

**ARTICLE I: OSRD Changes**

To amend Section 8.3 of Chapter 275 of the Town of Foxborough Code (“Foxborough Zoning By-Laws”) by deleting the existing section and replacing with the following or to take any other action related thereto:

**8.3 OPEN SPACE RESIDENTIAL DEVELOPMENT**

**8.3.1 Purpose.** The purpose of this Section 8.3 is:

1. To permit maximum flexibility and creativity in design for the development of single- family subdivisions that will be superior to conventional plans;
2. To promote the most harmonious use of the land’s natural features, resources and topography, which will promote the general health and safety of the public;
3. To discourage sprawled development, minimize environmental disruption, and provide a shorter network of streets and utilities which will promote a more efficient distribution of services; and
4. To encourage the permanent preservation of open space, agricultural land, forestry land, wildlife habitat, other natural resources including aquifers, water bodies and wetlands, and historical and archaeological resources.

**8.3.2 Special Permit Required.** Open Space Residential Development may be authorized only by a Special Permit as granted by the Planning Board.

**8.3.3 General Requirements.**

1. The number of building lots may not exceed the number of building lots of the tract as permitted by Board of Health and Conservation Commission regulations, existing zoning and a conventional subdivision per the Foxborough Subdivision Regulations (“subdivision regulations”).
1. For parcels situated in a Primary Resource Area, the maximum number of building lots allowed in the Special Permit definitive plan filing shall be determined by compiling the total sewage flow allowed for the total upland area within each of the building lots as approved in the conventional, preliminary plan. Minimum lot sizes of 30,000 square feet of upland area shall be required in these areas.
2. For parcels situated in Zone III of the Water Resource Protection Overlay District (WRPOD) the maximum number of building lots allowed in the Special Permit definitive plan filing shall be determined by compiling the total sewage flow allowed within each of the building lots as approved in the

conventional, preliminary plan. Minimum lot sizes of 20,000 square feet shall be required in these areas.

3. All lots and structures shall comply within the dimensional requirements of Table 8-1. Whenever possible, the Planning Board will require septic systems and housing units to be located outside of those areas protected by the WRPOD Zone II regulations.

### 8.3.4 Dimensional and Design Requirements.

<b>Table 8-1 OSRD DIMENSIONAL REGULATIONS</b>							
<b>Min. Lot Dimensions</b>	<b>Minimum Yard Dimensions</b>		<b>Minimum Yard (ft.)</b>			<b>Maximum Building Height</b>	
	<b>Square Feet</b>	<b>Feet</b>					
<b>District</b>	<b>Area</b>	<b>Frontage</b>	<b>Front</b>	<b>Side</b>	<b>Rear</b>	<b>Stories</b>	<b>Feet</b>
R-40	20,000	50	35	15	30	2.5	35
<b>Minimum Requirements within Zone II of the WRPOD</b>							
R-40	30,000	50	35	15	30	2.5	35

1. The requirements noted in Table 8-1 shall apply to all lots located within an OSRD. All accessory structures and uses shall comply with the requirements of Section 4 of these By-Laws unless otherwise provided for herein. Within those areas governed by the WRPOD Zone II regulations, the minimum building lot area shall be “upland” as defined in Massachusetts General Laws, Chapter 131. Each dwelling unit shall have sufficient parking for two (2) vehicles.
2. Lots approved at the preliminary plan stage may be located on existing streets in the Special Permit filing and shall comply with the requirements of Table 8-1.
3. Strong emphasis shall be placed upon preserving and integrating the existing topography, natural features (such as rock outcrops, specimen trees and clumps of trees) and man-made features such as stonewalls into the plan.
4. The Planning Board may place limitations on the types and location of accessory structures which may be located within the preserved open space in the development. Existing/proposed screening, distances between the OSRD and existing abutters, and topography shall all be considered. The intent is to minimize impacts on existing abutters. A deed restriction may be required if such limitations are applied.
5. Swimming pools may not be located within thirty (30) feet of a property line of an existing single-family dwelling abutting the OSRD. The Planning Board

may increase this distance after considering those items noted in subsection 4, above.

**8.3.5 Screening and Buffering.** When determined necessary by the Board, screening and buffering shall comply with the following:

1. Screening/buffering may consist of landscaped berms, evergreen plantings, solid walls or fences complemented by suitable plantings, “no cut” provisions (for existing vegetation), or a combination of these items.
2. The location of the screening/buffering and species type(s) of vegetation shall be noted on the definitive plan. All new plantings shall consist of evergreens and be situated in a manner acceptable to the Planning Board.

**8.3.6 Dedicated Open Space.**

1. A minimum of forty-five (45%) percent of the parcel shall become dedicated open space pursuant to Massachusetts General Laws, Chapter 40A, Section 9. The Planning Board may reduce this figure to a minimum of thirty five (35%) percent if it determines there are unique circumstances (re: shape of parcel, topography, wetlands, etc.) that would individually or together preclude the construction of the OSRD or that the open space to be provided is of exceptional value to the Townspeople.
2. Uses for open space: The open space may be used for wildlife habitat and conservation and may also be the following additional purposes: historic preservation, outdoor education, passive recreation, aquifer protection, stormwater management, agriculture, horticulture, forestry, or a combination of these uses, and shall be served by suitable access for such purposes.
3. Dedicated open space may be utilized as natural courses for disposal for storm drainage from impervious surfaces. Other than minor berming (maximum 3-1 slopes which shall blend into the landscape) and riprap at pipe outflows, no significant disruptions of the land [contour changes greater than three (3) feet] for drainage are permitted.
4. Dedicated open space may be in one or more parcels of a size and shape appropriate for its intended use. The parcels shall be laid out to promote convenient access by the homeowners within the OSRD, the general public or both, whatever the case may be. Wherever practical, parcels shall be accessible via upland areas. These items shall be agreed upon by the Planning Board and applicant.
5. Public access to proposed preserved open space, including paths, shall be provided. The plan shall show the location, construction details, and signage for pathways. Paths in OSRDs shall not be utilized for snowmobiles and other

motorized travel, but may be used for cross-country skiing, snowshoeing, horseback riding, and other non-motorized modes of travel. If appropriate, skating areas may be designated within preserved open space areas.

### **8.3.7 Ownership of Dedicated Open Space.**

1. As agreed upon by the applicant and the Board, dedicated open space shall either be conveyed to the Town and accepted by it for park or open space, or be conveyed to a nonprofit organization, the principal purpose of which is the conservation of open space, or to be conveyed to a corporation or trust owned or to be owned by the owners of all building lots within the development. If such a corporation or trust is utilized, ownership thereof shall pass with conveyances of the lots or residential units. In any case, where such land is not conveyed to the Town, a restriction enforceable by the Town pursuant to Massachusetts General Laws, Chapter 40A, Section 9, shall be recorded providing that such land shall be kept in an open natural state and not be developed or built upon.
2. If necessary, such restrictions shall further provide for maintenance for the common land in a manner which will ensure its suitability for its function, appearance, cleanliness, and proper maintenance of drainage, utilities, and the like.

**8.3.8 Pre-permitting and study plan(s):** The applicant is required to meet with the Board to discuss alternatives and conceptual plans before filing an application.

**8.3.9 Special Permit Application and Filings.** A Special Permit application for an OSRD shall include a definitive subdivision plan with eleven (11) copies. It shall be prepared in accordance with the Foxborough Subdivision Regulations. In addition, the applicant shall provide the following information:

1. A detailed analysis of the site, including wetlands, soil conditions, areas within the one hundred (100) year flood plain, trees over six (6) inches in diameter in areas identified by the Planning Board, Water Resource Protection Overlay District delineation and natural, and/or man-made features and other items as the Planning Board may request;
2. A description of the proposed design characteristics of the site pursuant to these regulations;
3. Engineering data showing effects of proposed development on both on and off-site water resources (within one hundred (100) feet of the property line) wetlands and natural recharge of the groundwater, yield from abutters' private wells and possible impacts upon the quality of surface and groundwater;
4. A copy of any restrictive covenant(s) for the preserved open space, association

rules and regulations and/or other documentation relating to the creation of a Homeowners Association or similar entity.

**8.3.10 Application Process.** A pre-application meeting and public hearing are required. The intent of such is to allow the Town the opportunity to discuss with the applicant and review each proposal prior to the Special Permit process. After the pre-application review, an applicant may then proceed to the Special Permit process. A pre-application review will be conducted in accordance with the following procedure:

1. An application, a preliminary set of plans, illustrating a conventional subdivision plan and proposed OSRD shall be filed with the Foxborough Town Clerk and the Planning Board. The application shall be accompanied by eleven (11) copies of the plans and any other supporting materials, which must be prepared and stamped by a professional-civil engineer and landscape architect. This submittal shall comply with Section 3.01 of the Subdivision Regulations.
2. The preliminary subdivision plan shall be used by the Planning Board to determine the maximum number of lots which could be created via a conventional plan. This number will be the maximum allowed in an OSRD definitive subdivision plan submittal.
3. The burden of proof shall be upon the applicant to prove the proposed lot(s) are suitable for building. The Planning Board reserves the right to challenge the status of any lot and not allow such to be included in any definitive plan filing.
4. Formal percolation and depth to groundwater tests shall be conducted for each building lot unless town sewerage is available. The results of these tests shall be submitted with the application. Due to seasonal testing requirements, the Planning Board may accept an application without these certified tests. However, the applicant would proceed at his or her own risk and no development of a building lot could commence until it has been approved by the Board of Health.
5. A preliminary sketch plan of the proposed OSRD shall be submitted. It shall contain the proposed location of the road(s), lots, drainage, and dedicated open space. General topography (with ten foot contours maximum), major site features and adjacent streets shall also be shown.
6. The Planning Board shall hold a public hearing and act on the preliminary plan within forty-five (45) days after the receipt of the application.
7. The conceptual OSRD shall also be reviewed and discussed during the hearing process. Comments and recommendations shall be incorporated in

plans included in any subsequent filings.

8. If the preliminary conventional and conceptual OSRD plans are approved, the Planning Board shall, insofar as practical under the law, allow the submittal of a combined Special Permit and definitive subdivision plan. A combined submission will not be authorized in those cases where either the conventional preliminary plan or proposed OSRD sketch plan is not approved by the Planning Board.

#### **8.3.11 Special Permit Decision.**

1. The Planning Board shall conduct a public hearing in accordance with the provisions of these By-Laws.
2. If the Planning Board disagrees with any recommendations of another Town of Foxborough Board, it shall state its reasons therefor in writing.
3. The Planning Board shall consider the Approval Criteria in this Section and other factors to determine if it approves the plan as submitted.
4. The Planning Board may impose conditions as a part of any approval that furthers the purposes of this Section 8.3 and these By-Laws.
5. The Planning Board shall require a performance guarantee to secure the proper completion of all infrastructures as well as the fulfillment of any conditions of approval.

#### **8.3.12 Approval Criteria.** The Planning Board may grant a Special Permit under this Section 8.3 only if it finds that:

- 1 The proposed plan is in harmony with the intent and requirements of this Section and these By-Laws;
- 2 Open space as required by this bylaw has been provided and generally conforms to the Dedicated Open Space section of this Bylaw;
- 3 Proposed uses of the Open Space comply with this By-Law;
- 4 Proposed Open Space will be dedicated in compliance with the Massachusetts General Laws and this By-Law and is suitably protected;
- 5 Approximate building sites have been identified and are not located closer than 100' to wetlands and waterbodies;
- 6 Proposed streets have been aligned to provide vehicular access to each house in a reasonable and economical manner. Lots and streets have been located to

avoid or minimize adverse impacts on open space areas and to provide views of and access to the open space for the lots;

- 7 All lots meet the applicable dimensional requirements of this Open Space Residential Development Bylaw and the Zoning Bylaws;
- 8 Documents creating a Homeowners' Association has been submitted to the Board and approved by Town Counsel;
- 9 The development will not have a detrimental impact on the neighborhood or abutting properties: and
- 10 Other factors as determined appropriate by the Board.

**8.3.13 Revisions to Approved Special Permits.** Subsequent to granting of a Special Permit, the Planning Board may permit the relocation of lot lines or changes to landscaping within the project; provided, that any change in the number of lots, street layout, square footage or composition of dedicated open space or disposition thereof, will require further review and a public hearing.

## **ARTICLE II: Floodplain map update**

To amend Section 9.3.1 of Chapter 275 of the Town of Foxborough Code (“Foxborough Zoning By-Laws”) by deleting the existing section and replacing with the following or to take any other action related thereto:

9.3.1 Overlay district. The Floodplain District is herein established as an overlay district. The district includes all special flood hazard areas within the Town of Foxborough designated as Zones A and AE on the Norfolk County Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The map panels of the Norfolk County FIRM that are wholly or partially within the Town of Foxborough are panel numbers 25021C0332E, 25021C0333E, 25021C0334E, 25021C0341E, 25021C0342E, 25021C0351E, 25021C0353E, 25021C0354E, 25021C0358E, 25021C0361E, 25021C0362E, 25021C0365E, and 25021C0366E, dated July 17, 2012 and panel numbers 25021C0343F and 25021C0344F, dated July 16, 2015. The exact boundaries of the district may be defined by the 100-year base flood elevations shown on the FIRM and further defined by the Norfolk County Flood Insurance Study (FIS) report dated July 16, 2015. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk, Planning Board, and Building Commissioner.

**ARTICLE III: Accept McNamara Way as a public way in the Town of Foxborough**

To see if the Town will accept as a public way McNamara Way located within the “Fairway Woods” subdivision, which has been constructed pursuant to the Planning Board Subdivision Control Regulations as follows, or to take any other action related thereto:

McNamara Way – from its intersection with North High Street generally westerly approximately 465 feet more or less to its terminus at a cul-de-sac.

**ARTICLE IV: Accept Michelmores Way as a public way in the Town of Foxborough**

To see if the Town will accept as a public way Michelmores Way located within the “Rosewoods Estates” subdivision, which has been constructed pursuant to the Planning Board Subdivision Control Regulations as follows, or to take any other action related thereto:

Michelmores Way – from its intersection with Oak Street generally westerly approximately 925 feet more or less to its terminus at a cul-de-sac.