

**Town Clerk's Certification**  
**Deerfield -- Case # 9948**  
**Special Town Meeting of October 22, 2020**  
**Article # 7**

I hereby certify that I have posted and published a true copy of this Attorney General's Notice, as follows:

Posting - On April 6, 2021, and for a period of at least 14 days, I posted a true copy of this Notice at the following conspicuous place in the Deerfield Town Hall:  
Legal Notice Section in Foyer at Deerfield Offices 8 Conway St  
So Deerfield Id

Publication - I published a true copy of this Notice in Greenfield Recorder, a newspaper of general circulation in the Town of Deerfield. The date of publication was: April 8, 2021. A copy of the published notice, including the date of publication, is attached.

Certification of Claims Filed - I certify that 21 days has expired from the date on which the notice was published in a newspaper and as of such date April 29, 2021 :

- no claims were filed, or  
 one or more claims were filed, and copies of each are attached hereto.

Date: 4/30/2021      Barbara Hancock  
Town Clerk, Town of Deerfield

**Barbara Hancock**

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**From:** shunter@recorder.com  
**Sent:** Tuesday, April 6, 2021 10:19 AM  
**To:** Barbara Hancock  
**Subject:** Classified Ad Confirmation  
**Attachments:** 127634.pdf

Final proof

# Greenfield Recorder

14 Hope Street, Greenfield, MA

413-772-0261 | Fax: 413-774-5511 | Customer Service: 413-772-0148

## Advertising Invoice

DEERFIELD TREASURER & COLLECTOR  
8 CONWAY ST  
SOUTH DEERFIELD, MA 01373

Cust#:16548  
Ad#:127634  
Phone#:4136651400101  
Date:04/06/2021

Salesperson: SUZANNE HUNTER

Classification: Legals

Ad Size: 3.0 x 11.10

### Advertisement Information:

Description	Start	Stop	Ins.	Cost/Day	Total
The Recorder	04/08/2021	04/08/2021	1	832.50	832.50

*Run Date*

### Payment Information:

Date: 04/05/2021      Order#: 127634      Type: BILLED ACCOUNT

Total Amount: 832.50

Tax: 0.00

Amount Due: 832.50

**Attorney General's Notice**  
Pursuant to G.L. c. 40, § 32, as amended by  
Chapter 299 of the Acts of 2000

**Town of Deerfield-- Case No. 9948**  
**Special Town Meeting of October 22, 2020**  
**Article # 7**

Attorney General's Limited Authority to Waive Procedural Defects in the Notice of the Planning Board Hearing

Pursuant to the provisions of G.L. c. 40, § 32, as amended by Chapter 299 of the Acts of 2000, if the Attorney General finds there to be any defect in the procedure of adoption or amendment of any zoning by-law relating to the form or content of the notice of the Planning Board hearing prescribed by G.L. c. 40A, § 5, or to the manner or dates on which said notice is mailed, posted or published as required by that section, then instead of disapproving the by-law or amendment by reason of any such defect, the Attorney General may elect to proceed under the defect waiver provisions of G.L. c. 40, § 32. Under those provisions, the Attorney General is conditionally authorized to waive any such defect.

Defect Determined in Notice of Planning Board Hearing

The Attorney General has determined that the planning board hearing notice relating to the above Article failed to comply with the notice requirements for such hearing established by G.L. c. 40A, § 5. Section 5 provides in part (with emphasis added):

No zoning...by-law or amendment thereto shall be adopted until after the planning board in a...town has...held a public hearing thereon...at which interested persons shall be given an opportunity to be heard... Notice of the time and place of such hearing, of the subject matter, sufficient for identification, and of the place where texts and maps thereof may be inspected shall be published in a newspaper of general circulation in the...town once in each of two successive weeks, the first publication to be not less than fourteen days before the day of said hearing, and by posting such notice in a conspicuous place in the...town hall for a period of not less than fourteen days before the day of said hearing. Notice of said hearing shall also be sent by mail, postage prepaid to the department of housing and community development, the regional planning agency, if any, and to the planning board of each abutting city and town...

Based on the materials submitted to this Office, we have identified the following defect: the Town certified that the Planning Board Hearing notice was posted on October 19, 2020 for a Planning Board hearing to be held on October 21, 2020. The Town Clerk informed us that the Planning Board left "plans and notices out on a table in the foyer, for public inspection" but that the Planning Board's hearing notice was "not given to the Town Clerk to timestamp and post" and therefore the Town Clerk was unable to provide this Office with the date the Planning Board hearing notice was "made public in [the] foyer." Without this information, we are unable to determine whether the Planning Board's hearing notice was posted for at least fourteen days prior to the hearing, as required by G.L. c. 40A, § 5. Apart from this defect, the notice appears to satisfy the requirements of the statute.

Attorney General's Election to Proceed Under the Waiver Provisions of G.L. c. 40, § 32

The Attorney General has elected to proceed under the limited defect waiver authority conferred by G.L. c. 40, § 32, as amended by Chapter 299 of the Acts of 2000.

Suspension of Review of Zoning By-Law Amendments

The 90-day period prescribed by law for the Attorney General's review of local by-laws is therefore suspended in accordance with the provisions of G.L. c. 40, § 32, as amended by Chapter 299 of the Acts of 2000.

Posting and Publication of This Notice

The Town Clerk shall post a true copy of this Notice in a conspicuous place in the Deerfield Town Hall for a period of not less than 14 days and shall publish a copy once in a newspaper of general circulation in the Town of Deerfield.

Filing of Claim That Defect in Notice Was Misleading or Otherwise Prejudicial

Within 21 days of the date on which this Notice is published in a newspaper of general circulation in the Town of Deerfield, any resident of the Town of Deerfield, or the owner of any real property in the Town of Deerfield or any other party entitled to notice of the planning board hearing may file with the Town Clerk a written statement that the notice defect was misleading or otherwise prejudicial. The statement must include the reasons supporting the claim that the defect in the Planning Board Notice was misleading or otherwise prejudicial. This statement must be actually on file with the Town Clerk not later than 21 days from the date on which this Notice is published in the newspaper.

Town Clerk's Certification of Compliance with This Notice

After the expiration of the 21-day period, the Town Clerk shall submit to the Attorney General a true copy of this Notice with a certification of compliance with the publishing and posting requirements of the preceding paragraph, and a certification that either (a) no claim was filed within the 21-day period, or (b) one or more claims were filed within the 21-day period. The Town Clerk shall submit to the Attorney General true copies of any such claim(s).

Resumption of Attorney General's Review

Upon receipt of one original copy of this Notice with the Clerk's certification, the 90-day period provided for the Attorney General's review under G.L. c. 40, § 32, shall resume. If no claim is made, the Attorney General has the discretion to waive any such defect; if any claim is made, however, the Attorney General may not waive any such defect.

**Note: By not filing a claim under this provision, a person shall not be deprived of the right to assert a claim of invalidity arising out of any possible defect in the procedure of adoption or amendment, as provided in G.L. c. 40, § 32, and in G.L. c. 40A, § 5.**

Date: March 30, 2021

Very truly yours,

MAURA HEALEY  
ATTORNEY GENERAL  
Nicole B. Caprioli  
By: Nicole B. Caprioli  
Assistant Attorney General  
Municipal Law Unit  
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Worcester, MA 01608  
(508) 792-7600 ext. 4418