

The following model bylaw was uses the original Toolkit OSRD model, but uses an accompanying set of Rules and Regulations to present a different approach to adopting this at Town Meeting or through City Council. The original model was adapted from the Town of Grafton's and the Town of Newbury's OSRD provisions with some modification to the overall format and Special Permit application requirements. Although this bylaw closely mirrors provisions from greenneighborhoods.org, the Towns of Newbury and Grafton made several choices in their drafting process that will be well-suited to many Massachusetts communities, making them excellent foundations for a model. These choices include, but are not limited to, the amount of open space required, the administrative powers of the Special Permit Granting Authority, and density bonuses that may be permitted in the process.

This model relies primarily on the Special Permit process to frame the regulatory approach including the discretionary provisions, bonuses and procedural requirements. Some communities may prefer to use a by-right approach to make OSRD more attractive to developers. Using a by-right approach can be implemented as a stand alone bylaw provision or, perhaps more productively, through a Site Plan Review process. Local practitioners are strongly advised to read the Zoning Decisions chapter of the Toolkit to better understand the advantages and disadvantages to using a Special Permit versus Site Plan Review process. One critical difference, for example, is that any allowable density bonuses will need to occur within the Special Permit framework.

This model bylaw clearly illustrates the nexus between the OSRD process and existing Subdivision Rules and Regulations. Because the OSRD model bylaw deals specifically with the site design process, communities looking to adapt this approach will need to think carefully about existing provisions in the Subdivision Rules and Regulations and any other local provisions (e.g., Wetland Protection Bylaws, Board of Health Regulations, etc.) As an innovative approach, OSRD may create conflicts with other dimensional regulations for site design. Criteria for right-of-way width, sidewalk specifications, utilities, finished grading, stormwater management and turning radii are several examples of site design elements that should be reviewed against the goals of OSRD.

In the planning process, local officials are encouraged to involve other stakeholders in the bylaw development process. These individuals or organizations can include developers, conservation groups, or regional planning agencies.

OPEN SPACE RESIDENTIAL DEVELOPMENT BYLAW

1. Purpose and Intent.

A. The Primary Purposes for this bylaw are the following:

- (1) To allow for greater flexibility and creativity in the design of residential developments;
- (2) To encourage the permanent preservation of open space, agricultural land, forestry land, wildlife habitat, other natural resources including aquifers, water bodies and wetlands, and historical and archaeological resources;

- (3) To encourage a less sprawling and more efficient form of development that consumes less open land and conforms to existing topography and natural features;
- (4) To minimize the total amount of disturbance on the site;
- (5) To further the goals and policies of the Town of [INSERT TOWN’S NAME] Local Comprehensive Plan and Open Space and Recreation Plan;
- (6) To facilitate the construction and maintenance of housing, streets, utilities, and public services in a more economical and efficient manner.

B. The Secondary Purposes for this bylaw are the following:

- (1) To preserve and enhance the community character;
- (2) To protect and enhance the value of real property;
- (3) To provide for a diversified housing stock;
- (4) To provide affordable housing to persons of low and moderate income.

Secondary Purpose #4 above refers specifically to the density bonuses offered in Section 9.B below. If density bonuses are not offered for the inclusion of affordable units, this goal should be omitted.

2. Definitions

Basic Maximum Number – The number of units that would be allowed on a site using the standard Zoning Bylaw Provisions and/or Subdivision Rules and Regulations as determined by a Yield Plan.

Hard Stormwater Management Techniques – Structural stormwater management techniques including, but not limited to, catch basins, subsurface piping, stormwater inlets, and subsurface leaching facilities. These techniques generally require heavy infrastructure and often result in significant alteration of the site hydrology.

Low-Income Household – These households shall be defined as those in the “Very Low Income” affordability range as published annually by the Department of Housing and Urban Development. Although this figure is generally considered to be 50% of the Area Median Income (AMI), the Planning Board recognizes that this calculation may vary depending on the subsidy program applied to the unit.

Major Residential Development-Any new development that will create more than four (4) residential lots

The scale of a Major Residential Development can be changed depending on the typical scale of subdivision design in a given community.

Moderate Income Household – These households shall be defined as those in the “Low Income” affordability range as published annually by the Department of Housing and Urban Development (HUD). Although this figure is generally considered to be 80% of the Area Median Income (AMI), the Planning Board recognizes that this calculation may vary depending on the subsidy program applied to the unit.

Soft Stormwater Management Techniques – Non-structural stormwater management techniques that use passive surface pre-treatment of stormwater in conjunction with decentralized recharge to achieve a low-impact design that attempts to mimic pre-development hydrologic conditions to the greatest practicable extent.

3. Authority

The Planning Board shall act as the Special Permit Granting Authority for OSRD applications. The Planning Board may adopt, and from time to time amend, Rules and Regulations consistent with the provisions of this bylaw and G.L. c. 40A and other provisions of the General Laws, and shall file a copy of said Rules and Regulations with the Town Clerk.

4. Applicability

- A. Any Major Residential Development must be permitted by issuance of a Special Permit from the Planning Board for either Conventional Development or OSRD in accordance with this bylaw. Applicants for a Major Residential Development shall submit both a conventional plan and an OSRD plan in accordance with the applicable provisions of this Bylaw.

Paragraph 4.A. requires the applicant to develop plans for both conventional and OSRD development. However, the final choice of development lies with the Developer. This is important as it sets a collaborative tone for the permitting process by leaving the possibility for conventional development open.

- B. Developments of four (4) lots or less may also apply for an OSRD Special Permit subject to the following criteria:

- (1) Contiguous Parcels. To be eligible for consideration as an OSRD, the tract shall consist of a parcel or set of contiguous parcels. The Planning Board may determine that two or more parcels separated by a road or other man-made feature are “contiguous” for the purpose of this section, if they will serve as a singular resource and effectively satisfy the Purpose and Intent of this bylaw as listed in Section 1.

The definition of “contiguous” above allows for the SPGA to be more flexible in their determination since some parcels may be separated by rural roads that do not result in heavy habitat fragmentation. Still other separated parcels may still provide opportunities for aquifer protection despite any division from man-made infrastructure such as power lines or roads.

- (2) Land Division. To be eligible for consideration as an OSRD, the tract may be a subdivision or a division of land pursuant to G.L. c. 41, § 81P provided, however, an OSRD may also be permitted when the property is held in condominium, cooperative ownership or other form where the property is not subdivided.

4. Application Procedure and Requirements

Applicants shall submit applications for an OSRD Special Permit in accordance with the *Rules and Regulations Governing Open Space Residential Design* as adopted and amended by the Planning Board.

5. Design process.

At the time of the application for the Special Permit, in conformance with Section 5.A., applicants are required to demonstrate to the Planning Board that the following Design Process was performed by a multidisciplinary team of which one member must be a certified Landscape Architect and considered in determining the layout of proposed streets, house lots, unit placement if treated as a condominium, including designation of all common areas and open space.

- A. Identifying Conservation Areas. Identify preservation land by two steps. First, Primary Conservation Areas (such as wetlands, riverfront areas, and floodplains regulated by state or federal law) and Secondary Conservation Areas (including unprotected elements of the natural landscape such as steep slopes, mature woodlands, prime farmland, meadows, wildlife habitats and cultural features such as historic and archaeological sites and scenic views) shall be identified and delineated. Second, the Potentially Developable Area shall consist of land outside identified Primary and Secondary Conservation Areas.
- B. Locating House Sites. Locate the approximate sites of individual houses within the Potentially Developable Area and include the delineation of private yards and shared amenities, so as to reflect an integrated community.
- C. Aligning the Streets and Trails. Align streets in order to access the house lots or units. Additionally, new trails should be laid out to create internal and external connections to existing and/or potential future streets, sidewalks, and trails.
- D. Lot Lines. Draw in the lot lines using assumed lot lines if the ownership is in condominium, cooperative or other similar form of common ownership.

6. Design Standards.

The following Generic and Site Specific Design Standards shall apply to all Sketch Plans for OSRD's and shall govern the development and design process:

A. Generic Design Standards.

- (1) The landscape shall be preserved in its natural state, insofar as practicable, by minimizing tree and soil removal. Any grade changes shall be in keeping with the general appearance of the neighboring developed areas. The orientation of individual building sites shall be such as to maintain maximum natural topography and cover. Topography, tree cover, surface water buffers, and natural drainage ways shall be treated as fixed determinants of road and lot configuration rather than as malleable elements that can be changed to follow a preferred development scheme.
- (2) Streets shall be designed and located in such a manner as to maintain and preserve natural topography, significant landmarks, and trees; to minimize cut and fill; and to preserve and enhance views and vistas on or off the subject parcel.
- (3) Mixed-use development shall be related harmoniously to the terrain and the use, scale, and architecture of existing buildings in the vicinity that have functional or visual relationship to the proposed buildings.

- (4) All open space (landscaped and usable) shall be designed to add to the visual amenities of the area by maximizing its visibility for persons passing the site or overlooking it from nearby properties.
- (5) The removal or disruption of historic, traditional or significant uses, structures, or architectural elements shall be minimized insofar as practicable, whether these exist on the site or on adjacent properties.

B. Site Specific Design Standards.

- (1) Mix of Housing Types. The OSRD may consist of any combination of single-family and two-family structures. Multifamily structures of not more than four (4) units may also be permitted by the Planning Board if they serve the purpose and intent of the OSRD Bylaw, as stated in Section 1.

Local officials will need to ensure that the allowed housing types listed above are consistent with local zoning and objectives stated within the Local Comprehensive Plan. Also, consistent with the commentary under Section 8.B, the community should consider whether Townhouse development is a viable option and would need to include that style of housing in the above provision.

- (2) Parking. Each dwelling unit for single or two-family homes shall be served by two (2) off-street parking spaces. Parking spaces in front of garages may count in this computation. For dwelling units with fewer than two bedrooms AND in structures containing four or more units, the applicant shall provide one and a half (1.5) parking spaces per unit. Calculations for parking spaces in these developments shall be rounded up to the nearest integer where necessary. The Planning board may choose to modify these requirements during the review process in response to conditions specific to an individual proposal.

Parking requirements here are decreased for larger scale high-density housing with the assumption that many of the people who live in one-bedroom condominiums or other multi-family housing will require only one parking space. These condominium situations generally involve a condominium association that can administer over and assign any residual spaces that exist.

- (3) Drainage. The Planning Board shall encourage the use of Soft Stormwater Management Techniques and other Low Impact Development techniques that reduce impervious surface and enable infiltration where appropriate.
- (4) Screening and Landscaping. All structural surface stormwater management facilities shall be accompanied by a conceptual landscape plan.
- (5) On-site Pedestrian and Bicycle Circulation. Walkways, trails and bicycle paths shall be provided to link residences with recreation facilities (including parkland and open space) and adjacent land uses where appropriate.
- (6) Disturbed Areas. Every effort shall be made to minimize the area of disturbed areas on the tract. A disturbed area is any land not left in its natural vegetated state.

7. Open space requirements.

- A. Open Space Requirement. A minimum of fifty percent (50%) of the site shall be open space. The percentage of this open space that can be wetland shall not exceed the percentage of wetland for the entire site under existing conditions as shown on the Sketch Plan. A sample calculation is provided below:

Sample Calculation

Existing Conditions:

12 acre site with 3 acres of wetland

$3 \div 12 = 25\%$ wetland coverage

Open Space Requirements:

50% Open Space = 6 acres

Wetland Allowance:

6 acres * 25% wetland coverage = 1.5 acres

Open Space can be 4.5 acres of upland and 1.5 acres of wetland

The minimum percentage of open space required by the Planning Board will probably vary from one Town to another and should be based on a careful assessment of developable lands. The minimum requirement could be elevated beyond the suggested fifty percent (50%) if the Town identifies that few if any of its developable lands are significantly restrained by existing wetland resources. Likewise, if there are many significant parcels with the majority of their land in resource areas, it would be prudent to reduce the minimum open space set-aside to allow for a more flexible and equitable approach.

The open space provisions above allow the developer to include a proportional amount of wetland in the preserved open space relative to existing conditions. This approach is more equitable since it considers the constraints the developer is working with at the outset of the process.

- B. Description of Restriction on Open Space. Any proposed open space, unless conveyed to the Town or its Conservation Commission, shall be subject to a permanent Conservation or Agricultural Preservation Restriction in accordance with G.L. c. 184 § 31, approved by the Planning Board and Board of Selectmen/Town Council and enforceable by the Town, conforming to the standards of the Massachusetts Executive Office of Environmental Affairs, Division of Conservation Services, or Department of Agricultural Resources. Such land shall be perpetually kept in an open state, shall be preserved exclusively for the purposes set forth herein, and shall be maintained in a manner which will ensure its suitability for its intended purposes. Any proposed open space that does not qualify for inclusion in a Conservation Restriction or Agricultural Preservation Restriction or that is rejected from inclusion in these programs by the Commonwealth of Massachusetts shall be subject to a Restrictive Covenant, which shall be approved by the Planning Board and Board of Selectmen/Town Council and enforceable by the Town.

- (1) The open space shall be contiguous. Open Space will still be considered contiguous if it is separated by a roadway or an accessory amenity. The Planning Board may waive this requirement for all or part of the required open space where it is determined that allowing noncontiguous open space will promote the goals of this bylaw and/or protect identified primary and secondary conservation areas.

The Planning Board may choose to waive the contiguous requirements, for example, where the resource protection goals are for aquifer protection. In this instance, barriers to open space continuity will significantly hamper protecting the underlying aquifers.

- (2) The open space shall be used for wildlife habitat and conservation and the following additional purposes: historic preservation, outdoor education, passive recreation, aquifer protection, agriculture, horticulture, forestry, a combination of these uses, and shall be served by suitable access for such purposes. The Planning Board may permit a small portion of the open space to be paved or built upon for structures accessory to the dedicated use or uses of such open space (i.e., pedestrian walks and bike paths) so long as it supports the primary and secondary purposes of the OSRD and is consistent with state and local level environmental protections.
- (3) Wastewater and stormwater management systems serving the OSRD may be located within the open space. Surface systems, such as retention and detention ponds, shall not qualify towards the minimum open space required.

The provisions in 7.B(3) should be carefully considered by local decision makers. The intent here is to maximize open space set-asides by not allowing the proponent to include stormwater BMP's in the open space area calculations. However, the community should carefully consider how constrained some of its developable land is before making this decision. Allowing bioretention facilities to be part of the open space calculation may be an effective way to encourage Low Impact Development stormwater techniques as part of site design. The terms of ownership and maintenance of these areas would need to be discussed with the applicant.

C. Ownership of the Open Space. The open space shall, at the Planning Board's election, be conveyed to:

- (1) The Town or its Conservation Commission;
- (2) A nonprofit organization, the principal purpose of which is the conservation of open space and any of the purposes for such open space set forth above;
- (3) A corporation, homeowners association or trust owned jointly or in common by the owners of lots or units within the OSRD. If such corporation or trust is utilized, ownership thereof shall pass with conveyance of the lots in perpetuity. Maintenance of such open space and facilities shall be permanently guaranteed by such corporation or trust which shall provide for mandatory assessments for maintenance expenses to each lot and unit. Each individual deed, and the deed or trust or articles of incorporation, shall include provisions designed to effect these provisions. Documents creating such homeowners association, trust or corporation shall be submitted to the Planning Board for approval, and shall thereafter be recorded.

(4) A private owner for agricultural, horticultural or forestry.

- D. Maintenance of Open Space. In any case where open space is not conveyed to the Town, the Town shall be granted an easement over such land sufficient to ensure its perpetual maintenance as conservation or recreation land. Such easement shall provide that in the event the trust or other owner fails to maintain the open space in reasonable condition, the Town may, after notice to the lot owners and public hearing, enter upon such land to maintain it in order to prevent or abate a nuisance. The cost of such maintenance by the Town shall be assessed against the properties within the development and/or to the owner of the open space. The Town may file a lien against the lot or lots to ensure payment of such maintenance.

There are two other means to ensuring the maintenance of Open Space areas. First, the Town may condition the approval of the Special Permit with specific maintenance provisions. Second, the Town could require the posting of a performance bond in the Bylaw to ensure upkeep of the area.

8. Reduction of Dimensional Requirements.

Applicant may propose to modify lot size, unit placement, shape, and other dimensional requirements for lots within an OSRD, subject to the following limitations:

- A. Frontage. Lots having reduced area or frontage shall not have frontage on a street other than a street created by the OSRD; provided, however, that the Planning Board may waive this requirement where it is determined that such reduced lot(s) will further the goals of this bylaw. The minimum frontage may be reduced from the frontage otherwise required in the zoning district; provided, however, that no lot shall have less than 50 feet of frontage.
- B. Setbacks. Every dwelling fronting on the proposed roadways shall be set back a minimum of 20 feet from the roadway right-of-way, and 10 feet from any rear or side lot line. In no event shall structures be closer than 20 feet to each other. Where structures containing three to four dwelling units are being proposed, the side lot lines between units may be 0 feet, however the distance between structures shall be a minimum of 20 feet.

The side lot line provisions above may be adjusted depending on whether the Town would want to encourage higher densities or Townhouse-style development. If Townhouse development were an acceptable alternative in the community, requirements for side lot setbacks could be eliminated altogether.

9. Increases in Permissible Density.

The Planning Board may award a density bonus to increase the number of dwelling units beyond the Basic Maximum Number for an OSRD Plan. The density bonus for the OSRD shall not, in the aggregate, exceed thirty percent (30%) of the Basic Maximum Number. Computations shall be rounded down to the next whole number. A density bonus may be awarded in the following circumstances:

The highest level of density bonus, listed above as 30%, is a critical consideration for these provisions. Essentially, the higher this number is, the more enticing the density bonus will be. If communities are very serious about maximizing their remaining open space or including affordable housing in their subdivisions, they will want to consider moving this number to at least 50%, if not more.

- A. For each additional ten percent (10%) of the site (over and above the required 50%) set aside as open space, a bonus of five percent (5%) of the Basic Maximum Number may be awarded. Calculations shall be rounded down to the nearest integer when determining this bonus.
- B. For every two (2) dwelling units restricted in perpetuity to occupancy by Moderate-Income Households, or for every one (1) dwelling unit restricted in perpetuity to occupancy by Low-Income Households, two (2) market rate dwelling units may be added to the Basic Maximum Number. Affordable housing units may be used toward density bonuses only if they can be counted toward the Town's affordable housing inventory as determined by the Massachusetts Department of Housing and Community Development. The applicant shall provide documentation demonstrating that the unit(s) shall count toward the community's affordable housing inventory to the satisfaction of the Planning Board.

Since the original drafting of this Toolkit model bylaw, the density bonus listed above was increased from one to two market dwelling units in response to discussions with housing developers. The increased costs associated with integrating affordable units into a standard market-rate subdivision require more enticing bonuses and local practitioners are encouraged to pursue even more aggressive numbers if this approach will be an integral part of a Planned Production Plan.

- C. For every historic structure preserved and subject to a historic preservation restriction, one (1) dwelling unit may be added to the Basic Maximum Number.

10. Decision of the Planning Board.

- A. Criteria for Approval. The Planning Board will review all data and hold a public hearing in accordance with M.G.L.c.40A, section 9. Prior to the close of the public hearing, the Planning Board shall recommend the development plan (either the Yield Plan showing Conventional Development or the Sketch Plan showing OSRD), that it considers the most beneficial to the Town. Within seven days, the Applicant shall then elect which plan he wishes to pursue and communicate this choice in writing to the Board, prior to the close of public hearing. The Board may approve such Plan with or without conditions. The Board shall disapprove both plans only if it finds that either the Conventional Development (Yield Plan) or OSRD Development (Sketch Plan) is not a good faith design, or that the Plan that the Applicant elects to pursue does not conform to the requirements of the Bylaw. The Board may grant a Special Permit for an OSRD if it determines that the proposed OSRD has less detrimental impact on the tract than a conventional subdivision of the property and finding that the following eight (8) factors are present:
 - (1) That the OSRD achieves greater flexibility and creativity in the design of residential or unit developments than a conventional plan;
 - (2) That the OSRD promotes permanent preservation of open space, agricultural land, forestry land, other natural resources including water bodies and wetlands, and historical and archaeological resources;
 - (3) That the OSRD promotes a less sprawling and more efficient form of development that consumes less open land and conforms to existing topography and natural features better than a conventional subdivision;

- (4) That the OSRD reduces the total amount of disturbance on the site;
- (5) That the OSRD furthers the goals and policies of existing community planning documents including, but not limited to, the Town's Local Comprehensive Plan, Open Space and Recreation Plan, Planned Production Strategy for Affordable Housing and EO418 Community Development Plan;

The community can insert the appropriate documents in the section above to reflect the status of their plan development.

- (6) That the OSRD facilitates the construction and maintenance of streets, utilities, and public services in a more economical and efficient manner;
- (7) That the Concept Plan and its supporting narrative documentation complies with all sections of this zoning bylaw.
- (8) That the proposed design does not create undo risk to public health, safety and welfare.

B. Relationship between Concept Plan and Definitive Subdivision Plan. Any Special permit for a Major Residential Development or any Special Permit for OSRD that is granted a Special Permit and shows a subdivision must be followed by the submittal of a Definitive Subdivision plan in accordance with the Subdivision Rules and Regulations of the Town. The OSRD Special Permit shall be reconsidered if there is substantial variation between the Definitive Subdivision Plan and the Concept Plan. If the Planning Board finds that a substantial variation exists, it shall hold a public hearing on the modifications to the Concept Plan. A substantial variation shall be any of the following:

- (1) An increase in the number of building lots and/or units;
- (2) A significant decrease in the open space acreage;
- (3) A significant change in the lot layout or unit placement;
- (4) A significant change in the general development pattern which adversely affects natural landscape features and open space preservation;
- (5) Significant changes to the stormwater management facilities; and/or
- (6) Significant changes in the wastewater management systems.

11. Severability.

If any provision of this bylaw is held invalid by a court of competent jurisdiction, the remainder of the bylaw shall not be affected thereby.

The following model Rules and Regulations are provided as an alternate approach to implementing OSRD in local regulations. The content of these Rules and Regulations is primarily focused on procedural and administrative aspects of OSRD, leaving the more substantial or discretionary provisions to the actual Zoning Bylaw.

RULES AND REGULATIONS GOVERNING OPEN SPACE RESIDENTIAL DESIGN

1. Purpose.

The purpose of these Rules and Regulations is to establish uniform regulations and procedures for conducting the business of the Planning Board acting as the Special Permit Granting Authority for OSRD as established under Section [INSERT REFERENCE] of the Bylaw.

2. Authority.

These Rules and Regulations are adopted by the Planning Board as authorized by M.G.L. Chapter 40A, Section 9, and by the Zoning Bylaw, [INSERT TOWN/CITY NAME].

3. Waiver of Strict Compliance

Strict compliance with any provision of these Rules and Regulations may be waived only if the Planning Board finds that the application contains all necessary information required by these Rules and Regulations, meets all applicable requirements of the Bylaw and in the Board's opinion the granting of such waiver is in the public interest. Any request from an applicant for a waiver from these Rules and Regulations must be submitted in writing to the Planning Board and must clearly identify the provision or provisions for which a waiver is being sought, and if applicable, must describe the alternative location of information or method of compliance. In addition, such request shall be accompanied by a statement setting forth the reason or reasons why, in the applicant's opinion, the granting of such a waiver or waivers would be in the public interest and consistent with the intent and purpose of the Bylaw.

4. Pre-application.

- A. Conference. The applicant is very strongly encouraged to request a pre-application review at a regular business meeting of the Planning Board. If one is requested, the Planning Board shall invite the Conservation Commission, Board of Health, Historical Commission, and [INSERT THE NAMES OF ANY OTHER APPROPRIATE BOARDS]. The purpose of a pre-application review is to minimize the applicant's costs of engineering and other technical experts, and to commence discussions with the Planning Board at the earliest possible stage in the development. At the pre-application review, the applicant may outline the proposed development including both conventional and OSRD models, seek preliminary feedback from the Planning Board and/or its technical experts, and set a timetable for submittal of a formal application. The Planning Board may engage technical experts to review the informal plans of the applicant and to facilitate submittal of a formal application for a Conventional or OSRD Special Permit.
- B. Submittals. In order to facilitate review of the Special Permit at the pre-application stage, applicants are strongly encouraged to submit the following information:

- (1) Site Context Map. This map shall illustrate the parcel in connection to its surrounding neighborhood. Based upon existing data sources and field inspections, it shall show various kinds of major natural resource areas or features that cross parcel lines or that are located on adjoining lands. This map enables the Planning Board to understand the site in relation to what is occurring on adjacent properties.
- (2) Existing Conditions/Site Analysis Map. This map familiarizes officials with existing conditions on the property. Based upon existing data sources and field inspections, this base map shall locate and describe noteworthy resources that could be protected through sensitive subdivision layouts. These resources shall include wetlands, riverfront areas, floodplains and steep slopes, but may also include mature non-degraded woodlands, hedgerows, farmland, unique or special wildlife habitats, historic or cultural features (such as old structures or stone walls), unusual geologic formations and scenic views into and out from the property. Where appropriate, photographs of these resources should accompany the map. By overlaying this plan onto a development plan, the parties involved can clearly see where conservation priorities and desired development overlap/conflict.

If applicable, the provisions above should reference specific information requirements in the Subdivision Rules and Regulations to streamline the permitting process.

- (3) Other Information. In addition, applicants are invited to submit the information set forth in Section 5.A. of these Rules and Regulations in a form acceptable to the Planning Board.
- C. Site Visit. Applicants are encouraged to request a site visit by the Planning Board and/or its agents in order to facilitate pre-application review of the Special Permit. If one is requested, the Planning Board shall invite the Conservation Commission, Board of Health, Historical Commission, and [INSERT THE NAMES OF ANY OTHER APPROPRIATE BOARDS].
- D. Design Criteria. The design process and criteria set forth in [INSERT REFERENCE DESIGN SECTIONS OF THE BYLAW] should be discussed by the parties at the pre-application conference and site visit.

5. Major Residential Development/OSRD Application for Special Permit.

The Planning Board, acting as the Special Permit Granting Authority (SPGA), may authorize a Conventional Development Special Permit or an OSRD Special Permit pursuant to the procedures outlined below.

- A. Application. An application for the Special Permit shall be submitted on the form(s) provided by the Planning Board [REFERENCE ANY SPECIFIC APPLICATION FORMS FOR THE MUNICIPALITY]. Applicants for OSRD shall also file with the Planning Board [INSERT APPROPRIATE NUMBER] copies of the Concept Plan. The Concept Plan shall include a Yield Plan and a Sketch Plan [see Subsections A(1) and (2) of this Section], prepared by a multidisciplinary team including a registered land surveyor, a registered professional engineer and a registered landscape architect. The applicant shall also submit both the Site Context Map and Existing Conditions/Site Analysis Map prepared according to Section 4.B. above. Additional information reasonably necessary to make the determinations and

assessments cited herein shall be provided, including existing site contour maps and existing current soil maps.

Depending on the requirements of the local Subdivision Rules and Regulations, the requirements for a Concept Plan can be made the same as the requirements for a Preliminary Plan or to specific sections of a Definitive Plan. The most important objective is to make these requirements overlap. Applicants should be able to use the OSRD process to satisfy elements of the subdivision approval process wherever possible. The goal is to create complementary permitting processes, not to make the applicant duplicate his or her efforts during design.

- (1) Yield Plan. The Basic Maximum Number of allowable units shall be derived from a Yield Plan. The Yield Plan shall show a conventional development conforming to the applicable Zoning Bylaw provisions and Subdivision Rules and Regulations to show the maximum number of lots (or dwelling units) that could be placed upon the site under a conventional approach. The proponent shall have the burden of proof with regard to the Basic Maximum Number of lots resulting from the design and engineering specifications shown on the Yield Plan. The Yield Plan shall contain, at a minimum, the following information:
 - (a) Parcel boundaries, north point, date, legend, title “Yield Plan,” and scale.
 - (b) The name and address of the record owner or owners, the applicant, and the design engineer and/or land surveyor that prepared the plan.
 - (c) The names, approximate location, and widths of adjacent streets.
 - (d) Existing topography at 2-foot contour intervals.
 - (e) Map of soils using NRCS soils mapping.
 - (f) All on-site local, state, and federal regulatory resource boundaries and buffer zones shall be clearly identified, and all wetland flag locations shall be numbered and placed upon the Yield Plan.
 - (g) Lot lines with approximate areas and frontage dimensions, or unit placements and proposed common areas.
 - (h) Location and extent of parking, landscaping, stormwater management, water supply and wastewater management service areas that would be required to accommodate the use.
 - (i) If available, the location and results of any test pit investigations for soil profiles, percolation rates and determination of seasonal high ground water levels.
- (2) Sketch Plan. The Sketch Plan shall address the general features of the land, and give approximate configurations of the proposed lots, of unit placements if treated as a condominium, of open space, and roadways. The Sketch Plan shall incorporate the Four-Step Design Process, according to [INSERT BYLAW REFERENCE], and the Design Standards, according to [INSERT BYLAW REFERENCE], when determining a proposed design for the development. In addition to those requirements for a Yield

Plan listed in Section 5.A(1), a Sketch Plan shall contain the following information:

- (a) The proposed topography of the land shown at a contour interval no greater than two feet. Elevations shall be referred to mean sea level.
- (b) The location of existing landscape features, including forests, farm fields, meadows, wetlands, riverfront areas, water bodies, archaeological and historic structures or points of interest, rock outcrops, boulder fields, stone walls, cliffs, high points, major land views, forest glades, major tree groupings, noteworthy tree specimens, and habitats of endangered or threatened wildlife, as identified as primary and secondary resources according to [INSERT BYLAW REFERENCE]. Proposals for all site features to be preserved, demolished, or altered shall be noted on the Sketch Plan.
- (c) The existing and proposed lines of streets, ways, common driveways, easements and any parcel of land intended to be dedicated for public use or to be reserved by deed covenant for use of all property owners in the subdivision, or unit development, or parcels of land or lots to be used for any purpose other than private residential shall be so designated within the subdivision in a general manner.
- (d) Proposed roadway grades.
- (e) Official soil percolation tests for the purpose of siting wastewater treatment options shall be required as determined by the Planning Board. However, a narrative explanation shall be prepared by a Massachusetts Certified Professional Engineer detailing the proposed wastewater systems that will be utilized by the development and its likely impacts on-site and to any abutting parcels of land. For example, the narrative will specify whether individual on-site or off-site systems, shared systems, alternative to Title 5 systems, or any combination of these or other methods will be utilized.
- (f) A narrative explanation prepared by a Massachusetts Certified Professional Engineer proposing systems for stormwater drainage and likely impacts on-site and to any abutting parcels of land. For example, the narrative will specify whether Soft or Hard Stormwater Management Techniques will be used and the number of any detention/retention basins or infiltrating catch basins; it is not intended to include specific pipe sizes. Any information needed to justify this proposal should be included in the narrative. The approximate location of any stormwater management detention/retention basins shall be shown on the plan and accompanied by a conceptual landscaping plan.
- (g) A narrative explanation prepared by a Massachusetts Certified Professional Engineer, detailing the proposed drinking water supply system.
- (h) A narrative explanation of the proposed quality, quantity, use and ownership of the open space. Open space parcels shall be clearly shown on the plan.
- (i) All proposed landscaped and buffer areas shall be noted on the plan and generally explained in a narrative.

(j) A list of all legal documents necessary for implementation of the proposed development, including any Conservation Restrictions, land transfers, and Master Deeds or condominium documents, with an accompanying narrative explaining their general purpose.

(k) A narrative indicating all requested waivers, reductions, and/or modifications as permitted within the requirements of this bylaw.

Again, it is critical that the requirements listed above for a sketch plan mirror the requirements of the local Subdivision Rules and Regulations in order to streamline the permitting process.

- B. Procedures. Whenever an application for a Conventional/ OSRD Special Permit is filed with the Planning Board, the applicant shall also file, within five (5) working days of the filing of the completed application, copies of the application, accompanying development plan, and other documentation, to the Board of Health, Conservation Commission, Historical Commission, Building Inspector, Highway Department, Police Chief, Fire Chief, and Town Engineer for their consideration, review, and report. The applicant shall furnish the copies necessary to fulfill this requirement. Reports from other boards and officials shall be submitted to the Planning Board within thirty-five (35) days of receipt of the reviewing party of all of the required materials; failure of these reviewing parties to make recommendations after having received copies of all such required materials shall be deemed a lack of opposition thereto. In the event that the public hearing by the Planning Board is held prior to the expiration of the thirty-five-day period, the Planning Board shall continue the public hearing to permit the formal submission of reports and recommendations within that thirty-five-day period. The Decision/Findings of the Planning Board shall contain, in writing, an explanation for any departures from the recommendations of any reviewing party.
- C. Site Visit. Whether or not conducted during the pre-application stage, the Planning Board shall conduct a site visit during the public hearing. At the site visit, the Planning Board and/or its agents shall be accompanied by the applicant and/or its agents.
- D. Other Information. The submittals and permits of this section shall be in addition to any other requirements of the Subdivision Control Law or any other provisions of this Zoning Bylaw. To the extent permitted by law, the Planning Board shall coordinate the public hearing required for any application for a Special Permit for Conventional or OSRD Special Permit with the public hearing required for approval of a definitive subdivision plan.

6. Severability.

If any provision of these Rules and Regulations is held invalid by a court of competent jurisdiction, the remainder of these provisions shall not be affected thereby.