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**OPEN SPACE RESIDENTIAL DEVELOPMENT  
OR CONSERVATION SUBDIVISION DESIGN (OSRD)  
MODEL BYLAW – SPECIAL PERMIT**

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**1) PURPOSE AND INTENT**

a) The Primary Purposes for OSRD are the following:

- (1) To allow for greater flexibility and creativity in the design of residential developments;
- (2) To encourage the permanent preservation of [choose] open space, agricultural land, forestry land, wildlife habitat, other natural resources including aquifers, waterbodies and wetlands, and historical and archeological resources in a manner that is consistent with a municipality's comprehensive and open space plan, if any;
- (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 better than a conventional or grid subdivision;
- (4) To minimize the total amount of disturbance on the site;
- (5) To further the goals and policies of the [choose] comprehensive, master, and/or open space plans;
- (6) To facilitate the construction and maintenance of housing, streets, utilities, and public service in a more economic and efficient manner.

b) The Secondary Purposes for OSRD are the following:

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

**2) ELIGIBILITY**

*[Select an a)]*

a) Minimum Size of Tract. To be eligible for consideration as an OSRD, the tract shall contain a minimum of \_\_\_\_ acre(s). Where the tract is located in the [specify name of special district] the minimum tract area shall be \_\_\_\_ acre(s).

- a) Minimum Number of Lots. To be eligible for consideration as an OSRD, the tract shall contain not less than \_\_\_\_ lots.
- a) Any development that [will create more than \_\_\_\_ lots] *and/or* [is on a parcel of \_\_\_\_ acres or more] shall submit an application for OSRD to the Planning Board.
- b) Zoning Classification. Only those tracts located in the \_\_\_\_ Districts shall be eligible for consideration as an OSRD.
- c) Contiguous Parcels. To be eligible for consideration as an OSRD, the tract shall consist of a parcel or set of contiguous parcels.
- d) 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, s. 81P. *If condominium ownership is to be allowed (with a zero lot line approach), add the following:* provided, however, that OSRD may also be permitted where intended as a condominium on land not so divided or subdivided.

### **3) SPECIAL PERMIT REQUIRED**

- a) The Planning Board may authorize an OSRD pursuant to the grant of a special permit. Such special permits shall be acted upon in accordance with the following provisions:

### **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, and [list other appropriate committees/Boards]. The purpose of a pre-application review is to minimize the applicant's costs of engineering and other technical experts, and to commence negotiations with the Planning Board at the earliest possible stage in the development. At the pre-application review, the applicant may outline the proposed OSRD, seek preliminary feedback from the Planning Board and/or its technical experts, and set a timetable for submittal of a formal application. At the request of the applicant, and at the expense of the applicant, the Planning Board may engage technical experts to review the informal plans of the applicant and to facilitate submittal of a formal application for an OSRD special permit.
- b) The planning board shall adopt rules and regulations relative to the size, form, number and contents of the plans to be submitted for a pre-application review .

### **5) DESIGN PROCESS**

- a) At the time of the application for a special permit for OSRD in conformance with Section VI.1, applicants are required to demonstrate to the Planning Board that the following Design Process was performed by a certified Landscape Architect and considered in determining the layout of proposed streets, house lots, and open space.
  - i) Step One: 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 archeological sites and scenic views) shall be identified and delineated. Second, the Potentially Developable Area will be identified and delineated. To the maximum extent feasible, the Potentially Developable Area shall consist of land outside identified Primary and Secondary Conservation Areas.

- ii) Step Two: 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, with emphasis on consistency with the Town's historical development patterns. The number of homes enjoying the amenities of the development should be maximized.
- iii) Step Three: Aligning the Streets and Trails. Align streets in order to access the house lots. Additionally, new trails should be laid out to create internal and external connections to existing and/or potential future streets, sidewalks, and trails.
- iv) Step Four: Lot Lines. Draw in the lot lines.

## **6) PROCEDURES**

- a) Application.
  - i) An application for a special permit for an OSRD shall include a concept plan. The Concept Plan consists of a Sketch Plan and a Yield Plan (see Section VII). The planning board shall adopt rules and regulations relative to the size, form, number and contents of the sketch plan and yield plan.
- b) Sketch Plan.
  - i) The Sketch Plan shall be prepared by a certified Landscape Architect, or by a multi-disciplinary team of which one member must be a certified Landscape Architect, and shall address the general features of the land, give approximate configurations of the lots, open space, and roadways, and include the information listed under Section 1.B of the Subdivision Rules and Regulations. The Sketch Plan shall incorporate the Four-Step Design Process, according to Section V above, and the Design Standards according to Section X below, when determining a proposed design for the development.
- c) Relationship Between the Concept Plan and OSRD Subdivision Plan
  - i) The issuance of a Concept Plan special permit allows the applicant to submit an Open Space Definitive Subdivision Plan to the Planning Board for approval under the Subdivision Control Law. Any Concept Plan special permit issued by the Planning Board shall specifically state that the Open Space Definitive Subdivision Plan shall substantially comply with the Concept Plan.
  - ii) An Open Space Definitive Subdivision Plan will be considered not to substantially comply with the Concept Plan if the Planning Board determines that any of the following conditions exist:

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

- iii) If the Planning Board determines that the Open Space Definitive Subdivision Plan does not substantially comply with the Concept Plan, the Board may disapprove the definitive subdivision plan for failure to comply with the condition of the special permit requiring that the Open Space Definitive Plan substantially comply with the Concept Plan.
- iv) The Planning Board may conditionally approve an Open Space Definitive Subdivision Plan that does not substantially comply with the Concept Plan special permit. However, such conditional approval must identify where the plan does not substantially comply with the Concept Plan special permit and shall require that the Concept Plan special permit be amended to be in compliance with the significant changes identified by the Planning Board. The Planning Board shall also require that the applicant file an application to amend the Concept Plan special permit within a specified time period.
- v) The public hearing on the application to amend the Concept Plan special permit shall be limited to the significant changes identified by the Planning Board in their conditional approval of the Open Space Definitive Subdivision Plan. These are the only considerations that the Planning Board may take into account in deciding whether to amend the Concept Plan special permit.

d) General Procedures.

- i) Whenever an application for a 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, Building Inspector, Department of Public Works, Police Chief, Fire Chief, Town Engineer and \_\_\_\_\_ 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 35-day period, the Planning Board shall continue the public hearing to permit the formal submission of reports and recommendations within that 35-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.

e) Site Visit.

- i) Whether or not conducted during the pre-application stage, the Planning Board may 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.

f) Other Information.

- i) 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 a OSRD with the public hearing required for approval of a definitive subdivision plan.

**7) BASIC MAXIMUM NUMBER (OF LOTS/UNITS/BEDROOMS)**

*[Choose either Option One or Two]*

a) OPTION ONE: Determination of Yield, Formula

- i) The Basic Maximum Number shall be derived after the preparation of a Yield Plan. The Yield Plan shall be the following calculation to determine the total number of lots (or dwelling units):

$$\text{Total Number of Lots} = \frac{\text{TA} - (0.5 \times \text{WA}) - (0.1 \times \text{TA})}{\text{district minimum lot area}}$$

TA = Total Area of Parcel

WA = Wetlands and Riverfront Areas of Parcel

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a) OPTION TWO: Determination of Yield, Sketch Plan

- i) The Basic Maximum Number shall be derived from a Yield Plan. The Yield Plan shall show the maximum number of lots (or dwelling units) that could be placed upon the site under a conventional subdivision. The Yield Plan shall contain the information required for a *[choose either Sketch Plan or Preliminary Plan accordingly]*, as set forth above in Section VI. The proponent shall have the burden of proof with regard to the Basic Maximum Number of lots (or dwelling units) resulting from the design and engineering specifications shown on the Yield Plan.

**8) REDUCTION OF DIMENSIONAL REQUIREMENTS**

*[Choose either Option One or Two]*

a) OPTION ONE: Flexible (Zero-Lot Line)

- i) The Planning Board encourages applicants to modify lot size, shape, and other dimensional requirements for lots within an OSRD, subject to the following limitations:

- (1) 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.
- (2) At least 50% of the required setbacks for the district shall be maintained in the OSRD unless a reduction is otherwise authorized by the Planning Board.

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- a) OPTION TWO: Sliding Scale
  - i) The Planning Board may authorize modification of lot size, shape, and other bulk requirements for lots within an OSRD, subject to the following limitations:
    - (1) Lots having reduced area or frontage shall not have frontage on a street other than a street created by a subdivision involved, provided, however, that the Planning Board may waive this requirement where it is determined that such reduced lot(s) are consistent with existing development patterns in the neighborhood.
    - (2) Lot frontage shall not be less than 50 feet. The Planning Board may waive this requirement where it is determined that such reduced frontage will further the goals of this bylaw.
    - (3) Each lot shall have at least 50% of the required setbacks for the district unless a reduction is otherwise authorized by the Planning Board.
    - (4) Lots may be reduced in area according to the following schedule<sup>1</sup>

<b>Minimum Open Space (%)</b>	<b>9) District Minimum Lot Area (sq. ft.)</b>	<b>10) OSRD Minimum Lot Area (sq. ft.)</b>
50	80,000	20,000
50	60,000	15,000
50	40,000	10,000
50	30,000	7,500
50	20,000	5,000
50	10,000	5,000
70	80,000	10,000
70	60,000	7,500

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<sup>1</sup> It should be noted that this table is for conceptual purposes only. Lot areas subject to 50% open space requirements were reduced by three-quarters; areas subject to 70% open space requirements were reduced by seven-eighths.

<b>Minimum Open Space (%)</b>	<b>9) District Minimum Lot Area (sq. ft.)</b>	<b>10) OSRD Minimum Lot Area (sq. ft.)</b>
70	40,000	5,000
70	30,000	5,000
70	20,000	5,000
70	10,000	5,000

## **9) OPEN SPACE REQUIREMENTS**

- a) Open Space. A minimum of fifty percent (50%) of the tract shown on the development plan shall be open space. Any proposed open space, unless conveyed to the Town or its Conservation Commission, shall be subject to a recorded restriction enforceable by the Town, providing that such land shall be perpetually kept in an open state, that it shall be preserved exclusively for the purposes set forth herein, and that it shall be maintained in a manner which will ensure its suitability for its intended purposes.
- i) The percentage of the open space that is wetlands shall not normally exceed the percentage of the tract that is wetlands; provided, however, that the applicant may include a greater percentage of wetlands in such open space upon a demonstration that such inclusion promotes the purposes of this bylaw.
- ii) The open space shall be contiguous. Contiguous shall be defined as being connected. Open Space will still be considered connected 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 non-contiguous open space will promote the goals of this bylaw and/or protect identified primary and secondary conservation areas.

*[Select one version of (iii)]*

- iii) The open space shall be used for wildlife habitat and conservation.

*Or*

- iii) The open space shall be used for wildlife habitat and conservation and the following additional purposes [choose]: historic preservation, education, outdoor education, recreation, park purposes, agriculture, horticulture, forestry, a combination of these uses, and shall be served by suitable access for such purposes. The Planning Board may permit up to \_\_\_\_ % 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).
- iv) 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.
- v) 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 or trust owned jointly or in common by the owners of lots 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 that shall provide for mandatory assessments for maintenance expenses to each lot. Each such trust or corporation shall be deemed to have assented to allow the Town to perform maintenance of such open space and facilities, if the trust or corporation fails to provide adequate maintenance, and shall grant the town an easement for this purpose. In such event, the town shall first provide fourteen (14) days written notice to the trust or corporation as to the inadequate maintenance, and, if the trust or corporation fails to complete such maintenance, the town may perform it. Each individual deed, and the deed or trust or articles of incorporation, shall include provisions designed to effect these provisions. Documents creating such trust or corporation shall be submitted to the Planning Board for approval, and shall thereafter be recorded.

## **10) DESIGN STANDARDS**

- a) The following Generic and Site Specific Design Standards shall apply to all OSRDs and shall govern the development and design process:
  - iii) 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, 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. Proposed buildings shall be related to their surroundings.
    - (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.

iv) Site Specific Design Standards

*[Select one (1)]*

- (1) Mix of Housing Types. The OSRD may consist of any combination of single-family, two-family and multifamily residential structures. A multifamily structure shall not contain more than \_\_\_\_ dwelling units. Residential structures shall be oriented toward the street serving the premises and not the required parking area.

*Or*

- (1) Maximum Percentage of Housing Type. The OSRD shall consist of \_\_\_\_ % single family, \_\_\_\_ % two family and \_\_\_\_% multifamily structures.
- (2) Parking. Each dwelling unit shall be served by two (2) off-street parking spaces. Parking spaces in front of garages may count in this computation. All parking areas with greater than \_\_\_\_ spaces shall be screened from view.
- (3) Buffer Areas. A buffer area of \_\_\_\_ feet may be provided at the following locations: *[choose from:]* (a) perimeter of the property where it abuts residentially zoned and occupied properties; (b) certain resource areas on or adjacent to the tract like ponds, wetlands, streams and riverfront areas, rock outcrops, ledge, agricultural or recreational fields, and land held for conservation purposes; and (c) existing public ways. Driveways necessary for access and egress to and from the tract may cross such buffer areas. No vegetation in this buffer area will be disturbed, destroyed or removed, except for normal maintenance of structures and landscapes approved as part of the project. The Planning Board may waive the buffer requirement in these locations when it determines that a smaller buffer (or no buffer) will suffice to accomplish the objectives set forth herein.
- (4) Drainage. The Planning Board shall encourage the use of “soft” (non-structural) stormwater management techniques (such as swales) and other drainage techniques that reduce impervious surface and enable infiltration where appropriate.
- (5) Common/Shared Driveways. A common or shared driveway may serve a maximum number of \_\_\_\_ single-family units.
- (6) Screening and Landscaping. All structural surface stormwater management facilities shall be accompanied by a conceptual landscape plan.
- (7) On-site Pedestrian and Bicycle Circulation. Walkways and bicycle paths shall be provided to link residences with parking areas, recreation facilities (including parkland and open space) and adjacent land uses where appropriate.
- (8) Disturbed Areas. Not more than \_\_\_\_% of the total tract shall be disturbed areas. A disturbed area is any land not left in its natural vegetated state.

## **11) DECISION OF THE PLANNING BOARD**

- a) The Planning Board may grant a special permit for a OSRD if it determines that the proposed OSRD has less detrimental impact on the tract than a conventional development proposed for the tract, after considering the following factors:
  - i) Whether the OSRD achieves greater flexibility and creativity in the design of residential developments than a conventional plan;
  - ii) whether the OSRD promotes permanent preservation of open space, agricultural land, forestry land, other natural resources including waterbodies and wetlands, and historical and archeological resources;
  - iii) whether 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;
  - iv) whether the OSRD reduces the total amount of disturbance on the site;
  - v) whether the OSRD furthers the goals and policies of the [choose] open space/ master/ comprehensive plan(s);
  - vi) whether the OSRD facilitates the construction and maintenance of streets, utilities, and public service in a more economical and efficient manner.
  - vii) whether the Concept Plan and its supporting narrative documentation complies with all sections of this zoning bylaw.

## **12) INCREASES IN PERMISSIBLE DENSITY**

- a) The Planning Board may award a density bonus to increase the number of dwelling units beyond the Basic Maximum Number. The density bonus for the OSRD shall not, in the aggregate, exceed fifty percent (50%) of the Basic Maximum Number. Computations shall be rounded to the lowest number. A density bonus may be awarded in the following circumstances:
  - i) 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; provided, however, that this density bonus shall not exceed 25% of the Basic Maximum Number.
  - ii) For every two (2) dwelling units restricted to occupancy by persons over the age of fifty-five, one (1) dwelling unit may be added as a density bonus; provided, however, that this density bonus shall not exceed 10% of the Basic Maximum Number.
  - iii) Where the Planning Board determines that the development is in substantial conformance with the document entitled "Town of \_\_\_\_\_, Residential Design Guidelines," a bonus of up to fifteen (15%) percent of the Basic Maximum Number may be awarded.
  - iv) For every two (2) dwelling units restricted to occupancy for a period of not less than fifteen (15) years by persons or families who qualify as low or moderate income, as those terms are defined for the area by the Commonwealth's Department of Housing and Community

Development, one (1) dwelling unit may be added as a density bonus; provided, however, that this density bonus shall not exceed 10% of the Basic Maximum Number.

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The bylaw was originally produced by the Metropolitan Area Planning Council Boston, Massachusetts; August 2000; Assistance in its' development was provided by the *Green Neighborhoods Alliance*, a partnership involving the Massachusetts Office of Coastal Zone Management; Camelot Realty Trust; Massachusetts Audubon Society; North Shore Advocacy Office; Massachusetts Executive Office of Environmental Affairs; Merrimack Valley Planning Commission; MAPC; North East Builders Association; Spearfields, Ltd.; Symes Associates, Inc.; as well as planners, planning board members, and open space committee members across the North Shore; Generous technical review was provided by Donald Schmidt, Principal Land Use Planner, Department of Housing And Community Development. The original version has been updated and amended by the Green Neighborhoods Alliance August 2001.

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