducted from the tract area in determining the number of dwelling units that may be created in an Acton PCRC (unlike in the model ordinance presented herein), there is a requirement that wetlands not be concentrated in the Common Land. This means that the developer must incorporate the wetlands in the building lots, which will tend to limit densities as well.

## **Incentives for Open Space Residential Development**

The Open Space Residential Development option offers advantages to both the town and the developer, in terms of open space preservation, increased flexibility, lower infrastructure costs, and the opportunity for development that is more sensitive to the natural and historic landscape. However, some developers are simply more comfortable with the familiar conventional subdivision approach (in some states such as Massachusetts, there are additional reviews involved that may further discourage developers from pursuing the clustering option). Consequently, some communities encourage the use of the open space or cluster option by providing incentives.

The simplest incentive approach is to allow the landowner a greater number of lots or dwelling units in an OSRD development than in a conventional subdivision. As noted earlier, Acton did this by downzoning certain areas of the town that had important open space values, but then allowing cluster developments to be built at the density permitted before the rezoning. For example, areas which had been zoned for 40,000 square-foot lots were rezoned to require 80,000 square-foot lots for new homes, but continued to allow open space residential development at the density permitted in the 40,000 square-foot district. Thus, a landowner could develop twice as many lots using the cluster approach as by doing a conventional subdivision or by creating frontage lots.

South County communities might wish to implement a similar system in environmentally sensitive areas such as groundwater protection districts. Undeveloped parcels of significant acreage that are located in such districts could be rezoned to a new lower-density zoning district. For conventional subdivisions or single-lot development, the minimum lot area for a house lot would be increased, but the maximum density for OSRD development would remain at its current level in order to promote preservation of significant tracts of open space. Since the maximum development intensity of the rezoned tracts would be unchanged, this approach would help to achieve community open space preservation objectives without imposing a burden on the current owners of the affected land.

## **Open Space Residential Development: Zoning Ordinance Provisions**

### ***A. Purpose***

The purposes of this section are:

- (1) to preserve open space for conservation, recreation, agriculture and forestry;
- (2) to preserve significant natural, historical and archaeological resources;
- (3) to preserve and foster the Town of \_\_\_\_\_'s rural and scenic character;
- (4) to promote development that is in harmony with natural features and resources, the town's historic and traditional landscapes, the existing and probable future use of adjacent land, and the general intent of the Zoning Ordinance; and
- (5) to establish flexible residential development standards and procedures that will support these objectives.

### ***B. Approval Procedure***

In the \_\_\_\_\_ District[s], the Planning Board may approve, as a Land Development Project, an Open Space Residential Development (OSRD) as an alternative to conventional subdivision.

Application for such Land Development Projects shall be made in accordance with the procedures of the Town's Land Development and Subdivision Regulations. No OSRD shall be initiated until a plan of the project has been submitted to the Planning Board and approval has been granted.

### ***C. Permitted Uses***

Land in an OSRD may be used for any purpose permitted in the \_\_\_\_\_ District[s].

### ***Use Regulations***

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*The model ordinance does not change the uses allowed in the zoning district; rather, it provides an alternative model of organizing those uses in order to minimize the impact on the land.*

## ***D. Area and Dimensional Requirements***

### **(a) Minimum Tract Size**

- (1) The tract of land for an OSRD must contain at least five (5) acres, and have at least fifty (50) feet of frontage on an existing Town way.
- (2) The Planning Board may permit lots on directly opposite sides of a street to qualify as a single tract of land. To permit such division of a tract of land by a street, the Planning Board must find that this would comply with the purposes of this section and not result in any more dwelling units than would be possible in accordance with the provisions of this Ordinance if the lots on either side of the street were developed separately. If the Board approves a tract of land divided by a street, it may permit the dwelling units to be concentrated on one side of the street and the Common Area to be concentrated on the opposite side of the street.

### **(b) Lot Area, Frontage, Width and Yard Requirements**

Residential building lots in an OSRD shall comply with the following dimensional requirements:

- (1) Minimum lot area: 10,000 square feet
- (2) Minimum lot frontage: no requirement.
- (3) Minimum lot width: no requirement.

### **(c) Building Location Requirements**

- (1) No residential building shall be located within 20 feet of a public way, private way, or common drive; within 20 feet of a lot line within the OSRD; or within 30 feet of the boundary line of the OSRD; or within 30 feet of the Common Land.
- (2) The Planning Board may require larger setbacks and distances, and it may permit

### ***Lots Separated by a Street***

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*The model ordinance allows provides for transferring development capacity from one side of a street to the other. This might facilitate preservation of a large tract of farmland or forest land where low-density subdivision might otherwise occur.*

### ***Minimum Lot Area***

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*The ordinance provides for a minimum lot area of 10,000 square feet. While this would be unrealistic for a lot containing its own well and septic system, it is feasible in developments that have common water supply wells and shared wastewater disposal systems (see Section E.(b)(1)(I) of the ordinance, which allows the Common Land to be used in part for “construction of leaching areas associated with septic disposal systems serving the OSRD or for water supply wells serving the OSRD.”)*

smaller setbacks and distances if it finds that such smaller setbacks will allow for better design and not detract from the purpose and intent of the OSRD.

- (3) Where the tract contains a pre-existing residential structure, the area and frontage of the lot on which such structure is located after development of the OSRD shall not be reduced below the minimum lot size and minimum frontage required in the underlying zoning district.

### **Residential Density**

*The number of dwelling units is computed using a simple formula based on the minimum lot area established by the underlying zoning. Some communities require submission of a conventional subdivision plan (or a less detailed “yield plan”) to demonstrate development capability; however, this model does not require a yield plan in order to simplify the submission requirements and review process for the OSRD.*

### (d) Number of dwelling units

The maximum number of dwelling units permitted in an OSRD shall be computed by dividing the developable area of the OSRD tract by the minimum lot size required in the underlying zoning district. For the purpose of this computation, the “developable” area shall be the total area of the tract, including the Common Land, but excluding all streams, ponds, wetlands, floodplains, detention/ retention basins, and areas subject to existing valid open space restrictions.

### (e) Streets and Utilities

All streets whether public or private, and all sewage, drainage facilities and utilities, shall be designed and constructed in compliance with the Town of \_\_\_\_\_ Land Development and Subdivision Regulations, except as specifically modified by the following design standards:

- (1) The minimum widths of rights-of-way shall be forty feet (40').
- (2) The minimum widths of roadways (paved travel area) shall be twenty feet (20') for streets providing access to up to and including 40 dwellings, and twenty-two feet (22') for streets providing access to more than 40 dwellings.
- (3) Up to eight dwellings may be served by a Private Lane conforming to the following standards:

### **Reduced Street Construction Standards**

*The OSRD provides for reduced street widths based on the number of dwellings served, and for private lanes serving up to eight houses.*

- a. An leveling area of at least 40 feet in length from the street pavement, with a minimum width of 20 feet of pavement in accordance with the Subdivision Regulations and sloped not more than 4% grade for the 40 feet it extends from the street pavement;
- b. A centerline intersection with the street centerline of not less than 60%;
- c. A roadway surface, on that portion of the Private Lane extending beyond the leveling area, of a minimum of 6 inches of graded gravel, placed over a properly prepared base, graded and compacted to drain from the crown. Where the property rises in elevation from the street, the way shall be paved from the street to the first high point (break in grade) in order to prevent erosion toward the street;
- d. Proper drainage appurtenances, where required, to prevent washout and excessive erosion, with particular attention to the leveling area, so that water draining onto the street surface from the leveling area is eliminated to the maximum extent feasible;
- e. A roadway surface, on that portion of the Private Lane extending beyond the leveling area, with a minimum width of 18 feet for its entire length, and a minimum right-of-way width of 25 feet for its entire length;
- f. A turnaround or cul-de-sac of not less than 30 feet in depth and 40 feet in width provided at the end of the terminus;
- g. A buffer zone of not less than 30 feet in width of indigenous vegetation separating the Private Lane from any pre-existing residential lot line.

Exceptions to the Land Development and Subdivisions Regulations may be authorized by the

Planning Board in approving a Land Development Project hereunder and shall be implemented through the waiver provision of the Regulations.

### ***E. Common Land***

#### **(a) Dimensional Requirements**

In an OSRD, at least sixty percent (60%) of the total tract area shall be set aside as Common Land for the use of the OSRD residents or the general public. The following additional requirements shall apply:

- (1) The minimum required area of Common Land shall not contain a greater percentage of wetlands or buffer areas than the percentage of wetlands or buffer areas found in the overall tract of land on which the OSRD is located.
- (2) Common Land shall be planned as large, contiguous parcels whenever possible. Strips or narrow parcels of Common Land shall be permitted only when necessary for providing access to the Common Land from a public or private way, or if the Planning Board finds that a vegetated buffer strip along the site's perimeter is appropriate and consistent with the purpose of OSRD development.
- (3) Common Land may be set aside in more than one parcel provided that the size, shape and location of such parcels are suitable for the designated uses.
- (4) If the tract of land abuts adjacent Common Land or undeveloped lots, the Common Land shall be connected with such adjacent Common Land and with such undeveloped abutting lots.
- (5) The Common Land shall include adequate upland access from a way or street.

#### **(b) Use of the Common Land**

- (1) The Common Land shall be dedicated and used for natural resource protection,

### ***Common Land Requirements***

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*At least 60 percent of the total tract area must be set aside as permanent open space. In order to ensure that the OSRD option does not become a method for developing marginal tracts more intensively than with a conventional development, the ordinance specifies that the proportion of wetlands in this open space should not be greater than the overall percentage of wetlands in the total tract.*

recreation, park purposes, outdoor education, agriculture, horticulture or forestry, or for any combination of such uses. No other uses shall be allowed in the Common Land, except as follows:

- (i) A portion of the Common Land may be also be used for the construction of leaching areas associated with septic disposal systems serving the OSRD or for water supply wells serving the OSRD, if the Planning Board determines that such use will enhance the specific purpose of Open Space Residential Development and promote better overall site planning. Septic disposal easements shall be no larger than reasonably necessary. If any portion of the Common Land is used for the purpose of such leaching areas or wells, the Planning Board shall require adequate assurances and covenants that such facilities shall be maintained by the lot owners within the OSRD.
  - (ii) A portion of the Common Land may also be used for ways serving as pedestrian walks, bicycle paths and emergency access or egress to the OSRD or adjacent land, if the Planning Board determines that such a use will enhance the specific purpose of Open Space Residential Development and promote better overall site planning, and if the Planning Board finds that adequate assurances and covenants exist to ensure proper maintenance of such facilities by the owner of the Common Land.
  - (iii) The Common Land may be subject to easements for the construction, maintenance, and repair of utility and drainage facilities serving the Open Space Residential Development or adjacent parcels.
- (2) The Common Land shall remain unbuilt upon, provided that an overall maximum

of five (5) percent of such land may be subject to pavement and structures accessory to the dedicated use or uses of the Common Land.

- (3) The proposed use of the Common Land shall be specified on a Land Use Plan, and appropriate dedications and restrictions shall be part of the deed to the Common Land.
- (4) The Planning Board shall have the authority to approve or disapprove particular uses proposed for the Common Land in order to enhance the specific purposes of Open Space Residential Development, and to further efforts to equitably distribute a variety of open space benefits throughout the community.

(c) Ownership of Common Land

- (1) The Common Land shall be conveyed in whole or in part to the Town of \_\_\_\_\_ and accepted by it; or to a nonprofit organization, the principal purpose of which is the conservation of open space and/or any of the purposes and uses to which the Common Land is to be dedicated; or to a corporation or trust owned or to be owned by the owners of the dwelling units within the Open Space Residential Development. The Planning Board shall approve the form of ownership of the Common Land.
- (2) If any portion of the Common Land is not conveyed to the Town of \_\_\_\_\_, a perpetual restriction, approved by the Planning Board and enforceable by the Town of \_\_\_\_\_, shall be imposed on the use of such land, providing in substance that the land be kept in its open or natural state and that the land shall not be built upon or developed or used except in accordance with provisions of an OSRD as set forth herein and, if applicable, as further specified in the decision of the Planning Board governing the individual OSRD.

- (3) The proposed ownership of all Common Land shall be shown on the Land Use Plan for the OSRD.
- (4) At the time of its conveyance, the Common Land shall be free of all encumbrances, mortgages or other claims, except as to easements, restrictions and encumbrances required or permitted by this ordinance.

(d) Management and Maintenance of Common Land

If the Common Land is to be held by a homeowners association, a management plan shall be prepared establishing responsibilities and schedules for maintenance of the Common Land.

***F. Additional Design Criteria***

- (a) In addition to the standards set forth in previous sections of this Section \_\_\_\_, the OSRD shall be designed in accordance with the following objectives, in order of priority:
  - (1) Buildings and streets shall be placed on the least fertile soils for agricultural uses and forestry, and in a manner which maximizes the usable area remaining for such uses.
  - (2) The OSRD shall be laid out in such a manner that the common boundary between the new house lots and the remaining agricultural land is minimized in length (to reduce potential conflicts between the two uses).
  - (3) Buffer zones at least seventy-five (75) feet in width shall be maintained between residential and agricultural uses and shall be planted with native shrubs and trees to create an effective barrier separating yards from fields and pastures.
  - (4) Buildings shall be sited within any woodland contained in the parcel or along the edges of the open fields adjacent to any woodland so as to reduce any impact upon

***Design Standards***

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*This section of the ordinance lists several criteria to be used in designing the Open Space Residential Development. This list may be augmented or modified depending on the particular needs, characteristics and interests of the community.*

the site's scenic qualities, and to enable new construction to be visually absorbed by the natural landscape features.

- (5) Septic systems shall be placed on the most suitable soil for subsurface septic disposal.
- (6) Buildings shall be sited in locations least likely to interrupt scenic vistas, as seen from the public roadways.
- (7) Buildings shall be sited in locations where the greatest number of units can be designed to take maximum advantage of solar heating opportunities.
- (8) Buildings shall be sited to avoid sensitive environmental features, including wildlife habitat, wetlands, water bodies, steep slopes, prime forest land or other important site features.
- (9) New buildings may be sited in clusters close to an existing public road to reflect the traditional locations, patterns and setbacks of nearby buildings. Such roadside clusters shall be compatible with the scale of the surrounding neighborhood and shall maintain at least 75% of the existing undeveloped road frontage in conservation. Architectural design of new buildings (proportions, roof pitches, exterior materials and fenestration) shall reflect the character of nearby existing structures.

# Open Space Residential Development: Land Development Regulations Provisions

## A. Purpose

The purposes of this section are:

- (1) to preserve open space for conservation, recreation, agriculture and forestry;
- (2) to preserve significant natural, historical and archaeological resources;
- (3) to preserve and foster the Town of \_\_\_\_\_'s rural and scenic character;
- (4) to promote development that is in harmony with natural features and resources, the town's historic and traditional landscapes, the existing and probable future use of adjacent land, and the general intent of the Zoning Ordinance; and
- (5) to establish flexible residential development standards and procedures that will support these objectives.

## B. Applicability

- (1) In accordance with the standards set forth in these regulations, the Planning Board may approve, as a Land Development Project, an Open Space Residential Development (OSRD) in Zoning Districts where allowed in the Zoning Ordinance. No OSRD shall be initiated until a plan of the project has been submitted to the Planning Board and approval has been granted.
- (2) The Planning Board shall have the authority to require that a major subdivision which is being proposed for conventional subdivision be developed as an OSRD. To this end, the Planning Board shall require that the subdivider provide an alternative plan or plans for developing the plat as an OSRD. In all such cases, the applicant shall be so informed at the

## Relationship Between Zoning Ordinance and Land Development Regulations

*The provisions included in the Land Development and Subdivision Regulations set forth the process for applying the standards and requirements established in the Zoning Ordinance for OSRD developments.*

Conceptual Master Plan stage of review. At that time, the Board shall make findings of fact in writing and shall identify the reasons for such a requirement. Findings shall be consistent with the criteria stated in the subdivision regulations.

### **C. Design Process**

#### **Recommended Design Process**

*The model regulations include the four-step design process recommended in Randall Arendt's book, Rural by Design. This process starts by identifying the open space to be protected, and then designs the house lots around this open space.*

Each plan for Open Space Residential Development should follow the design process described below. When the application is submitted, applicants should be prepared to demonstrate to the Planning Board that these four design steps were followed by their site designers in determining the layout of their proposed streets, house lots, and open space.

- (1) *Designating the Open Space.* First, identify the open space to be protected.  
The open space shall include, to the extent feasible, the most sensitive and noteworthy natural, scenic, and cultural resources on the property.
- (2) *Location of House Sites.* Second, locate the potential house sites. House sites shall be located not closer than 100 feet to wetlands areas, but may be situated within 50 feet of open space areas (other than wetlands), in order to enjoy views of the latter without negatively impacting the former.
- (3) *Street and Lot Layout.* Third, align the proposed streets to provide vehicular access to each house in the most reasonable and economical way. When lots and access streets are laid out, they shall be located in a way that minimizes adverse impacts on open space. To the greatest extent practicable, wetland crossings shall be strongly discouraged. The creation of single-loaded residential access streets is encouraged, in order that the maximum number of homes in new developments may enjoy views of open space.
- (4) *Lot Lines.* Fourth, draw in the lot lines (where applicable). These are generally drawn midway between house locations.

#### ***D. Procedures***

Applications for Open Space Residential Development approval shall be made in accordance with the procedures for approval of a minor or major Land Development based on the number of lots or dwellings in the development as provided in Article \_\_\_\_.

#### ***E. Planning Board Action***

- (a) In evaluating the proposed OSRD, the Planning Board shall consider:
  - (1) the general purpose and objectives of this ordinance;
  - (2) the existing and probable future development of surrounding areas;
  - (3) the appropriateness of the proposed layout of streets, ways, lots and structures; and
  - (4) the proposed layout and use of the Common Land in relation to the proposed dwelling units in the OSRD, adjoining public or private common land or open space, or the topography, soils and other characteristics of the tract of land in question.
  
- (b) The Planning Board may approve a Land Development Project for an OSRD if it finds that the OSRD:
  - (1) complies with the requirements of this Section \_\_\_\_, other applicable requirements of the Zoning Ordinance and the construction and design standards of the \_\_\_\_\_ Land Development and Subdivision Regulations;
  - (2) is consistent with the purposes of this section; and
  - (3) is in harmony with the existing and probable future uses of the area and with the character of the surrounding area and neighborhood.

- (c) In addition, in order to approve a Land Development Project for an OSRD, the Planning Board must find that the number of housing units to be developed in the OSRD will not exceed by more than ten percent (10%) the number of house lots that could be developed under standard lot area and frontage requirements.

***F. Project Approval Conditions***

As a condition of approval, the Planning Board may require such changes in the proposed development plans and may impose such conditions and safeguards as it deems necessary to secure the objectives of the Zoning Ordinance and these regulations, and to protect the health, safety and welfare of the inhabitants of the neighborhood and of the Town of \_\_\_\_\_.

***G. Change in Plans After Approval of Land Development Project***

1. No change in any aspect of the approved plans shall be permitted unless approved in writing by the Planning Board. A new or amended Land Development Project plan will be required if the Planning Board determines any proposed change to be substantial.
2. No land for which a Land Development Project for a Open Space Residential Development has been approved shall be further subdivided, unless such approval lapses or is rescinded.

## CREATING VILLAGE CENTERS

The model Rural Village Development (RVD) ordinance is based on the model Open Space Residential Development ordinance, but it is focused on the creation of small business centers rather than residential subdivisions. Although the overall structures of the two ordinances are similar, there are also a number of important differences, including the following:

- First, the OSRD option may be used anywhere in specified zoning districts, but the RVD approach is based on designation of a limited number of centers through the town's Comprehensive Plan; thus, only those tracts of land within the specified radius around the designated center may participate.
- Second, because the RVD option will only be available in a limited number of designated areas, it is assumed that some pre-planning will already have taken place before the application for a Land Development Project is submitted, and therefore the site design and development standards for an RVD are less detailed than those for an OSRD.
- Third, the RVD option permits development that is much more compact than under the OSRD option, in order to preserve larger tracts of land for productive purposes. The minimum area that would be preserved through an RVD application (using the numerical standards in the model ordinance) would be 90 acres.
- Fourth, because the RVD option is focused on protecting land for agriculture or forestry, rather than for recreation and other uses benefiting residents, less attention needs to be paid to design and location of, or access to, the open space.
- Fifth, the RVD option provides an opportunity to transfer development rights between separate tracts of land, regardless of ownership.

The RVD ordinance can be used to create a stand-alone cluster of businesses and to preserve some nearby farmland or forestland. Alternatively, the RVD option and the OSRD option might be used together to create a mixed-use village with both residential and commercial components.

NOTE: Within the text of the model ordinance, a number of numerical standards are enclosed in square brackets ( [ \_\_\_ ] ). Communities should consider these standards carefully to ensure that they will promote the desired type and level of development without being too restrictive on the landowner or creating negative impacts for the surrounding area.

## **Rural Village Development: Zoning Ordinance Provisions**

### ***A. Purpose***

The purposes of this section are:

- (1) to preserve land for agriculture and forestry;
- (2) to provide for planned business development in small villages to serve local needs;
- (3) to preserve and foster the Town of \_\_\_\_\_'s rural and scenic character; and
- (4) to establish flexible development standards and procedures that will support these objectives.

### ***B. Definitions***

In addition to terms defined elsewhere in this ordinance, the following terms and definitions shall apply:

- (1) "Rural Village Development" ("RVD") is the form of development permitted in this section, consisting of the "Rural Village" and the "Reserved Land."
- (2) "Rural Village" is the portion of the RVD designated for more intensive, commercial or mixed-use development.
- (3) "Reserved Land" is the portion of the RVD set aside for agriculture, forestry or open space preservation, to complement the Rural Village area.

### ***Designated Rural Village***

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*The RVD option is available only in areas specifically designated in the Town's Comprehensive Plan. This will limit the number of potential sites, and will also ensure that townspeople are involved in the planning of the development.*

### ***C. Approval Procedure***

The Planning Board may approve, as a Land Development Project, a Rural Village Development (RVD) in an area specifically designated as a rural village in the Town's Comprehensive Plan. Application for such Land Development Projects shall be made in accordance with the procedures of the Town's Land Development and Subdivision Regulations, whether a subdivision or

not. No RVD shall be initiated until a plan of the project has been submitted to the Planning Board and approval has been granted.

#### ***D. Eligibility***

To be eligible for application for a Rural Village Development, all of the following conditions must be met:

- (1) The total area of land included in the RVD application must contain at least [100 acres]. This land may consist of one or more tracts and may be in common or separate ownership.
- (2) The proposed Rural Village must be designated for this type of development in the Town's Comprehensive Plan.
- (3) A Rural Village Development may be combined with an adjoining Open Space Residential Development in order to create a mixed-use village with residential and commercial components. In such a case, the requirements of each type of development must be met separately (e.g., the Reserved Land for the RVD must be distinct from the Common Land for the OSRD).

#### ***E. Reserved Land***

- (1) In an RVD, at least [ninety percent (90%)] of the total tract area shall be set aside as Reserved Land for agriculture, forestry or conservation.
- (2) The required Reserved Land may consist of one or more tracts and may be in common or separate ownership.
- (3) The required Reserved Land shall be located within [one-half mile (2,640 feet)] of the Rural Village.
- (4) The Reserved Land shall be dedicated and used for natural resource protection, agriculture, horticulture or forestry, or for any combination of such uses; and such use shall be assured through the granting of a conservation restriction.

#### ***Eligibility for the RVD Option***

*There are only two requirements for RVD eligibility: a significant land area, and designation in the Town's Comprehensive Plan. Communities might consider adding a requirement that some portion of the total tract or the Reserved Land be actively used for farming or forestry.*

*Note that the minimum tract area should be determined after a careful analysis of local conditions and potential impacts, as indicated by the square brackets in paragraph D(1).*

#### ***Location and Use of the Reserved Land***

*As the purpose of the RVD option is to preserve farmland and forest land, most of the land in an RVD must be reserved for such uses. The ordinance allows such reserved land to be provided in more than one parcel, which allows for the possibility of cooperative proposals involving more than one land owner. This in effect authorizes transfer of development rights on a small scale, without the necessity for the local government to determine development rights for each parcel.*

*The requirement that the Reserved Land be located within 1/2 mile of the Village is meant to ensure that the Village remains a compact development surrounded by open land, and that the RVD option does not lead to sprawl.*

### ***Area and Intensity Standards***

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*The Rural Village should be a small and compact center. The floor area ratio and coverage standards are designed to promote efficient use of the land and to avoid low-density strip development.*

### ***Minimum Lot Area***

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*The ordinance provides for a minimum lot area of 10,000 square feet. While this would be unrealistic for a lot containing its own well and septic system, it is feasible in developments that have common water supply wells and shared wastewater disposal systems.*

### ***Permitted Uses***

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*The ordinance may refer to an existing business district for the list of permitted uses, as recommended here; or, alternatively, a new set of uses may be listed in this section or in the use table.*

### ***Design Standards***

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*This section of the ordinance lists several criteria to be used in designing the Rural Village Development. This list may incorporate the standards represented in the design scenarios for the South County Technical Assistance Project, and may be further added to or modified depending on the particular needs, characteristics and interests of the community.*

## ***F. Rural Village Development Standards***

### **1. Area and Intensity Standards**

- (1) The proposed Rural Village may comprise no more than [30 acres] in area, and no more than [ten percent (10%)] of the total land area included in the RVD application.
- (2) Within the Rural Village, the ratio of total building floor area to total land area (the “floor area ratio”) shall be at least [0.20] and shall not exceed [0.40]; and coverage of land by buildings shall not exceed 30 percent.
- (3) Individual lots in the Rural Village shall contain at least [10,000] square feet of land area. There are no minimum requirements for lot frontage or width.

### **2. Permitted Uses**

Land in a RVD may be used for any purpose permitted in the \_\_\_\_\_ Districts.

### **3. Design Standards**

- (1) No building shall be located within 20 feet of a public way; within 20 feet of a lot line within the Rural Village; or within 30 feet of the boundary line of the Rural Village. The Planning Board may require larger setbacks and distances, and it may permit smaller setbacks and distances if it finds that such smaller setbacks will not detract from the purpose and intent of the RVD.
- (2) Buffer zones at least seventy-five (75) feet in width shall be maintained between the Rural Village and adjoining agricultural uses and

shall be planted with native shrubs and trees to create an effective barrier.

- (3) Architectural design of new buildings (proportions, roof pitches, exterior materials and fenestration) shall reflect the character of nearby existing structures.

## **Rural Village Development: Land Development and Subdivision Regulations Provisions**

### ***A. Purpose***

The purposes of this section are:

- (1) to preserve land for agriculture and forestry;
- (2) to provide for planned business development in small villages to serve local needs;
- (3) to preserve and foster the Town of \_\_\_\_\_'s rural and scenic character; and
- (4) to establish flexible development standards and procedures that will support these objectives.

### ***B. Applicability***

In accordance with the standards set forth in these regulations, the Planning Board may approve, as a Land Development Project, a Rural Village Development (RVD) in a location designated in the Comprehensive Plan for rural village development. No RVD shall be initiated until a plan of the project has been submitted to the Planning Board and approval has been granted.

### ***C. Procedures***

Applications for Rural Village Development approval shall be made in accordance with the procedures for approval of a major subdivision as provided in Article \_\_\_\_.

#### ***D. Planning Board Action***

- (1) In evaluating the proposed RVD, the Planning Board shall consider:
  - (a) the general purpose and objectives of the Zoning Ordinance and these regulations;
  - (b) the existing and probable future development of surrounding areas;
  - (c) the appropriateness of the proposed layout of streets, ways, lots and structures; and
  - (d) the topography, soils and other characteristics of the tract of land in question.
- (2) The Planning Board may approve a Land Development Project for a RVD if it finds that the RVD:
  - (a) complies with the requirements of this Section \_\_\_\_, other applicable requirements of the Land Development and Subdivision Regulations, and the Zoning Ordinance;
  - (b) is consistent with the purposes of this section; and
  - (c) is in harmony with the existing and probable future uses of the area and with the character of the surrounding area and neighborhood.

#### ***E. Project Approval Conditions***

As a condition of approval, the Planning Board may require such changes in the proposed development plans and may impose such conditions and safeguards as it deems necessary to secure the objectives of this ordinance, and to protect the health, safety and welfare of the inhabitants of the neighborhood and of the Town of \_\_\_\_\_.

***F. Change in Plans After Approval of Land Development Project***

1. No change in any aspect of the approved plans shall be permitted unless approved in writing by the Planning Board. A new or amended Land Development Project plan will be required if the Planning Board determines any proposed change to be substantial.
2. The Reserved Land in an approved Rural Village Development shall not be further subdivided, unless such approval lapses or is rescinded.

## PROVIDING ECONOMIC SUPPORT FOR LAND PRESERVATION

During this project several farmers have maintained that one-time payments with associated development restrictions—whether through a development rights purchase program or through a cluster development approach such as the OSRD and RVD options recommended above—does not solve the problem of long-term viability of farms. Such programs, they argue, address a current need for capital but do not contribute to preserving equity for future generations of farmers. If communities wish to preserve farming as a part of their social and economic fabrics, they need to think in terms of fiscal reform.

A consistent theme heard in meetings with individual landowners as well as groups of farmers was that there is an imbalance between the amount of property taxes that farmland and forest land owners pay and the demands which they make on the community. In effect, these owners argue, they are subsidizing homeowners by helping to pay for services which they do not use. Furthermore, the taxes paid by owners of open land, including actively farmed or forested land, may represent a small fraction of a town's total tax revenues, but they are large relative to the cash flow of the individual landowner. Property tax relief emerged from these discussions as the single most important area in which communities can assist landowners.

This idea is not a new one. The American Farmland Trust has promoted an analytical methodology called the “Cost of Community Services Study” (COCS), which compares municipal costs and revenues for various types of land uses. These studies use data at the community level to provide citizens with information on their own community. One such study was conducted in 1995 for the Southern New England Forest Consortium and covered the Rhode Island towns of Hopkinton, West Greenwich and Little Compton (as well as several Massachusetts and Connecticut communities). The study determined that farmers and forest land owners in these towns used only between 31 cents and 46 cents in municipal services for every dollar that they paid in property taxes. In contrast, the analysis estimated that residences in these towns required between \$1.05 and \$1.46 in services for every tax dollar they generated.

This type of study provides an analytical basis for providing financial assistance to working farms, in two distinct ways. First, tax relief is clearly justified: for the three towns in the Southern New England Forest Consortium's study, property tax reductions of between 54 and 69 percent would appear to result in a break-even situation. Further reductions, or even total exemption from property taxes, would provide positive support to farmers. The cost to the town of such subsidies need not be exorbitant—perhaps \$30,000 in total for a farm with a full market assessed value of \$1.5 million.

Second, the discrepancy between residential costs and revenues suggests that communities could benefit through purchase of temporary development rights. The value of such temporary rights would be tied not to the current value of the land, but to the fiscal impact that could be avoided by

preventing development. For example, assume that the residential COCS ratio in a town is 1.25 (that is, the estimated cost of services for a single-family home is \$1.25 for every \$1.00 of tax revenue generated), and that the property tax rate is \$20.00 per \$1,000 of valuation. If a 100-acre tract of farmland could be subdivided into 21 four-acre house lots, and if each new home has an assessed value of \$250,000, the development would create a net cost to the town of approximately \$26,000 per year. Over 10 years, the cumulative fiscal impact to the town would be \$260,000. Thus, there is a clear rationale for the town to spend up to \$260,000 to purchase temporary development rights, simply to avoid or forestall residential development over this period. This value is in addition to the beneficial economic and non-economic impacts of preserving the farmland and the farm's positive economic values to the community.

Thus, there are economic rationales for communities both to provide tax relief to farmers and to make payments to ensure temporary preservation of farmland. The specific values may differ from those estimated in the preceding paragraphs, and can be determined on a town-by-town basis. Furthermore, the determination of appropriate values should take into account not only the direct and indirect economic costs and benefits, but also the noneconomic benefits of preserving farming in the community.

To implement these strategies, it will be important to educate residents about the fiscal costs of development and the relative fiscal impacts of farm, forest and open space land compared to residential and commercial development. Groups such as the American Farmland Trust and the Southern New England Forest Consortium are working on these issues and can assist individual communities.

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