

# **Town of Medway Planning Board Rules and Regulations**

## **Chapter 300 - Adult Retirement Community Planned Unit Development (ARCPUD)**

### **Rules and Regulations for Review and Approval of ARCPUD Plans and Issuance of ARCPUD Special Permits**

*Approved and Adopted by the Medway Planning Board: July 17, 2001*

*Amended by the Medway Planning Board: July 9, 2002*

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# Town of Medway

## Planning Board Rules and Regulations

### Chapter 300 - Review and Approval of ARCPUD Plans and Issuance of ARCPUD Special Permits

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# Town of Medway

## Planning Board Rules and Regulations

### Chapter 300 - Adult Retirement Community Planned Unit Development (ARCPUD)

### Rules and Regulations for Review and Approval of ARCPUD Plans and Issuance of ARCPUD Special Permits

Adopted by the Medway Planning Board July 17, 2001

#### ARTICLE I AUTHORITY

s. **301 - 1 ADOPTION** - The Planning Board hereby adopts these Rules and Regulations governing the review of plans and the issuance of Special Permits for Adult Retirement Community Planned Unit Developments (ARCPUD) in Adult Retirement Community Overlay Districts (ARCOD) pursuant to Section V (T) of the Medway Zoning By-Law approved as Article 11 at the October 16, 2000 Special Town Meeting.

s. **301 - 2 PURPOSE** - These regulations provide for the procedural and substantive requirements of the Section V (T) of the Medway Zoning By-Law including the process for submission, review and processing of ARCPUD Plans, issuance of ARCPUD Special Permits, applicable site, open space, design and construction standards, and the corresponding fees. The purpose of these regulations is to guide the applicant and their consultants, town officials and Boards, and others involved in the preparation, submittal, processing and review of ARCPUD Plans.

#### ARTICLE II DEFINITIONS

s. **302 - 1 APPLICABILITY** - In these Rules and Regulations, the terms used, unless a contrary meaning is required by the context or is specifically prescribed, shall have the meaning as specified in the Medway Zoning By-Law, Section II DEFINITIONS in effect at the time the ARCPUD application is submitted.

#### ARTICLE III ARCPUD SPECIAL PERMIT APPLICATION

s. **303 - 1 GENERAL INFORMATION**

A. **General** - An ARCPUD development shall be permitted only upon the granting of an ARCPUD Special Permit by the Planning Board. An applicant shall apply for an

ARCPUD Special Permit by submitting an ARCPUD Plan and all other required information in accordance with the requirements set forth in these Rules and Regulations. The Planning Board shall review an ARCPUD Special Permit Application pursuant to the submission and procedural requirements set forth in these Rules and Regulations, and shall review the ARCPUD Plan for conformance with all standards of Section V (T) of the Town of Medway Zoning By-Law. The application, submission, and procedural review process for an ARCPUD Special Permit shall adhere to all minimum requirements specified herein. The exact content of an ARCPUD Special Permit Application beyond the minimum requirements may vary depending on the exact use(s) and structure(s) proposed by an applicant.

**B. *Coordination with Subdivision Plan Approval*** – It is expected that most ARCPUD developments will involve the subdivision of land and thus be subject to an application to the Planning Board for subdivision plan approval as well as an application for an ARCPUD Special Permit. It is the intent of the Planning Board to enable simultaneous and coordinated review of both the subdivision plan and ARCPUD Special Permit Applications. However, when application for subdivision approval is necessary for a proposed project that also is subject to obtaining an ARCPUD Special Permit, it is mandatory that all application forms, plans, and submission materials for the subdivision plan approval be submitted in full and independent of the application for the ARCPUD Special Permit. It also is mandatory that the Planning Board’s review of the application for subdivision plan approval meet all the normal substantive, procedural, and public hearing requirements for a subdivision plan approval in accordance with its Land Subdivision Rules and Regulations and in accordance with the Massachusetts Subdivision Control Law (M.G.L. Chapter 41, Sections 81K-81GG). In turn, the review of the ARCPUD Special Permit Application shall be subject to all substantive, procedural, and public hearing requirements prescribed for a special permit review pursuant to these Rules and Regulations and in accordance with Section 9 of M.G.L. Chapter 40A. Notwithstanding these requirements, the Planning Board believes there is benefit to a coordinated review of the subdivision and special permit aspects of an ARCPUD project.

**C. *Pre-Application Meeting*** – The applicant shall have a Pre-Application Meeting with the Planning Board to provide for a preliminary review of the proposed project. This will provide the applicant with the opportunity to present preliminary concepts for its ARCPUD and gain informal feedback and input from the Planning Board, other town officials, and interested citizens at an early stage of project planning. This meeting also will allow the Planning Board and other involved town officials to provide guidance to the applicant on the ARCPUD Special Permit Application and review process. The Pre-Application Meeting shall be conducted subject to the following requirements:

- (1) The applicant shall pay a non-refundable \$500.00 Pre-Application Meeting Fee to the Planning Board at the time the meeting occurs. This fee shall be used to cover the Planning Board’s costs of staff or outside consultant advisory services associated with the Pre-Application Meeting and the subsequent evaluation of the completeness of the submittal of the ARCPUD Special Permit Application with ARCPUD Plan.
- (2) The “additional information requirements” as outlined in Section 303 - 4 (B) of these Rules and Regulations shall be required as part of the ARCPUD Special

Permit Application with ARCPUD Plan unless a specific waiver is granted by the Planning Board. The applicant should provide a list of requested waivers for discussion to the Planning Board prior to the meeting.

- D.** *Application Forms* – The Planning Board shall devise and make available to the public an application form for “ARCPUD Special Permit Application.” The application form shall be designed to obtain general information about the applicant and its agents; the location, size, and nature of the proposed ARCPUD development site; and a general description of the proposed ARCPUD development program.

**s. 303 – 2            *STANDARDS FOR ARCPUD PLAN PREPARATION***

- A.** The ARCPUD Plan shall be prepared by a professional engineer and registered land surveyor (or other professional as required) registered in Massachusetts and certified by same with their seal stamp and signature.
- B.** The ARCPUD Plan shall be clearly and legibly presented in black ink for proper construction of the proposed project. The plans will be plotted on the standard size (24" X 36") translucent mylar (4 mil) matted on one side. The drawings shall be prepared in accordance with the Rules and Regulations of the Registry of Deeds, Chapter 36, Section 13A as amended, pertaining to plan size, materials, ink, lettering height, and related requirements.
- C.** The ARCPUD Plans shall be at a scale of one-inch (1”) equals forty feet (40’), or such other scale as the Planning Board may have accepted in advance to show details clearly and adequately.
- D.** All existing and proposed elevations shall refer to the North American Vertical Datum of 1988 (NAVD88).
- E.** Sheet sizes shall be twenty-four by thirty-six inches (24” x 36”) including a three quarter inch (3/4”) border on the top, bottom and right sides and a one and one half inch (1 ½”) border on the left side.

**s. 303 – 3            *SUBMITTAL REQUIREMENTS – TOWN CLERK***

- A.** The applicant shall file by delivery in hand, or registered or certified mail, the following:
  - (1) A copy of the ARCPUD Special Permit Application filed on forms supplied by the Planning Board.
  - (2) One set of the ARCPUD Plans in conformance with these Rules and Regulations and the requirements of the Zoning By-Law, Section V. Use Regulations, Sub-Section T, Adult Retirement Community Overlay Districts.
  - (3) A request for review of street names by the Street Naming Committee.

**B.** The applicant shall secure a receipt from the Town Clerk and provide a copy of such to the Planning Board. Said receipt shall include the date and time the application was filed with the Town Clerk.

**s. 303 – 4 SUBMITTAL REQUIREMENTS – PLANNING BOARD**

**A. Basic Information** - Any person or entity that submits an application and plans for an ARCPUD Special Permit shall file with the Planning Board all items required herein for the application to be “duly submitted” in accordance with these Rules and Regulations. Such submissions shall be made directly to the Planning Board. The applicant shall file by delivery in hand, or registered or certified mail, the following:

- (1) The original ARCPUD Special Permit Application, properly executed, filed on forms supplied by the Planning Board including the names, addresses, and telephone numbers of the applicant, land owner if other than the applicant, and all agents such as architect, engineer, and attorney;
- (2) Fourteen (14) copies of the ARCPUD Plan in conformance with these Rules and Regulations and the requirements of the Zoning By-Law, Section V. Use Regulations, Sub-section T. Adult Retirement Community Overlay Districts.
- (3) An ARCPUD Plan Filing Fee of \$1,000 as established in these Rules and Regulations.
- (4) A list of all abutters within five hundred (500) feet of the site’s property lines as appearing on the most recent tax list as certified by the Board of Assessors of all applicable communities.
- (5) Three (3) copies of the storm drainage calculations including technical supporting documents, using the Rational Method (for pipe sizing) and Soil Conservation Service Method (TR55 and/or TR 20) for Storm Water Management;
- (6) Copies of all relevant approvals received to date by the applicant from other Boards or commissions (i.e. Determination of Applicability, Order of Conditions, zoning variance, etc.)
- (7) Two (2) sets of Layout/Floor plans with the uses of areas labeled and two (2) sets of Elevation Drawings of the building(s) facades from all four directions.
- (8) Street plans and profiles of every proposed street shall be at a scale of one (1) inch equals forty (40) feet horizontal and one (1) inch equals four (4) feet vertical;
- (9) Locus Map – A locus plan of the project area showing the street configuration, major land uses, major natural features, and zoning district boundaries within two thousand (2,000) feet of the perimeter boundaries of the site, at a minimum scale of one (1) inch equals eight hundred (800) feet.
- (10) Context Plan – A plan showing all property lines and buildings, as shown on the current Assessor’s Maps, within five hundred (500) feet of the perimeter

boundaries of the site, at a minimum scale of one (1) inch equals one hundred (100) feet.

- (11) Plot Plan (certified by a land surveyor) indicating total land area boundaries, angles, and dimensions of the site and a north arrow:
- (12) Site Plan(s) or plan sets, at a minimum scale of one (1) inch equals forty (40) feet, showing the following:
  - (a) Existing use(s) of land and existing buildings, if any;
  - (b) Proposed use(s) of land and proposed buildings;
  - (c) Dimensions of existing and proposed building(s) or other structures including height, setbacks from property line, and total square footage of building area;
  - (d) For non-residential buildings and for non-residential uses in any building, the total square footage of building area on each floor or the total square footage occupied on a given floor by non-residential uses;
  - (e) Locations and dimensions of any easements, public or private rights-of-way, or other burdens (existing or proposed);
  - (f) All parking and loading areas, including surface (at-grade) parking lots and parking structures, showing the number, location, and dimension of parking and loading spaces, driveways, other access ways, sidewalks and the like.
- (13) Project Narrative – A written narrative describing the proposed ARCPUD development including the following:
  - (a) Intended or targeted resident or user population(s) to be served including a description of the protective covenants which shall be executed to accomplish same;
  - (b) Types, number, and mixture of ARCPUD uses proposed;
  - (c) Proposed construction (and/or demolition);
  - (d) Type and number of buildings, dwelling units, home sites, etc. that are proposed, including the size (e.g., number of bedrooms, square footage) of all uses other than detached single family homes;
  - (e) Proposed staging or phasing of construction of the ARCPUD;
  - (f) Proposed form(s) of ownership, including the form of ownership for any common property;

- (g) For non-residential uses, nursing homes, medical facilities, assisted care or continuing care facilities, a description of the nature of such use(s), the expected number of employees (as applicable) broken down by each type of use or business within the ARCPUD that will have employees, and the proposed hours of operation;
  - (h) Description of how the project will comply with each ARCPUD standard;
  - (i) Description of proposed means of compliance with the ARCPUD open space standards, including the type of mechanism to be used for permanent protection of open space and indication as to whether any of the required open space will be deeded to the Town, any assign(s) of the Town, or association, or other mechanism for maintenance of the open space.
- (14) Receipt from the Town Clerk acknowledging the date and time of the filing of the ARCPUD Special Permit Application with the ARCPUD Plan.

**B. *Additional Information Requirements*** - The Planning Board shall require the following additional information including, but not limited to the items listed below, unless the applicant requests a specific waiver(s) which are agreed upon by the Planning Board at the pre-application meeting. Only that information which is applicable to a proposed use or structure will be required.

- (1) The total floor area and ground coverage ratio of each proposed building and structure;
- (2) front, side and rear elevations;
- (3) existing and proposed contour elevations in two foot increments;
- (4) provisions for vehicular and pedestrian access ways and/or trails including proposals for new or relocated curb cuts and access for emergency vehicles;
- (5) color, materials, and exterior features of proposed structures;
- (6) landscaping and screening, including trees, stones, walls, fences and other features to be retained and/or removed, as well as color, size, and type of landscaped surface materials;
- (7) measures taken to preserve and protect natural resources;
- (8) outdoor lighting, including locations and intensity of lighting facilities;
- (9) locations and significance of historic structures;

- (10) locations and adequacy of existing and proposed on-site public utilities, facilities, and conditions (water, sewerage, and drainage), showing size, material and direction of flows;
- (11) a traffic study including peak hour traffic volumes generated by the proposed use in relation to existing volumes and projected future conditions;
- (12) wetlands, ponds, and surface water bodies, as defined under the Wetlands Protection Act, M.G.L. Chapter 131, Section 40, and rules promulgated hereunder, 310 CMR 10.00, and any other applicable local bylaws, rules or regulations; and
- (13) such other information as will aid the Planning Board in judging the application and in determining special conditions and safeguards, and as the Board should deem necessary, in its determination of completeness of said application.

**C. Acknowledgement** - The Planning Board shall provide a receipt to the applicant acknowledging delivery of the application and plans.

**s. 303 – 5 PLANNING BOARD DESIGNEE** – The Planning Board may designate a town official, agency, or person in charge of administering the clerical and processing requirements set forth in these Rules and Regulations for ARCPUD Special Permit Applications and for the scheduling of meetings, public hearings, and the like.

**s. 303 – 6 ARCPUD PLAN CONTENTS** – Said plan shall include the following:

- A.** A title, appearing in the lower right-hand corner of the plan, showing the name of the site; the date; the scale, the names and addresses of the applicant; and the names of the engineer and surveyor;
- B.** North point, graphic scale, benchmarks (vertical and horizontal) and boundaries of the development;
- C.** Major features that exist near or on the entire tract of land or near the site at the time of survey, such as existing waterways, swamps, all wetlands, including identification of individuals making such determinations, water bodies, natural drainage courses, walls, fences, buildings, historic markers, milestones, bridges, clearly defined trails, large trees, wooded areas, rock/ledge outcroppings, ditches and existing utilities;
- D.** Lines of existing and proposed streets, ways, lots, lot numbers or other designations of each lot, easements and public or common areas within the development;
- E.** The location, names and present widths of all adjacent streets bounding, approaching or within 700 feet of the development, sufficient to analyze traffic flow;
- F.** Sufficient information to determine the location, direction and length of every street including street stationing, lot lines, easement and boundary lines, and to be able to establish these lines on the ground. It shall include the lengths and bearings of the plan and boundary lines of all lot lines including lot frontage on the streets, boundary lines of

all streets and easements, the lengths, radii, tangents, and central angles of all curves in lot lines and street lines. All angle points or intersections of tangents along the street lines shall be shown. Areas of lots with lot numbers and the area and frontage on public ways of adjoining lands of the applicant not included in the subdivision will be shown. The total length (s) of streets within the subdivision shall be provided;

- G.** The lengths, radii, tangents and central angles of all curves in lot lines;
- H.** The location of all sidewalks, driveway aprons, trees and grass plots;
- I.** North arrow and north arrow reference;
- J.** House numbers;
- K.** Assessor's Map, block and parcel numbers;
- L.** Location of all permanent monuments properly identified as to whether existing or proposed;
- M.** Location of the minimum lines of building setback (front, side and rear) required by the Zoning By-Law. The calculation of the lot shape factor shall also be provided for each lot;
- N.** List of all items that shall require a waiver from the Planning Board;
- O.** If the property has been examined, approved and confirmed by the Massachusetts Land Court, such information shall be noted in the plan with case numbers.

**s. 303 – 7 SUBMISSION PROCESSING**

- A.** ***Completeness Review*** – To ensure the ARCPUD Special Permit Application with ARCPUD Plans contain all required information and to avoid the possibility of denial due to an incomplete application, the applicant should review the application and plan documents with the Planning Board or its designee prior to filing the application with the Town Clerk. The Planning Board or its designee will review the application to determine if it meets all submission requirements. Once this completeness review is completed, the applicant may file the ARCPUD Special Permit Application with the Town Clerk to commence the formal review.
- B.** ***Applications Rejected Due to Incompleteness*** – The Planning Board may reject an ARCPUD Special Permit Application upon a determination that the application does not satisfy the information/submission requirements of these Rules and Regulations. Such determination, if made, shall be made within fourteen (14) days of the date of filing of the application with the Town Clerk, and the Planning Board shall return the application and plan documents to the applicant. The Planning Board shall provide the applicant with a written explanation as to the specific reason(s) for the determination of incompleteness with a citation of the specific provisions of these Rules and Regulations regarding the missing or incomplete information and the remedies required to make the application complete. The Planning Board shall send a notice of its determination to the Town Clerk.

The ARCPUD Special Permit Filing Fee shall be retained by the Planning Board and be applied to any future resubmission of the application. When brought into conformity with the content requirements of these Rules and Regulations, an ARCPUD Special Permit Application may be resubmitted for consideration by the Planning Board without prejudice.

## **ARTICLE IV      ARCPUD REVIEW AND APPROVAL PROCEDURE**

### **s.      304 – 1            USE OF OUTSIDE CONSULTANTS**

- A.** After the applicant has filed an application for an ARCPUD Special Permit with Plan and it has been determined to be complete, the Planning Board may determine that the assistance of outside consultants is warranted due to the size, scale, or complexity of the proposed project or its potential impact on the Town.
- B.** In hiring outside consultants, the Planning Board may engage the services of engineers, planners, lawyers, urban designers or other appropriate professionals who can assist the Planning Board in analyzing the application and project to ensure compliance with all relevant laws, by-laws and regulations.
- C.** **Review Fees** - If the Planning Board determines that such services are required, the applicant shall pay an ARCPUD Plan Review Fee prior to review by the outside consultants. Section 310-2 of these Rules and Regulations sets forth the various review fees.

### **s.      304 – 2            REVIEW BY TOWN OFFICIALS**

- A.** The Planning Board shall not make a decision on an application for an ARCPUD Special Permit until town Boards, commissions and departments have been notified and have submitted reports or recommendations thereon. If reports are not received within thirty-five (35) days since receipt of the application by such Boards or agencies, this shall be deemed lack of opposition thereto.
- B.** **Circulation of ARCPUD Application** - The Planning Board shall circulate one copy each of the ARCPUD application and plan documents to the following Boards/commissions/agencies/departments for their information and to request their review and comments:
  - (1) Board of Selectmen/Town Administrator
  - (2) Building Inspector/Zoning Enforcement Officer as to general conformance with the Zoning By-Law and to the general suitability of lots for building purposes.
  - (3) Board of Assessors
  - (4) Conservation Commission as to the potential involvement with MGL Chapter 131, Section 40, stormwater management, and the effects of the development on streams, wildlife and similar considerations within the scope of the Conservation Commission.

- (5) Fire Department as to street alignment, location of hydrants, installation of the alarm system and emergency access.
- (6) Police Department as to traffic control, street safety, both vehicular and pedestrian, safe stopping site distance, access for emergency vehicles, and street light location.
- (7) Department of Public Services as to the design of the street system, location of easements, monuments, streetlights, drainage systems, and curb cuts.
- (8) Water/Sewer Department as to conformance with their regulations regarding the water and sanitary sewer systems.
- (9) Board of Health as to the design of any proposed sewer or septic systems to serve the proposed ARCPUD project, or the design of any other aspects of the project (e.g., food services) that are subject to permitting through the Board of Health.
- (10) Tree Warden
- (11) Open Space Committee

C. The Town Clerk shall convene a meeting of the Street Naming Committee and report its decision to the Planning Board.

s. **304 – 3 PUBLIC HEARING**

A. **General** - Before taking any action on an ARCPUD Special Permit Application with an ARCPUD Plan, the Planning Board shall hold a public hearing. At such duly conducted public hearing, the applicant shall present the proposed ARCPUD project. Members of the public shall be provided the opportunity to offer comment in person, by agent or attorney, or in writing, on the ARCPUD Special Permit Application.

B. **ARCPUD Special Permit Application**

- (1) **Public Hearing** - Before taking any action on an ARCPUD Special Permit Application to approve, approve with conditions, or deny the granting of the ARCPUD Special Permit, the Planning Board shall hold a public hearing within sixty-five (65) days after the filing and receipt of the ARCPUD Special Permit Application with the Town Clerk, in accordance with the special permit requirements set forth in Chapter 40A, Section 9, of the Massachusetts General Laws.
- (2) **Abutter Notice** - The Planning Board shall prepare the public hearing notice and provide it to the applicant who will notify all abutters within five hundred (500) feet of the parcel, of the time, date and nature of the public hearing. Said notification shall be by certified mail, return receipt requested, at least ten (10) days prior to the hearing. The cost of certified mailing shall be borne by the applicant. The signed green certified mail return cards from all the abutters shall be submitted to the Planning Board prior to the public hearing.

- (3) Legal Notice – The Planning Board shall provide notice of the public hearing by advertisement in a newspaper of general circulation in the town not less than fourteen (14) days prior to the public hearing and again eight (8) days prior to the public hearing. The cost of the advertisement shall be borne by the applicant who shall be billed directly by the newspaper for same. The notice shall also be provided to the Town Clerk for posting in a conspicuous place in Town Hall for a period of not less than fourteen (14) days before the day of the hearing.
- (4) Continuation – At its discretion, the Planning Board may continue the public hearing by providing written notice to the applicant and the Town Clerk for posting in Town Hall. Said notice shall include the date and time when the public hearing will be continued.

s. **304 – 4** ***ARCPUD AND SCENIC ROADS*** - Any proposed ARCPUD which shall border a scenic road so designated by the Town of Medway pursuant to M.G.L. Chapter 40, Section 15C, the Scenic Roads Act, shall comply with all additional special requirements as may be in effect at the time the application is submitted.

s. **304 – 5** ***PROCEDURES FOR APPROVAL OR DENIAL***

**A. *General Criteria***

- (1) The granting of an ARCPUD Special Permit is discretionary. An applicant is not entitled to an ARCPUD Special Permit unless its ARCPUD Special Permit Application with the ARCPUD Plan is in complete conformance with all provisions pursuant to Section V. (T) of the Town of Medway Zoning By-Law governing the granting of an ARCPUD Special Permit for development within the Adult Retirement Community Overlay District; is in full compliance with the application information, submission, procedural, and substantive requirements of these Rules and Regulations; and unless the Planning Board is able to make positive findings and determinations with respect to the stated provisions. The Planning Board, at its discretion, may deny the granting of an ARCPUD Special Permit if it is unable to make a positive finding and determination.
- (2) The Planning Board, as a condition of granting approval of an ARCPUD Special Permit Application, may impose reasonable requirements to promote the health, convenience, safety and general welfare of the community and to benefit the Town of Medway. In such event, the Planning Board shall endorse such conditions on the ARCPUD Plan to which they relate and/or set forth a separate instrument to be attached thereto, to which reference is made on such Plan and which shall be deemed to be a part of the Plan.

**B. *Decision of the Planning Board***

- (1) The Planning Board may grant, grant with conditions, deny, or grant a leave to withdraw an application for an ARCPUD Special Permit within ninety (90) days of filing the ARCPUD Special Permit Applicant with ARCPUD Plan. A decision to grant, or grant with conditions, shall cite the specific section of the Zoning By-Law or ARCPUD Rules and Regulations that refers to the granting of a special permit and shall incorporate by reference the plans that have been filed with the

application. Within fourteen (14) days of its decision, the Planning Board shall set forth clearly the reasons for its decision and shall provide written notification of its action, specifying its findings and all waivers and conditions, to the applicant, the Town Clerk, to the parties in interest as specified in Section 11 of M.G.L. Chapter 40A, and to every person present at the public hearing who requested that notice be sent to him and stated the address to which such notice was to be sent. Such notice shall specify that any appeals shall be made pursuant to Section 17 of M.G.L., Chapter 40A and shall be filed within twenty (20) days after the date of filing of such notice in the office of the Town Clerk.

- (2) An ARCPUD Special Permit shall require a vote of at least four (4) members of the five (5) member Planning Board or the Planning Board associate member, if sitting, to hear and act on the special permit application in order to constitute a membership of five (5).

**C. *Planning Board Findings*** – The Planning Board shall make findings on the ARCPUD Special Permit Applicant with ARCPUD Plan pursuant to the Medway Zoning By-Law, Section V. Use Regulations, Sub-Section T. Adult Retirement Community Overlay Districts, 4. f) in effect at the time the application is submitted.

**D. *Conditions for Approval of ARCPUD Special Permit*** – In addition to the conditions, standards and criteria set forth in the sections of the Zoning By-Law and these Rules and Regulations that authorize the granting of an ARCPUD Special Permit, the Planning Board may attach such conditions and limitations as it deems necessary to ensure that the findings and determinations it must make are complied with.

**E. *Time Limitations***

- (1) Except as hereinafter provided, the Planning Board shall take final action on an ARCPUD Special Permit Application with ARCPUD Plan within ninety (90) days following the date of the public hearing.
- (2) Extension of Time for Action, Leave to Withdraw - The period within which final action shall be taken by the Planning Board may be extended for a definite period by written mutual consent of the Planning Board and the applicant. In the event the Planning Board determines that the plans and evidence included with the ARCPUD Special Permit Application with ARCPUD Plan or presented to it at the public hearing are inadequate to permit the Planning Board to make a finding and determination, then in its discretion, instead of denying the application, it may:
  - (a) continue the public hearing to a later date to permit the applicant to submit a revised ARCPUD Plan and further evidence, provided, however, that such continuation shall not extend the ninety (90) day period within which final action shall be taken by the Planning Board, unless said period is extended to a day certain by mutual consent; or
  - (b) grant a leave to withdraw the application without prejudice so that the applicant may submit a revised application, which shall not be considered as a repetitive petition. Such revised application shall be treated as a new application. In such a case, the applicant will bear the cost of re-

advertising the revised application, re-notification of the abutters and all subsequent ARCPUD fees as may be necessary.

- (3) The Planning Board shall file a written notification of public hearing continuation, deadline extension or application withdrawal with the Town Clerk.

**F. *Planning Board's Failure to Take Action***

- (1) In the event the Planning Board shall fail to hold a public hearing or shall fail to take action on an ARCPUD Special Permit Application with ARCDPUD Plan within the times set forth in these Rules and Regulations or within such extended period as may have been mutually agreed, then upon the expiration of said times, the Planning Board shall be deemed to have approved the application.
- (2) An applicant who seeks such approval by reason of the failure of the Planning Board to act within such time prescribed, shall notify the Town Clerk, in writing, within fourteen (14) days of the expiration of said ninety (90)days or extended time, if applicable, of such approval and that notice has been sent by the applicant to parties in interest. The applicant shall send such notice to parties in interest by regular mail and each such notice shall specify that appeals, if any, shall be made pursuant to M.G. L. Chapter 40A, Section 17 and shall be filed within twenty (20) days after the date the Town Clerk received such written notice from the applicant that the Planning Board failed to act within the time prescribed. After expiration of twenty (20) days without notice of appeal pursuant to Section 17, or, if appeal has been taken, after receipt of certified records of the court in which such appeal is adjudicated, indicating that such approval has become final, the Town Clerk shall issue a certificate stating the date of approval, the fact that the Planning Board failed to take final action and that the approval resulting from such failure has become final, and such ARCPUD Special Permit shall be forwarded to the applicant.

**G. *Twenty (20) Day Appeal*** - Any person aggrieved by a decision of the Planning Board may file an appeal to a court of the Commonwealth by bringing an action within twenty (20) days of the date the decision was filed with the Town Clerk, as provided for in M.G.L. Chapter 40A Section 17.

**s. 304 – 6 *PERFORMANCE GUARANTEE*** – Before the Planning Board endorses its approval of an ARCPUD Plan, the applicant shall agree to complete the required improvements (construction of ways and installation of municipal services) at no cost to the Town of Medway. The developer shall provide security by one or both of the following methods:

- A. *Covenant*** – A covenant not to sell or build upon any lots until completion of the approved improvements shall be reviewed and approved by Town Counsel. The covenant must be referred to on the plan and be recorded with it. The covenant shall be executed and duly recorded by the owner of record, running with the land, whereby such ways and services shall be completed to serve any lot before such lot maybe built upon or conveyed, other than by mortgaged deed; provided, that a mortgagee who acquires title to the mortgages premises by foreclosure or otherwise, and any succeeding owner of such premises or part thereof may sell any such lot subject to the covenant which provides that

no lot shall be built until such ways and services have been completed to serve such lot. This section shall not prohibit a conveyance, subject to said covenant, of the entire parcel or all lots not previously released by the Planning Board. A deed or any part of the project in violation hereof shall be voidable by the grantee prior to the release of the covenant but not later than three (3) years from the date of such deed.

**B. Bond** - The Planning Board may require a developer to post a cash bond or a bond that has been reviewed and approved by the Planning Board, for the minimum bond value determined by the Planning Board to ensure timely performance of the requirements imposed at the time the ARCPUD Special Permit with ARCPUD Plan is approved, particularly where actions authorized by the approval may make the enforcement of some requirements unfeasible in the absence of such security. A deposit of funds shall be made in a joint passbook with the Town of Medway in an amount determined by the Planning Board to be sufficient to cover the cost of all or any part of the approved improvements. At the time of plan endorsement, a signed withdrawal slip shall be provided to the Planning Board for said account.

**s. 304 – 7 PLAN ENDORSEMENT AND ISSUANCE OF ARCPUD SPECIAL PERMIT**

**A.** The applicant will supply the Planning Board with the original and fourteen (14) complete sets of the ARCPUD Plans for endorsement. Final approval, if granted, shall be endorsed on every page of the original drawings of all of the sheets of the ARCPUD Plans and one complete set of copies, by the signature of a majority of the Planning Board on every page. The originals will be returned to the applicant and the copied set will be retained by the Planning Board as a permanent record. Final approval, if granted, shall be endorsed on the other thirteen (13) sets of copies of the plan by the Planning Board Clerk.

**B.** Plan endorsement will not be made until the requirements as set forth herein are met and the statutory twenty (20) day appeal period has elapsed following the filing of the Board's action with the Town Clerk and said Clerk has notified the Planning Board that no appeal has been filed. If appeal has been made, said endorsement shall be made after the entry of a final decree of the Court sustaining the approval of such ARCPUD Special Permit with ARCPUD Plan.

**C.** At least twenty (20) days prior to endorsement, all required Covenants shall be provided to the Planning Board along with a Designer's Certification and Applicant's Sworn and Authorized Affidavit that title to the premises shown on said plan and appurtenances thereto including any off-site easements and rights of way are in the applicant's name and are free of all encumbrances or that the encumbrances set forth will not preclude any required improvements.

**D.** The Planning Board will distribute sets of the ARCPUD Plans endorsed by the Planning Board Clerk to Town officials including the Town Clerk.

**E. Validity**

- (1) The ARCPUD Special Permit and the endorsement of the approved ARCPUD Plans by the Planning Board shall be valid for a period of two (2) years from the granting thereof or such shorter time as specified in said permit.
- (2) The ARCPUD Special Permit and endorsed ARCPUD Plans shall be carried into effect by the commencement of construction pursuant to the ARCPUD Special Permit and the endorsed ARCPUD Plans by the applicant or its assignees by such date except for good cause. Good cause shall be determined by the Planning Board, and only upon a finding of demonstrated hardship (e.g. financing problems, labor strike, bad weather conditions, or act of God) and that there has been a good faith effort to overcome the hardship and expedite progress.

**F. Extension of ARCPUD Special Permit**

- (1) At least ninety (90) days prior to the expiration of the approval period, the applicant and/or owner may request, in writing, that the Planning Board grant an extension of time. The request for an extension shall state the reasons for the requested extension and also the length of time requested. The period of extension of the life of an ARCPUD Special Permit shall be, at minimum, the time required to pursue or await determination of an appeal, but the maximum extension shall not exceed one (1) year beyond the original permit life. Failure by the applicant to request an extension of time prior to the expiration date of the approval period will result in the Board's notifying the Building Inspector that no additional building permits shall be issued in said development.
- (2) Prior to approving any extension of time, the Planning Board will review and revise the amount of the bond deposit or other surety and the applicant shall provide a new or revised instrument prior to the Planning Board's vote to approve the requested extension.

**s. 304 – 8 RECORDING** - The applicant shall file a copy of the decision of the Planning Board granting an ARCPUD Special Permit, the Covenant and the originals of all approved and endorsed ARCPUD Plans, at the Registry of Deeds or where applicable, in the Land Court of the Commonwealth, and shall notify the Planning Board in writing, presenting evidence of the recording of the plans and the Covenant within thirty (30) days of such recording.

**s. 304 – 9 BUILDING PERMITS**

**A.** Building permits shall not be issued until the following has occurred:

- (1) the Planning Board shall approve, or approve with conditions the ARCPUD Special Permit and Plan, or shall allow one hundred thirty-five (135) days to elapse from the official date of submission of the application by the Planning Board; and
- (2) the appropriate site plan and/or subdivision approvals have been granted.

Prior to issuance of a building permit, the applicant shall present to the Building Inspector evidence of recording the ARCPUD Special Permit and ARCPUD Plans.

- B.** In the event that the Planning Board approves an ARCPUD Special Permit, any use or any construction, or any subsequent reconstruction or substantial exterior alteration shall be carried out only in conformity with all conditions and limitations included in the decision of the Planning Board, and only in conformity with the application and the ARCPUD Plan on the basis of which the finding and a determinations were made.

## **ARTICLE V                      GENERAL STANDARDS**

The applicable ARCPUD General Standards shall be those specified in the Medway Zoning By-Law, Section V. Use Regulations, Sub-section T. Adult Retirement Community Overlay Districts, part 4. c) in effect at the time the application is submitted.

## **ARTICLE VI                      OPEN SPACE STANDARDS**

The applicable ARCPUD Open Space Standards shall be those specified in the Medway Zoning By-Law, Section V. Use Regulations, Sub-section T. Adult Retirement Community Overlay Districts, part 4. d) in effect at the time the application is submitted.

## **ARTICLE VII                      SITE DEVELOPMENT STANDARDS**

The applicable ARCPUD Site Development Standards shall be those specified in the Medway Zoning By-Law, Section V. Use Regulations, Sub-section T. Adult Retirement Community Overlay Districts, part 4. e) in effect at the time the application is submitted.

## **ARTICLE VIII                      DESIGN STANDARDS**

The applicable ARCPUD Design Standards shall be those specified in the Medway Planning Board Site Plan Review and Approval Rules and Regulations and the Medway Design Review Regulations in effect at the time the application is submitted.

## **ARTICLE IX                      CONSTRUCTION STANDARDS**

The applicable ARCPUD Construction Standards shall be those specified in the Medway Planning Board Land Subdivision Rules and Regulations in effect at the time the application is submitted.

## **ARTICLE X                      ADMINISTRATION**

s. **310 - 1 VARIATION** – Strict compliance with the requirements of these ARCPUD Rules and Regulations may be waived when, in the judgment of the Planning Board, such action is in the public interest and not inconsistent with Section V (T) of the Medway Zoning By-Law.

s. **310 - 2 ARCPUD FEES**

A. **Pre-Application Meeting Fee** – A non-refundable Pre-Application Meeting Fee of five hundred dollars (\$500) shall be remitted to the Planning Board at such time as the Pre-Application Meeting takes place with the Planning Board.

B. **ARCPUD Plan Filing Fee** – A non-refundable ARCPUD Plan Filing Fee of one-thousand dollars (\$1,000) shall be remitted to the Planning Board at the time the ARCPUD Special Permit Application with ARCPUD Plans are submitted to the Planning Board.

C. **ARCPUD Plan Review Fee**

(1) Pursuant to MGL Chapter 40, 22F, as adopted by the Medway Town Meeting on October 16, 2000, an ARCPUD Plan Review Fee shall be established by the Planning Board for review of the ARCPUD Plan based on an itemized budget estimate prepared by an outside consultant. This fee shall be the reasonable costs to be incurred by the Planning Board to assist in the review of the proposed project. The ARCPUD Plan Review Fee shall not be a fixed amount but will vary with the costs incurred by the Board.

(2) The applicant shall remit the ARCPUD Plan Review Fee to the Planning Board upon receipt of notice and invoice of the estimated ARCPUD Plan Review Fee and prior to the public hearing. Failure to pay the ARCPUD Plan Review Fee shall constitute grounds for the Planning Board's denial of the ARCPUD Special Permit.

(3) Should the services of outside consultants be required after the initial ARCPUD Plan Review Fee has been expended, then the applicant shall be required to pay additional fees for the subsequent review of resubmitted and/or revised documents. A new estimate for additional review services shall be remitted to the applicant. Failure of the applicant to pay the necessary additional ARCPUD Plan Review Fees shall be grounds for the Planning Board to reject the plan, withhold plan approval and endorsement, and deny the ARCPUD Special Permit.

D. **ARCPUD Construction Observation/Inspection Fee**

(1) When an ARCPUD Special Permit with ARCPUD Plan are approved by the Planning Board, the Board may determine that the assistance of outside consultants is warranted to observe and inspect the construction due to the size, scale or complexity of the approved plan with any terms or conditions or because of its impact on the town. In hiring outside consultants, the Planning Board may engage the services of engineers, planners, lawyers, urban designers or other appropriate professionals who can assist the Planning Board in the inspection of the approved plan. The assistance of these consultants shall include but not be

limited to pre-construction meetings, monitoring or inspecting a project during construction or implementation, preparation of bond estimates and reductions, review of as-built plans and other related professional services. This fee shall not be a fixed amount but will vary with the costs incurred by the Board.

- (2) If the Board determines that such construction observation services are required, the applicant shall pay an ARCPUD Construction Observation Fee before the pre-construction meeting and any site preparation work commences.
- (3) This fee shall be the reasonable costs to be incurred by the Planning Board to observe and inspect the construction of the proposed project and shall be based on an estimate provided by the consultant. The ARCPUD Construction Observation Fee shall not be a fixed amount but will vary with the costs incurred by the Board.
- (4) Should the services of outside consultants be required after the initial ARCPUD Construction Observation Fee has been expended, then the applicant shall be required to pay an additional fee for the subsequent observation of construction. The Planning Board will keep the developer apprized of the status of the account and invoice as needed. Failure of the applicant to pay necessary additional ARCPUD Construction Observation Fees shall be grounds for the Planning Board to direct its outside consultant to halt all construction observation services.

**E. *Other Costs and Expenses*** – All expenses for advertising, publication of notices, postage and mailings, recording and filing of documents and all other expenses in connection with an ARCPUD including without limitation sampling and/or testing required by the Board or its agents shall be borne solely by the applicant.

**F. *Payment of Fees***

- (1) Fees paid by the applicant shall be by certified check made payable to the Town of Medway and submitted to the Planning Board. When the ARCPUD Plan Review Fee and the Construction Observation/Inspections Fee are received by the Planning Board pursuant to this section, they shall be deposited with the Town Treasurer who shall establish a special account for this purpose. Expenditures from this special account may be made at the direction of the Planning Board without further appropriation. Expenditures from the special account shall be made only for services rendered in connection with a specific ARCPUD project or projects for which a fee has been or will be collected from the applicant. Accrued interest may also be spent for this purpose.
- (2) At the completion of the project, any excess amount in the account, including interest, attributable to a specific project shall be repaid to the applicant or the applicant's successor in interest. A final report of said account shall be made available to the applicant or the applicant's successor in interest. For the purpose of this regulation, any person or entity claiming to be an applicant's successor in interest shall provide the Board with documentation establishing such succession in interest.

s. **310 – 3 APPEAL**

- A. ***Selection of Outside Consultant*** – Any applicant may make an administrative appeal from the Planning Board’s selection of the outside consultant (for plan review or construction observation services) to the Medway Board of Selectmen. Such appeal must be made in writing and may be taken only within twenty (20) days after the Planning Board has mailed or hand-delivered notice to the applicant of the consultant’s selection. The grounds for such an appeal shall be limited to claims that the consultant selected has a conflict of interest or does not possess the minimum, required qualifications. The minimum qualifications shall either consist of an educational degree in, or related to, the field at issue or three or more years of practice in the field at issue or a related field. The required time limit for the Planning Board’s action upon an application shall be extended by the duration of the administrative appeal. In the event that no decision is made by the Board of Selectmen within one (1) month following the filing of the appeal, the consultant selection made by the Planning Board shall stand.
- B. ***20 Day Appeal Period*** - Any person aggrieved by a decision of the Planning Board may file an appeal to the Court of the Commonwealth by bringing an action within twenty (20) days of the date the decision was filed with the Town Clerk.

s. **310- 4 CONSTRUCTION OBSERVATION/INSPECTION**

A. ***Developer Responsibilities***

- (1) The developer shall notify the Medway Department of Public Services, the Medway Water and Sewer Department, and the Engineer designated by the Planning Board at least forty-eight (48) hours prior to the time at which each one of the required construction observations should take place.
- (2) The developer shall provide safe and convenient access to all parts of work for observation by the Department of Public Services, the Water and Sewer Department, the Engineer, and the Planning Board or its agents.

B. ***Pre-Construction Meeting*** – The developer must notify the Department of Public Services, the Water and Sewer Department, the Fire Department and the Engineer designated by the Board, in writing, no later than seven (7) days prior to the start of construction in order to hold a pre-construction meeting, preferably on site, with the developer and contractor. The pre- construction meeting shall not be held unless the developer has paid the ARCPUD Construction Observation Fee as established by the Planning Board.

C. No work shall be approved that has been constructed before the required inspection/ observation occurs as specified herein.

D. The developer must notify the Department of Public Services, the Water and Sewer Department and the Engineer designated by the Board when underground infrastructure, such as but not limited to sewer, fire alarm and drainage, are installed in order for inspection of the installation by the respective department before the excavation is backfilled.

- E.** The subgrade must be approved by the Department of Public Services and the Engineer designated by the Planning Board before the application of the gravel base course.
- F.** The gravel base course must be approved by the Department of Public Services and the Engineer designated by the Board before the application of bituminous concrete (street or sidewalk) pavement.
- G.** The developer must notify the Department of Public Services and the Engineer designated by the Board with at least forty-eight (48) hours written notice prior to the start of each application of bituminous concrete on the street and sidewalk and of placement of curbing for approval.
- H.** The developer must keep the Department of Public Services and the Engineer designated by the Board informed when materials and other items of work are ready for inspection and approval such as the installation of bounds, loam, and seeding, and general cleanup.

**s. 310 – 5 BOND REDUCTION** - The penal sum of any such bond or the amount of any deposit held for the completion of the improvements required by the ARCPUD Special Permit as security for the performance of which was given by bond, deposit or covenant, or upon the performance of any covenant with respect to any lot, may from time to time, be reduced by the Planning Board and the obligations of the parties thereto released by the Planning Board in whole or in part, except that a minimum of thirty-five thousand dollars (\$35,000) or ten percent (10%) of the original bond amount, whichever is more, shall be retained until all work is completed to the satisfaction of the Planning Board, the Building Inspector/Zoning Enforcement Officer and the Department of Public Services. If acceptance of a road as a public way is a condition of the ARCPUD Special Permit, Town Meeting acceptance of the street(s) as a public way is also required.

**s. 310 – 6 PROJECT COMPLETION**

**A. As-Built Plans**

- (1) Prior to the final release, the developer shall file with the Planning Board an original and six prints of the “as-built” plans of the completed streets and site work. Additionally, an electronic file may be required by the Planning Board in a format to be specified by the Town of Medway. The “as-built” plans shall show all plans and profiles corrected and certified by the applicant’s engineer to be actual “as-built” locations and profiles of all streets, ways and utilities, including those installed by others such as power, telephone, fire alarm and gas.
- (2) The “as-built” plans shall be prepared in a manner suitable for recording at the Registry of Deeds, with proper legal description for initiating an article in the Town Warrant for the acceptance of the ways by Town Meeting.
- (3) The “as-built” plans shall be drawn with a minimum lettering height of 1/8 inch (Registry of Deeds standards) and to a 1” = 40’ scale.
- (4) The “as-built” plans will contain the following:

- (a) graphical scale;
- (b) boundaries of the roadway layout and all easements;
- (c) reference to the approved ARCPUD including all plan recording data;
- (d) locus map;
- (e) curb type/limits, sidewalks, pedestrian ramps and driveways;
- (f) all monumentation, including vertical benchmarks;
- (g) all utilities (water, water services and valves, sanitary sewers, storm drains, manholes, catch basins, electric/telephone/cable TV, gas and fire alarm system) in plan view. A Symbol key shall be provided along with appropriate labels.)
- (h) water, sanitary sewer and drainage shown on the profile, noting inverts, rims, pipe type and sizes; and
- (i) centerline stationing with the starting and ending of the layout clearly noted.

**B. *Release of Performance Guarantee*** – The Planning Board shall not grant a partial release of Covenant and Conditions until the following items have been installed, inspected and approved by the Board or its agent:

- (1) Subgrade gravel base;
- (2) Binder course;
- (3) Berm along the roadway edges as proposed;
- (4) Drainage system completed to the proposed outfall with frame and grates set to binder grade;
- (5) Street name signs, stop signs, and “Street Not Accepted by the Town” signs are installed;
- (6) Stop line/proposed pavement markings;

**C. *Release of Bond*** – The Planning Board shall release the bond upon written verification from its agent that the required conditions have been satisfactorily met. In the event of failure to comply with the requirements within the time period agreed upon in the ARCPUD Special Permit, the bond shall be used by the Town of Medway to correct the unsatisfactory conditions. Improvements not completed within the time required shall thereafter be completed in accordance with the current standards of the Planning Board.

s. **310 – 7 REVISIONS TO APPROVED PLANS**

**A. Minor Revisions**

- (1) Subsequent to an ARCPUD Special Permit granted by the Planning Board, minor revisions in the ARCPUD Plan may be made from time to time in accordance with applicable law, ordinances, and regulations but the use or development approved under the ARCPUD Special Permit shall otherwise be in accordance with the plan referred to, and such conditions as may be included, in the decision of the Planning Board.

If revisions to an approved ARCPUD Plan are needed, the applicant shall provide written notification to the Planning Board in advance of such revision including an explanation as to the need thereof. Proposed revisions, which in the opinion of the Planning Board are minor and non-substantive, must be reviewed and may be approved by a majority of the Planning Board without a public hearing. Such revisions shall not be effective until approved by vote of the Planning Board.

- (2) The Planning Board will notify the Town Clerk of any approved minor revisions.

**B. Major Revisions**

- (1) The Planning Board may determine that such proposed revisions are not minor. These would include but are not limited to any significant change in the size, type, or location of buildings, access and exit curb cuts, overall parking layout, buffer strips or screening, overall appearance of the building, including building material or fenestration, or the type or intensity of use, or in the conditions specifically addressed in the decision of the Planning Board.
- (2) The Planning Board shall order that an application for a Revised ARCPUD Special Permit and Plan be filed and that additional plan reviews and a new public hearing will be held in the same manner as set forth herein.
- (3) The Planning Board will notify the Town Clerk of any proposed major revisions to an approved ARCPUD Plan.

**C. Revision Fees**

- (1) Whenever additional reviews by the Board, its staff or consultants are necessary due to plan revisions, the applicant is responsible and shall be billed for all costs incurred including but not limited to additional ARCPUD Filing and Plan Review Fees and any other expenses including but not limited to advertising and mailing costs.
- (2) If the revisions affect only specific limited aspects of the site, the Planning Board may reduce the scope of the required review and waive a portion of the additional ARCPUD Filing and Plan Review Fees.

s. **310 – 8 PENALTIES** – Any applicant, individual, property owner or business entity that violates or permits a violation of these Rules and Regulations shall be subject to a fine as follows:

Maximum fine allowed: \$100.00

Enforcement Agent: Building Inspector/Zoning Enforcement Officer

Fine Schedule:

First Offense	Warning
Second Offense	\$ 25.00
Third Offense	\$ 50.00
Fourth and each subsequent offense:	\$100.00
Maximum per day each day to constitute a separate violation.	

s. **310 – 9 AMENDMENTS** –These Rules and Regulations may be amended from time to time by the Planning Board. A public hearing shall be held with appropriate notice in compliance with state statute and local by-laws.

s. **310 – 10 VALIDITY** – If, in any respect, any provision of these Rules and Regulations in whole or in part, shall prove to be invalid for any reason, such invalidity shall only affect the part of such provision which shall be held invalid and in all other respects these Rules and Regulations shall stand.



These ARCPUD Rules and Regulations were initially adopted by a vote of the Medway Planning Board on February 27, 2001. Revised ARCPUD Rules and Regulations were approved by a vote of the Medway Planning Board and are to be in full force and effect on and after July 17, 2001. A copy thereof has been filed with the Town Clerk and the Norfolk County Registry of Deeds.

***Initially Approved: February 27, 2001 by the Medway Planning Board***

***Revisions Approved: July 17, 2001 by the Medway Planning Board***

***Attest:***

\_\_\_\_\_  
Susan E. Affleck-Childs  
Planning Board Administrative Secretary

\_\_\_\_\_  
Date

***A true copy attest:***

\_\_\_\_\_  
Maryjane White, Town Clerk