

**TOWN OF MEDWAY**  
**Planning & Economic Development Board**  
**Rules and Regulations**

**Section 600: Rules & Regulations for Submission, Review  
and Approval of Open Space Residential Development  
Special Permits**

**Medway Planning and Economic Development Board**

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# TABLE OF CONTENTS

<b>ARTICLE I – AUTHORITY</b>	<b>2</b>
601 – 1 Adoption	2
<b>ARTICLE II – GENERAL PROVISIONS</b>	<b>2</b>
602 – 1 Definitions	2
602 – 2 Waivers of Plan Rules and Regulations	2
602 – 3 Use of Forms	3
602 – 4 Validity	3
<b>ARTICLE III – CONCEPT PLAN APPLICATION PROCEDURES</b>	<b>3</b>
603 – 1 Eligible Applicants	3
603 – 2 Pre-Application Review	3
603 – 3 Submittal of OSRD Special Permit Application	4
603 – 4 Use of Outside Consultants	4
<b>ARTICLE IV – OSRD SPECIAL PERMIT APPLICATION REVIEW</b>	<b>5</b>
604 – 1 Town Clerk Submittals	5
604 – 2 Planning and Economic Development Board Submittals	5
604 – 3 Standards for Concept Plan Preparation	6
604 – 4 Concept Plan Contents	7
604 – 5 Review by Town Officials	7
604 – 6 Public Hearing	8
604 – 7 Decision	8
<b>ARTICLE V – GENERAL DESIGN STANDARDS</b>	<b>8</b>
605 – 1 Landscape Preservation	8
605 – 2 Views	9
605 – 3 Open Space	9
605 – 4 Pedestrian and Bicycle Circulation	9
605 – 5 Off Street Parking	9
<b>ARTICLE VI – FEES</b>	<b>9</b>
606 – 1 Fee Structure	9
606 – 2 Payment of Fees	10

## **ARTICLE I      AUTHORITY**

**s. 601 – 1      Adoption** - The Planning and Economic Development Board of the Town of Medway hereby adopts these Rules and Regulations for Submission, Review and Approval of Open Space Residential Development Special Permits to govern the submission, review, approval, and modification of Open Space Residential Development (OSRD) special permit applications pursuant to Section 8.4 of the Zoning Bylaw.

## **ARTICLE II      GENERAL PROVISIONS**

**s. 602 – 1      Definitions** – Terms used in these Rules and Regulations shall have the meanings as set forth in the Medway Zoning Bylaw and G.L. c. 40A. Additional terms are defined below:

Agent: Individual(s) authorized by the Board to review plans and/or observe and inspect construction.

Board: The Planning and Economic Development Board of the Town of Medway.

Developer: The individual or organization which will carry out the approved development.

OSRD: Open Space Residential Development

Rules and Regulations: Medway Planning and Economic Development Board Rules and Regulations for Submission, Review and Approval of Open Space Residential Developments Special Permits

### **s. 602 – 2      Waivers of Rules and Regulations**

A. The Board may in its discretion grant waivers from strict compliance with these Rules and Regulations if it determines that:

- 1) the Rule or Regulation requested to be waived does not apply to the particular site or situation under review; or
- 2) that a waiver would permit a superior design; or
- 3) that a waiver would allow construction which will have no significant detriment to the achievement of any of the purposes of the OSRD Bylaw; or
- 4) that a waiver is in the best interests of the Town; or
- 5) that a waiver is consistent with the purpose and intent of the Zoning Bylaw and these Rules and Regulations; or
- 6) the Rule or Regulation requested to be waived is required or allowed by federal, state, or local statutes and/or regulations.

B. The Applicant shall submit a written request for waivers from the Rules and Regulations at the time of application, stating the specific provision requested to be waived, the basis for the request, and how the request meets the criteria for a waiver. Supplemental waiver requests may be submitted during the course of the review process. If an oral

request for a waiver is made during the course of the Board's review, it shall also be submitted to the Board as a written request.

**s. 602 - 3 Use of Forms** – Forms to be used in the administration of these Regulations may be developed and maintained by the Board and may be revised, updated, or added to without a public hearing and without amendment of these Rules and Regulations.

**s. 602 - 4 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 provisions which shall be held invalid. In all other respects these Rules and Regulations shall stand. In the event of a conflict between these Rules and Regulations and the Zoning Bylaw, the provisions of the Zoning Bylaw shall control.

### **ARTICLE III CONCEPT PLAN APPLICATION PROCEDURES**

**s. 603 - 1 Eligible Applicants** - An Applicant for an OSRD special permit shall be as defined in the Zoning Bylaw. In the case where the Applicant is a person other than the record owner of the property, the Applicant shall submit, as part of the application, a written certification executed by the record owner of the property that the application is submitted with the knowledge and consent of the record owner.

#### **s. 603 - 2 Pre-Application Review**

**A. Consultation with Town Staff** – A pre-application consultation between a prospective Applicant and the Town's Community and Economic Development staff is recommended. The purpose of any pre-application consultation is to provide the Applicant with an opportunity to discuss the design concept of the proposed development during the early stages of the design process and to avoid unnecessary technical deficiencies in the application with a view toward promoting efficiency in the forthcoming processing and review of the proposed development project. However, Town staff are not responsible for assuring the accuracy, correctness or thoroughness of any application provided for review during a pre-application consultation. Any opinion given to the Applicant by employees of the Town during a pre-application consultation is advisory only and shall not be binding on the Board or the Town.

#### **B. Interdepartmental Project Review**

- 1) Prior to filing a site plan Application with the Board, prospective Applicants may request that the Director of Community and Economic Development schedule a meeting with the Applicant and the Town's interdepartmental project review team. The purpose of such meeting is for the Applicant to brief representatives of Town departments on the proposed project and to help the Applicant better understand the permitting procedures of various Town agencies. This meeting also allows Town officials to identify project issues and opportunities which may benefit from further municipal attention, coordination, or assistance.
- 2) Scope of Town Staff Review - Any opinion or information given to the Applicant by employee of the Town during the Interdepartmental Project Review Meeting shall be considered advisory only and shall not be binding on the Board or the Town.

**C. Informal Pre-Application Meeting with the Board** – The applicant shall schedule an informal pre-application review meeting at a regular meeting of the Planning and

Economic Development Board. The purpose of pre-application review is to allow the applicant to receive feedback from the Planning and Economic Development Board, minimize the applicant's costs of engineering and other technical experts, begin negotiations with the Planning and Economic Development Board at the earliest possible stage in the site design process, and set a timetable for filing a formal OSRD special permit application. The Planning and Economic Development Board shall invite other Town boards to review the pre-application materials and attend the informal pre-application review.

- D. Plans and Documentation. At the pre-application review meeting, the applicant shall present a conceptual plan for the site, natural and cultural resources inventories, maps, photographs, and any other information the Planning and Economic Development Board needs in order to understand and respond to the applicant's proposal. Pre-application materials shall be in accordance with the Planning and Economic Development Board's development regulations and may be based on existing sources of information.
- E. Requests for a pre-application meeting with the Board shall be made through the Community and Economic Development office. A pre-application meeting shall not serve as a substitute for any public hearing or meeting required for the development project. Any opinion or information given to the Applicant by an individual Board member or its consultants during a pre-application meeting shall be considered advisory only and shall not be binding on the Board or the Town.

**s. 603 – 3 Submittal of OSRD Special Permit Application**

- A. An Applicant for OSRD special permit shall submit an application to the Town Clerk and the Board in accordance with Sections 604-1 and 604-2.
- B. The official submission date is the date the application is filed with the Board, and the Town Clerk, unless the Board notifies the Applicant within twenty-one days of submission that the application is incomplete. In such cases, the OSRD special permit application will not be deemed to have been submitted.

**s. 603 - 4 Use of Outside Consultants**

- A. The Board may determine that the assistance of outside consultants such as engineers, lawyers, planners, urban or landscape design professionals, environmental consultants or other appropriate professionals is warranted due to the size, scale, or complexity of the proposed project or its potential impact on the Town and community. It is the Board's standard practice to do so. The Board may engage the services of outside consultants to assist in reviewing the application and associated project documents to ensure compliance with all relevant laws, bylaws, and regulations and to address technical, legal, or other issues. The Board shall have full authority to select the outside consultants. If the Board determines that such services are required, the Applicant shall pay a Concept Plan Review Fee as authorized in s. 606 – 1 B. of these Rules and Regulations.
- B. The minimum qualifications for outside consultants shall consist of either an educational degree in or related to the field at issue or three or more years of practice in the field at issue or in a related field.

- C. The Applicant may appeal the selection of a particular outside consultant to the Select Board. The grounds for such an appeal shall be limited to claims that the selected consultant has a conflict of interest or does not possess the minimum required qualifications. The Applicant shall identify the specific grounds which the Applicant claims constitute the conflict of interest or how the consultant does not meet the minimum required qualifications. If no decision is made by the Select Board within thirty days following the filing of an appeal, the Board's consultant selection stands.

## **ARTICLE IV OSRD SPECIAL PERMIT APPLICATION REVIEW**

**s. 604 – 1 Town Clerk Submittals** - The Applicant shall deliver in hand, or by registered or certified mail, the following submittals to the Town Clerk during regular business hours:

- A. The OSRD Special Permit Application form signed by the Applicant, property owner(s), and designated representative, if any, on a form provided by the Board.
- B. One set of the concept plan (24" x 36") prepared in conformance with these Rules and Regulations including all items as specified in s. 604 – 4.

**s. 604 – 2 Planning and Economic Development Board Submittals** - The Applicant shall deliver in hand, or by registered or certified mail, the following submittals to the Board:

- A. The OSRD Special Permit Application form signed by the Applicant, property owner(s), and designated representative, if any, on a form provided by the Board.
- B. One set of the concept plan (24" x 36") and one set of the concept plan (11" x 17") prepared in conformance with these Rules and Regulations including all items as specified in s. 604 – 4. The concept plan shall include a schematic representation of the proposed OSRD and supporting documentation.
- C. One list and three sets of mailing labels of all parties in interest as defined in G.L. c. 40A, §11 for the subject site as appearing on the most recent tax records list maintained by the Assessor's office. The list shall be certified by the Board of Assessors of Medway and all applicable adjacent communities.
- D. One copy of all relevant approvals, land use permits, or decisions received to date from other Town boards and committees (ZBA, Conservation Commission, Board of Health, Historical Commission, Department of Public Works, etc.) and federal or state government agencies.
- E. A site context and analysis map.
- F. A Neighborhood Density Analysis that includes all other existing residential development within 2500 feet of the site's perimeter.
- G. A Yield Analysis, the purpose of which is to demonstrate the maximum number of building lots that could be developed on the site under a conventional subdivision plan and the maximum number of units that may be permitted in an OSRD. The Yield Analysis shall identify the total area of the site, existing utility easements, and wetland and riverfront areas as determined by the Conservation Commission. The Yield Analysis

shall be based on the formula shown below. For purposes of this computation, “Net Site Area” shall mean the total area of the site minus existing upland utility easements. (Land located both within utility easements and wetland resource areas shall not be counted twice.) The result shall be rounded down to the nearest whole number. The PEDB shall review the Yield Analysis to determine whether it accurately reflects the maximum number of lots that may be constructed in a conventional subdivision.

$$\begin{array}{l} \text{Maximum} \\ \text{Number of} \\ = \text{ Dwelling} \\ \text{Units} \end{array} = \frac{\text{Net Site Area} - (50\% \times \text{wetlands}) - (10\% \text{ Net Site Area})}{\text{Zoning District Minimum Lot Area}}$$

- H. Resource Areas Documentation - A copy of an Order of Resource Area Delineation (ORAD) from the Medway Conservation depicting the approved wetland resource affecting the proposed project or an Order of Conditions issued within the past three years, or a Determination of Applicability with a finding from the Conservation Commission that the proposed project is not within its jurisdiction., or a written communication from the Conservation Agent regarding the actual and/or possible resource areas on the subject property.
- I. Property Ownership Documentation - A copy of the latest recorded deed to the property(s) comprising the proposed development site to document proof of ownership, or a purchase and sale agreement.
- J. Waivers - Requests for waivers from these Rules and Regulations in accordance with section 602-2
- K. ALL APPLICATION MATERIALS (including forms, plans, reports, and attachments) SHALL ALSO BE SUBMITTED IN A SEARCHABLE ELECTRONIC FORMAT via email, on a portable electronic storage device, or to a central cloud repository on the internet. The email for such submittals is [planningboard@townofmedway.org](mailto:planningboard@townofmedway.org)
- L. An OSRD Filing Fee as authorized by s. 606 – 1.A.

**s. 604 – 3 Standards for OSRD Concept Plan Preparation**

- A. The plan shall be prepared, stamped, signed, and dated by qualified professionals including a Registered Professional Engineer, a Registered Land Surveyor, or other professional, registered in the Commonwealth of Massachusetts.
- B. The plan shall be drawn at a scale of one inch equals forty feet or such other scale that is approved by the Board.
- C. All existing and proposed elevations shall refer to the North American Vertical Datum of 1988 (NAVD88). Horizontal plan information shall reference Massachusetts State Plane Coordinate System.
- D. All plan sheets shall be bound together in a complete set including building elevation plans.

- E. All plan sheets shall contain a referenced north arrow, sheet number, plan dates and plan revision dates, name of project, name of plan, plan scale, legend, stamp of registered professional responsible for the content of said sheet, applicable notes.

**s. 604 – 4 Concept Plan Contents** – To be considered complete, the OSRD shall include a concept plan submitted pursuant to these Rules and Regulations which shall include the information listed below.

- A. Existing Conditions Sheet – A plan showing name and address of owner, name and address of Applicant, name and address of engineer and other professional firms responsible for the plan, project street address, project Assessor’s Map and Parcel number, zoning district classification, all bearings and distances of property lot lines and existing structures and buildings; topography; easements; existing uses of land; utilities; fences and walls; scenic roads; impervious surfaces; significant landscape and natural features, and wetlands and other natural resources under the jurisdiction of the Medway Conservation Commission.
- B. Concept plan showing the following:
  - 1) Property boundaries, dimensions of the site;
  - 2) Proposed street and lot layout;
  - 3) Locations and dimensions of any proposed easements, public or private rights-of-way, or other encumbrances;
  - 4) A table outlining the proposal’s conformance with the zoning requirements including lot area, continuous frontage, lot depth, lot width, front, side, and rear setbacks, and open space calculations.

**s. 604 – 5 Review by Town Officials**

- A. Within fourteen days of the official submission date, Community and Economic Development staff shall provide the application and associated documents to appropriate Town boards, departments, and committees, inform them of the public hearing schedule, and request their review and comments to assist the Board with its review. For example:
  - 1) Building Department
  - 2) Conservation Commission
  - 3) Fire Department
  - 4) Police Department
  - 5) Assessors’ Office
  - 6) Board of Health
  - 7) Department of Public Works
  - 8) Design Review Committee
  - 9) Treasurer/Collector’s Office
  - 10) Select Board and Town Manager and
  - 11) Other departments and committees as determined to be appropriate depending on the nature of the project.
- B. Said departments, boards, and committees may, at their discretion, evaluate the application and submit review comments or recommendation to the Board. If no



comments are submitted to the Board within thirty days of the Board's request for comments, this shall be deemed lack of opposition.

**s. 604 –6 Public Hearing**

- A. The Board shall conduct a public hearing on the OSRD application in accordance with the provisions of G.L. c. 40A and the Zoning Bylaw.

**s. 604 – 7 Decision**

- A. The Planning and Economic Development Board may grant a special permit for an OSRD with any conditions, safeguards, and limitations necessary to ensure compliance with Section 3.4 and Section 8.4, only upon finding that:
- 1) The conceptual design and layout of the proposed OSRD is superior to a conventional development in preserving open space for conservation and recreation, preserving natural features of the land, achieving more efficient provision of streets, utilities and other public services, and providing a high degree of design quality;
  - 2) The OSRD provides for a more efficient form of development that consumes less open land and conforms to existing topography and natural features better than a conventional subdivision;
  - 3) The OSRD furthers the purposes of Section 8.4 and the goals of the Medway Master Plan.
  - 4) The proposed development meets the requirements of the Zoning Bylaw and these Regulations, except to the extent any Rules and Regulations are waived by the Board.
- B. The Planning and Economic Development Board may deny a special permit upon finding that the application does not provide sufficient information or does not comply with the provisions of the Zoning Bylaw; or that the site is not suitable for an OSRD and would be more appropriate for a conventional subdivision plan.

**ARTICLE V. GENERAL DESIGN STANDARDS** – Wherever possible, the Applicant shall address these General Design Standards. The Board may modify or waive any OSRD General Design Standards provided that the proposed OSRD is substantially consistent with the purposes of Section 8.4, as determined by the Board.

**s. 605-1 Landscape preservation.**

To the maximum extent feasible, potential development areas shall consist of land outside identified primary and secondary conservation areas. The streets and lots should be designed to reflect an integrated community, emphasizing consistency with the Town's historic development patterns. Protection of significant vistas, preservation of trees, protection of water courses and water resources, topography and soil, shall be incorporated into the site design. The design of the proposed development shall minimize the destruction of trees and protect unique natural features. The concept plan

shall show measures to minimize any adverse impacts on these elements.

**s. 605-2 Views.** Protection of significant vistas and scenic views shall be incorporated into the concept plan.

**s. 605-3 Common Open Space**

Common Open Space shall be functional for wildlife habitat, passive recreation, resource preservation, agriculture or equestrian uses. To the maximum extent feasible, the Common Open Space shall be undisturbed, unaltered and left in its natural or existing condition. It shall be appropriate in size, shape, dimension, location, and character to assure its use as a conservation area, or where appropriate, a recreational area. Wherever feasible, the Common Open Space shall be contiguous, and linked to other existing open space. The number of homes with direct access to the development's amenities should be maximized. New streets and trails should be laid out to create internal and external connections to existing and/or potential future streets, sidewalks, existing or proposed new open space parcels, and trails on abutting public or private property.

**s. 605-4 Pedestrian and bicycle circulation.**

Pedestrian and bicycle circulation shall be maximized on and off site and shall be separated from motor vehicle circulation as much as practicable. Safe pedestrian and bicycle access to the site shall be provided by pedestrian walkways and/or sidewalks which ensure protection and separation from vehicular traffic.

**s. 605-5 Off Street Parking**

The layout of lots shall provide ample off-street parking spaces for the intended usage.

## **ARTICLE VI FEES**

**s. 606 – 1 Fee Structure** – The Board shall adopt a Fee Schedule, which shall specify the amount of filing and other applicable fees.

- A. Filing Fee - A non-refundable OSRD Special Permit Application Filing Fee as specified in the Board's Fee Schedule shall be remitted to the Board at the time the OSRD special permit application is filed with the Board.
- B. Concept Plan Review Fee
  - 1) Applicability – A Concept Plan Review Fee may be established by the Board for review of the concept plan based on an itemized budget estimate prepared by an outside consultant(s). This fee shall be the reasonable costs to be incurred to retain outside consultant(s) to assist in the review of the proposed project. The Concept Plan Review Fee shall not be a fixed amount but will vary depending on the nature and scale of the project and the expected costs to be incurred. See the Board's Fee Schedule.
  - 2) Fee Payment - The Applicant shall remit the amount determined by the Board upon receipt of an invoice from the Board or the Department of Community and Economic Development prior to the substantive review of the application by the

outside consultants, and before the public hearing or meeting commences. Failure to pay the full Concept Plan Review Fee before the public hearing or meeting begins may delay the public review process and constitute grounds for denial of the application.

- 3) Additional Review Fees – If the expense of the consultant(s)' review of the concept plan exceeds the original estimate or if the services of additional outside consultants be required after the initial Concept Plan Review Fee has been expended, the Applicant shall be required to pay all additional fees incurred to cover the cost of additional reviews. A new estimate for additional plan review services shall be prepared and remitted to the Applicant. The Applicant's failure to pay plan review fees in their entirety shall constitute grounds for the Board or the Team to deny approval and endorsement of the plan.

- C. **Other Costs and Expenses** - All expenses for professional plan reviews, ancillary report reviews, supplemental studies, advertising, publication of notices, and all other expenses in connection with Concept Plan Review and construction including plan or decision modification fees shall be borne by the Applicant and/or Developer.

#### s. 606 – 2 **Payment of Fees**

- A. Fees paid shall be by check made payable to the **Town of Medway** and submitted to the Community and Economic Development office.
- B. When a Plan Review Fee is received by the Board pursuant to this section, it shall be deposited with the Town Treasurer/Collector in a special account for these purposes established pursuant to G. L. c. 44, Section 53G. Expenditures from the special account may be made without further appropriation. Expenditures from the special account shall be made only for services rendered in connection with a specific project or projects for which a fee has been or will be collected. Accrued interest may also be spent for this purpose.
- C. At the completion of the project, any excess amount in the plan review and construction accounts, including interest, attributable to a specific project shall be repaid to the Applicant or Developer or their successor in interest. Upon request, a final report of said account shall be made available. For the purpose of these Rules and Regulations, any person or entity claiming to be the Applicant's successor in interest shall provide the Board or the Team with documentation establishing such succession in interest.

The provisions of these Rules and Regulations are hereby declared to be separable. If, in any respect, any provision of these Rules and Regulations in whole or in part, or the application of such provision to any person or circumstance shall prove to be invalid for any reason, such invalidity shall only affect the part of such provision which shall be held invalid and shall not be construed to affect the validity of any of the remaining provisions. In all other respects these Rules and Regulations shall stand. It is hereby declared that the intent of these Rules and Regulations is that the remaining Sections would have been adopted had such invalid provisions not been included therein.

These Rules and Regulations were adopted by a majority vote of the Medway Planning and Economic Development Board and a copy thereof filed with the Town Clerk. These Rules and Regulations take effect on the date of the filing of the approved document with the Town Clerk.

Adopted by vote of Planning and Economic Development Board: September 26, 2023