

## **x.1 Lynnfield Open Space Residential Design (OSRD) Bylaw**

### **X.1.1 Purpose**

The primary purposes for this bylaw are to:

- 1) Further the applicable goals and policies of the Town Master Plan, such as “Lynnfield will be a community that will provide appropriate and attractive housing and activities for all of its residents; Any new development will respect the visual quality of the town’s architecture and open space; Development will be guided by principals as developed by the town’s residents and government officials and will be evaluated in terms of adherence to these master planning goals”;
- 2) Encourage the permanent preservation of open space, agricultural land, forested land, wildlife habitat, water bodies, and wetlands;
- 3) Encourage the permanent preservation of other natural and cultural features, such as mature trees, viewsheds, stone walls, and historic buildings;
- 4) Minimize the total amount of disturbance on the site;
- 5) Enable landowners to realize equity from development of their land;
- 6) Encourage the construction of homes affordable to new and existing Town residents through more modest unit sizes and deed-restrictions;
- 7) Encourage variety in housing design and site development while ensuring compatibility with surrounding land uses;
- 8) Encourage a strong sense of community among neighbors;
- 9) Expedite the permitting of projects;
- 10) Facilitate the construction and maintenance of housing, streets, utilities, and public services in a more economical and efficient manner; and
- 11) Reduce energy consumption and greenhouse gas emissions.

### **X.1.2 Definitions**

- 1) “Open Space Residential Design (OSRD)” shall mean a process for the development of land that: (a) calculates the amount of development allowed up-front by formula; (b) identifies the significant natural, cultural, and historic features of the land; (c) concentrates development, through design flexibility and reduced dimensional requirements, in order to preserve those features; and (d) permanently preserves at least 45 percent of the land in a natural, scenic, or open condition or in agricultural, farming, or forest use.
- 2) “Cottage Cluster” shall mean a residential development containing a cohesive cluster of small dwelling units gathered around one or more Common Green Spaces. Cottage cluster may also have shared community garden plots, recreation facilities, and other ancillary uses.
- 3) “Common Green Space” shall mean the central space used by all occupants of a development, similar to a traditional New England town green. It takes the place of large private yards and becomes an important community-enhancing element of the development.

### **X.1.3 Applicability**

- 1) OSRD is allowed by right under zoning within the Single Residence B, Single Residence C, and Single Residence D districts for all residential developments under a single tract, or multiple tracts in one ownership, which have an area of not less than 90,000 square feet.
- 2) OSRD is subject to the requirements of the subdivision regulations and any other generally applicable land use regulations.

- 3) Within the Single Residence B, Single Residence C, and Single Residence D districts, all housing developments under a single tract, or multiple tracts in one ownership, which have an area of not less than 90,000 square feet (including residential subdivisions) shall comply with the OSRD provisions of this section, unless the Planning Board allows a development that deviates from the requirements of this section by Special Permit. Such deviations may be approved if the applicant demonstrates that the proposed alternative development configuration provides adequate protection of the site's environmental resources and fulfills the purposes of this section as well as or better than an OSRD.
- 4) Subsection 1 above does not apply to construction of homes on individual lots that existed prior to [March 18, 2020] or to lots created through the "Approval Not Required" (ANR) process with frontage on existing ways that meet the standard specified in the Lynnfield Subdivision Regulations. However, if subdivision approval is not required an applicant may nevertheless voluntarily apply for an OSRD under this section. In such a case, prior to lot creation via the ANR process the application shall be subject to Site Plan Review as described in Section 10.6.
- 5) If the proposed OSRD involves density bonuses, shared driveways, and/or any other use that requires a Special Permit, or Site Plan Review for lot configuration or any other purpose, the proceedings for all such Special Permits and the Site Plan Review shall occur in one consolidated Special Permit proceeding before the Planning Board.

#### **X.1.4 Pre-Application**

- 1) Pre-Application Meeting. Prior to filing an application, an applicant is strongly encouraged to request a pre-application review at a regular business meeting of the Planning Board. If one is requested, the Planning Board shall invite the Conservation Commission and Board of Health. The purpose of a pre-application review is to minimize the applicant's costs of engineering and other technical experts, and to commence negotiations with the Planning Board at the earliest possible stage in the development. At the pre-application review, the applicant may outline the proposed OSRD, seek preliminary feedback from the Planning Board regarding conservation resources on the site and where development may be most appropriately located, and set a timetable for submittal of a formal application.
- 2) Pre-Application Submissions. The applicant shall provide the Planning Board the following items, in addition to the submittal requirements of the Lynnfield Subdivision Regulations.
  - a) Site Context Map. This map shall illustrate the parcel in connection to its surrounding neighborhood. Based upon existing data sources and field inspections, it shall show various kinds of major resource areas or features that cross parcel lines or that are located on adjoining lands. This map enables the Planning Board to understand the site in relation to what is occurring on adjacent properties.
  - b) Conservation Analysis.
    - i) Primary Conservation Areas, such as wetlands and floodplains regulated by state or federal law, are to be identified and delineated. Development is prohibited within Primary Conservation Areas.
    - ii) Secondary Conservation Areas including unprotected elements of the natural landscape such as upland buffers to wetlands, woodlands, farmland, meadows, wildlife habitat including corridors for wildlife movement, and cultural features such as historic and archaeological sites, mature trees, scenic views, and existing dwelling units

of historical significance shall also be identified and delineated. Master and open space and recreation plan conservation goals are to be considered when delineating such conservation areas.

- iii) Land outside identified Primary and Secondary Conservation Areas is the Potentially Developable Area.
  - iv) Conservation Areas and Potentially Developable Areas shall be delineated such that open space is contiguous to the extent feasible. Open space will still be considered contiguous if it is separated by a roadway with undeveloped frontage. The Planning Board may waive the contiguity requirement for all or part of the required open space where it is determined that allowing noncontiguous open space will promote the goals of this bylaw or protect identified Primary and Secondary Conservation Areas.
- c) Documentation of the Yield Plan, as specified in Section X.1.6 below
- 3) Site Visit. Prior to filing an application, a field visit by the applicant with members of the Planning Board and/or Conservation Commission is encouraged. The purpose of this site visit is to familiarize Town officials and staff with the property's special features, and to provide them an informal opportunity to offer suggestions to the applicant regarding the preferred location of the potential house locations and street alignment.
  - 4) Conservation Findings. The Planning Board, in consultation with the Conservation Commission shall study the Conservation Analysis, may conduct additional field visits, and shall formally determine which land should be preserved and where development may be located. As part of its decision the Planning Board shall make written findings supporting this determination ("the Conservation Findings"). These findings must provide a viable location for the number of units specified in Section X.1.6 below.
  - 5) Sketch Plan. Applicants shall submit a conceptual preliminary plan drawn to illustrate initial thoughts about a conceptual layout for conserved open space, house sites, and street alignments. This is the stage where drawings are tentatively illustrated before heavy engineering costs are incurred. These drawings should be prepared by a team that includes a certified planner or registered landscape architect and should be based closely on the Conservation Analysis and Conservation Findings. The Sketch Plan or Conceptual Preliminary Plan shall follow a four step design process as described below in Section X.1.5.
  - 6) Standard for Approval. The Planning Board shall deny any application that does not include sufficient information to make Conservation Findings or that does not preserve land that the Planning Board determines should be preserved from development as a result of the Conservation Analysis and Findings. The Planning Board's Conservation Findings shall be incorporated into its decision to approve, approve with conditions, or deny an application.

#### **X.1.5 Four-Step Design Process**

- 1) The proposed layout of streets, dwelling units, and open space in an OSRD shall be designed according to the following four-step design process.
  - a) Identify primary and secondary conservation areas and potential development areas, per X.1.4(2)(b) Conservation Analysis
  - b) Locate the approximate sites of dwelling units within the potentially developable areas. Include the delineation of private yards and other relevant features so as to reflect an integrated community, emphasizing consistency with the Town's historic development patterns.

- c) Align streets in order to access the house lots or dwelling units. 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.
- d) Draw in lot lines.

**X.1.6 Yield: Allowable Residential Units**

The base maximum number of residential units in an OSRD is calculated by a formula based upon the net acreage of the property. This formula takes into account site-specific development limitations that make some land less suitable for development than other land. This calculation involves two steps, calculating the net acreage and dividing by the allowed density.

- 1) Net Acreage Calculation. The factors named below are included for net acreage calculation purposes only and do not convey or imply any regulatory constraints on development siting that are not contained in other applicable provisions of law, including this zoning bylaw. To determine net acreage, subtract the following from the total (gross) acreage of the site:
  - a) The total acreage of land subject to easements or restrictions prohibiting development, lakes, ponds, vernal pools, 100-year floodplains as most recently delineated by FEMA, Zone I and A around public water supplies, and all wetlands as defined in Chapter 131 Section 40 of the General Laws and any state or local regulations adopted there under, as delineated by an accredited wetlands specialist and approved by the Conservation Commission; and,
  - b) Ten percent of the remaining site acreage after the areas of 1 and 2 above are removed to account for subdivision roads and infrastructure.
- 2) Unit Count Calculation. The base maximum number of allowable residential dwelling units on the site is determined by dividing the net acreage by the required acreage (allowed density) for a dwelling unit in the district under this bylaw. Fractional units of less than .5 shall be rounded down and .5 or more shall be rounded up.

District	Required Space per Unit
Single Residence B	30,000 square feet
Single Residence C	45,000 square feet
Single Residence D	60,000 square feet

- 3) Alternative Yield Method. As an alternative to the utilizing the above calculation for determining the base maximum number of residential units, an applicant may choose to create a conceptual site plan, clearly delineating proposed preserved open space, wetlands, roadways and infrastructure, and which demonstrates the potential number of lots that could result from a conventional subdivision of the site.
- 4) Groundwater Protection District. Projects located within the Lynnfield Groundwater Protection District is subject to nitrogen loading limitations per Title 5 of the State Environmental Code, 310 CMR 15.00. In these cases, the total number of bedrooms allowed in a development is limited to one bedroom per 10,000 square feet of lot area for the overall development.
- 5) Lots in More than One District. For lots in more than one district, the allowable unit count (excluding bonuses) and required open space for each district shall be computed separately first. These totals shall be added together and then rounded as above. The allowable

maximum bonus for the entire development shall be calculated based upon this combined total number of units. The permitted location of the units and protected open space shall be wherever the Planning Board determines best fits the characteristics of the land, based upon the Conservation Analysis and Findings.

- 6) Existing Dwellings. Dwelling units that exist on the site prior to the proposed new development and will be maintained as dwelling units shall be included in the project’s total yield of dwelling units.

**X.1.7 Dimensional Requirements**

Lot size and shape, unit placement, and other dimensional requirements within an OSRD are subject to the following limitations.

- 1) Purpose: Lots/units shall be located and arranged to advance the resource conservation objectives of the master and open space and recreation plans and to protect: views from roads and other publicly accessible points; farmland; wildlife habitat; large intact forest areas; hilltops; ponds; steep slopes; and other sensitive environmental resources.
- 2) Monumentation: Industry-accepted monumentation of a type consistent with the use of the open space shall clearly delineate the boundaries of the open space in a manner that facilitates monitoring and enforcement.
- 3) Area: There is no required minimum lot size for zoning purposes. The limiting factor on lot size in OSRD is typically the need for adequate water supply and sewage disposal. This does not affect the ability of the Board of Health to require area on a lot for water supply protection and the disposal of wastewater. Common leaching areas may be proposed as part of an OSRD.
- 4) Frontage: There is no numerical requirement for road frontage in an OSRD. Each lot must have legally and practically adequate vehicular access to a public way or a way approved under the subdivision regulations either directly across its own frontage or via a shared driveway approved by Special Permit. In the case of Cottage Cluster developments, lots may be served by common parking areas and walkways, and no direct frontage is required. In all cases, adequate provision must be made for fire and emergency access to the individual lots.
- 5) Lot coverage: There is no required maximum lot coverage.
- 6) Setbacks: The minimum setback for any building from a property line is given in the table below. Dwelling units in Cottage Clusters are exempt from these minimum setbacks.

	Single Residence B	Single Residence C	Single Residence D
Front setback	20	20	25
Rear setback	10	20	20
Side setback*	10	10	10
* Setbacks for attached dwellings may be zero feet.			

7) Height: All buildings restricted to 40 feet in height.

### **X.1.8 Permitted Uses**

- 1) Residential
  - a) Single-family dwellings are allowed by right
  - b) Two-family dwellings are allowed by Special Permit
  - c) The number of dwelling units shall not exceed the allowable unit count as specified in this Section. Any OSRD application involving two-family dwellings shall include a Site Plan that shows the location, layout, height, and setbacks of such dwellings.
- 2) Agriculture and horticultural uses including but not limited to orchards, vineyards, forestry, farming for fruits and vegetables, and grazing animals including horses, donkeys, sheep, llamas, vicunas, and similar animals;
- 3) Open space, active and passive; trails; and bikeways;
- 4) Accessory residential/recreational uses (e.g., tennis court, pool, playground, gazebo, firepit, shared patio);
- 5) Clubhouse or community building; and
- 6) Educational and other uses not mentioned above which are exempt from regulation by zoning under Massachusetts General Laws Chapter 40A, Section

### **X.1.9 Design Standards**

The following standards shall apply to all OSRDs, and govern the design and development process.

- 1) Common Green Space: In order to encourage neighborly interactions and a cohesive community, dwelling units should be oriented towards a Common Green Space, where possible.
  - a) Each Common Green Space must be at least 2,000 square feet in area and no less than 30 feet on all sides.
  - b) A development may include more than one Common Green Space.
  - c) The Common Green Space may be used for passive recreation, playgrounds, gardening, and other similar uses.
- 2) Minimize Presence of Parking: Parking should be located in the rear of housing units. Clustered parking and parking located along access alleyways is encouraged.
- 3) Walkability and connectivity: Cul-de-sacs are discouraged. Where cul-de-sacs are necessary, public walking and biking trails that connect the end of the cul-de-sac to nearby streets are encouraged.
- 4) Disturbed Areas: In order to maximize the amount and contiguity of preserved open space, and consistent with the Planning Board's Conservation Findings, every effort shall be made to minimize and concentrate the amount of disturbed area (defined as any land not left in its natural vegetated state), by minimizing tree and soil removal. Any grade changes shall be in keeping with the general appearance of the neighboring developed areas. The orientation of individual building sites shall maintain maximum natural topography and cover. To the maximum extent feasible, topography, tree cover, surface water buffers, and natural

drainage ways shall be treated as fixed determinants of road and lot configuration rather than as malleable elements that can be changed to follow a preferred development scheme.

- 5) Ways: Streets shall be located and designed to maintain and preserve natural topography, significant landmarks, and trees; to minimize cut and fill; and to preserve and enhance views and vistas on or off the subject parcel. The Planning Board may modify the applicable road construction requirements for new road within an Open Space Design as provided in the Subdivision Regulations if it finds that such modifications will be consistent with the purposes of this section, the Open Space Design requirements of the Zoning Bylaw and the Master Plan
- 6) Aesthetics: Development shall relate harmoniously to the terrain and the use, scale, and architecture of existing buildings in the vicinity that have functional or visual relationship to the proposed buildings. All open space (landscaped and usable) shall be designed to add to the visual amenities of the area by maximizing its visibility for persons passing the site or overlooking it from nearby properties.
- 7) Cultural Resources: The removal or disruption of historic, traditional or significant uses, structures, or architectural elements shall be minimized insofar as practicable, whether these exist on the site or on adjacent properties.
- 8) Stormwater Management: The use of Low Impact Development techniques - practices that limit off-site stormwater runoff (both peak and non-peak flows) to levels substantially similar to natural hydrology by emphasizing decentralized management practices and the protection of on-site natural features - is required. Drainage design shall comply with the most recent version of the Massachusetts Stormwater Management Policy standards. In the case that a detention pond is necessary, a conceptual landscape plan shall be provided demonstrating that the pond facility will have dedicated access for maintenance, shall be adequately screened from view, and protected from trespass.
- 9) On-site Pedestrian and Bicycle Circulation: Walkways, trails and bicycle paths shall be provided to link residences with shared parking, recreation facilities (including parkland and open space), and adjacent land uses where appropriate.

#### **X.1.10 Design Standards for Cottage Clusters**

The following standards shall apply only to Cottage Clusters, and govern the design and development process, in addition to the requirements of X.1.9.

- 1) Dimensional Standards. Setbacks are reduced to the following:
  - a) Front: 5 feet to buildings of maximum of 18 feet in width; 10 feet to portions of buildings wider than 18 feet. In a cottage cluster, the front yard shall be the side to the common open space. Where a dwelling in a cottage cluster also has a face to the street, it shall be considered as a front yard.
  - b) Side: 5 feet, except setbacks for attached dwelling units may be zero feet
  - c) Rear: 10 feet
- 2) Orientation
  - a) At least 50% of the housing units must be oriented towards a Common Green Space that has units abutting it on at least 2 sides.

- b) Every dwelling adjacent to the Common Green Space must have a covered front porch or at least 64 square feet oriented towards the Common Green Space.
  - c) Dwellings shall be designed so that no window peers into the living space of adjacent dwellings closer than 30 feet apart.
- 3) Common Green Space.
- a) A minimum of 400 square feet per dwelling unit of Common Green Space is required in each Cottage Cluster development. Parking areas, yard setbacks, spaces between buildings of 15 feet or less in width, private open space, and driveways do not qualify as Common Green Space. The Common Green Space shall be outside of ponds, wetlands, and sensitive areas and shall not count towards the OSRD open space requirements per X.1.11. It shall be maintained so it is usable for active or passive recreation activities.
  - b) Providing one Common Green Space per 4 to 12 dwelling units is encouraged.
- 4) Private Open Space. Private open space shall separate the main entrance to the dwelling from the common open space street. Each residential unit shall be provided with a minimum of 200 square feet of usable private open space. Such open space requirements may be met with a combination of front, side, or rear yard locations.
- 5) Community buildings and community space such as a picnic shelter, tool shed, pizza oven, kitchen garden, playground, fire pit, or child care room are encouraged.
- a) Must be clearly incidental in use and size to the dwelling units
  - b) Must be no greater than one story in height
  - c) Must be commonly owned by the resident

#### **X.1.10 Density Bonuses**

The Planning Board may award via special permit a density bonus to increase the number of dwelling units beyond that otherwise allowed. The density bonus for an OSRD shall not, in the aggregate, exceed 100% of the allowable residential units. When determining the final total number of bonus dwelling units fractions of less than .5 shall be rounded down to the nearest integer and .5 or more shall be rounded up. A density bonus may be awarded in the following circumstances.

- 1) Deed-Restricted Affordable Homes.
- a) The Planning Board may grant a Special Permit whereby for each dwelling unit designated as affordable according to 760 CMR 56 in perpetuity, an additional lot for market-rate development may be added. Applications may receive a density bonus only if it is demonstrated that the affordable units can be counted toward the Town's subsidized housing inventory as determined by the Massachusetts Department of Housing and Community Development. The applicant shall provide documentation demonstrating that the unit(s) shall count toward the community's subsidized housing inventory to the satisfaction of the Planning Board.
  - b) Under no circumstances shall a Special Permit under this section be granted in excess of 50% above the calculation of units determined by the OSRD formula for allowable residential units under this Section X.1.6. In all developments within the Groundwater Protection District, the density is further limited to the number of bedrooms allows on the parcel, per X.1.6.4.
- 2) Publicly-Accessible Open Space.



- a) The Planning Board may grant a Special Permit of up to 15% above the calculation of units determined by the OSRD formula for allowable residential units under this Section, if there is deeded public access provided to the open space portion of the property and the Planning Board finds that such access provides a significant passive recreational benefit. In all developments within the Groundwater Protection District, the density is further limited to the number of bedrooms allows on the parcel, per X.1.6.4.
- 3) Greater Amount of Open Space.
  - a) The Planning Board may grant a Special Permit of 10% above the calculation of units determined by the OSRD formula for allowable residential units under this Section, for each additional 10% of the property preserved as defined in Article 97 of the Articles of Amendment to the Constitution of the Commonwealth of Massachusetts as natural open space (over and above the required 50% as set by the Town in the bylaw).
  - b) Under no circumstances shall a Special Permit under this section be granted in excess of 35% above the calculation of units determined by the OSRD formula for allowable residential units under this Section X.1.6.
- 4) Cottage Clusters
  - a) The Planning Board may grant a Special Permit of up to 100% above the calculation of units determined by the OSRD formula for allowable residential units under Section X.1.6, if all new units in the development have a maximum gross floor area of 1,500 square feet. In all developments within the Groundwater Protection District, the density is further limited to the number of bedrooms allows on the parcel, per X.1.6.4.
  - b) Ten percent of the total number of units must be designated as affordable according to 760 CMT 56 in perpetuity. Applications may receive a density bonus only if it is demonstrated that the affordable units can be counted toward the Town's subsidized housing inventory as determined by the Massachusetts Department of Housing and Community Development. The applicant shall provide documentation demonstrating that the unit(s) shall count toward the community's subsidized housing inventory to the satisfaction of the Planning Board.
  - c) Deeded public access provided to the open space portion of the property is encouraged.
- 5) The bonuses awarded in Subsection 1, 2, and 3 may be additive.
- 6) Buffer from adjacent properties. When incorporating density bonuses into the plan, a buffer area shall be provided around the entire perimeter of the OSRD in accordance with the following:
  - a) Said buffer area shall be continuous and shall be a width of not less than twenty (20) feet.
  - b) The buffer area shall be landscaped with natural vegetation, new plantings, or a combination, which shall include groundcover, shrubs, and trees, except to the extent that the requirements of that section are reduced by the Planning Board upon the request of the Special Permit application.
  - c) Access roads or driveways or pedestrian paths may be allowed to cross the buffer area as shown on the approved plans.

#### **X.1.11 Open Space Requirements**

- 1) **Minimum:** A minimum of 50% of the land area of the OSRD shall be set aside as permanently conserved open space. Conserving more than 50% is encouraged, especially in Single Residence C and D districts. The percentage of the open space that is wetlands shall not normally exceed the percentage of the tract that is wetlands; provided, however, that the applicant may include a greater percentage of wetlands in such open space upon a demonstration that such inclusion promotes the purposes of this bylaw.

The minimum percentage of required open space may be reduced by no more than 10% provided the full required minimum open space is mapped and the land that would otherwise be permanently conserved is shown. This land shall be subject instead to a Restrictive Covenant under G.L. Chapter 184, Sections 26-30, which shall be approved by the Planning Board and Board of Selectmen and enforceable by the Town. Said land may be utilized for common water supply wells and associated infrastructure, common subsurface leaching fields and other underground components of wastewater systems, and rain gardens, constructed wetlands, and other decentralized stormwater management systems consistent with Low Impact Development (LID) that serve the OSRD. Treated stormwater may be discharged into the protected open space or land subject to a restrictive covenant. All protected land must be shown on approved plans.

- 2) **Contiguity of Open Space:** Preserved open space shall be contiguous to the greatest extent practicable. Where noncontiguous pockets of open space are preferable to protect conservation areas, applicants shall attempt to connect these resources area to the greatest extent practicable through the use of trails and/or vegetated corridors. Open space will still be considered contiguous if it is separated by a shared driveway, roadway, or an accessory amenity (such as a barn, paved pathway or trail, or shed for the storage of recreational equipment).
- 3) **Permanent Conservation of the Required Open Space:** Any land required to be set aside as open space, voluntarily preserved in excess of that required, conserved as a condition of Site Plan approval, or protected in exchange for additional density pursuant to a Special Permit, shall be permanently protected pursuant to Article 97 of the Articles of Amendment to the Constitution of the Commonwealth of Massachusetts or a perpetual restriction under G.L. Chapter 184 Section 31-33. Unless conveyed to the Town of Lynnfield Conservation Commission, the required open space shall be subject to a permanent Conservation, Watershed, or Agricultural Preservation Restriction conforming to the standards of the Massachusetts Executive Office of Environmental Affairs, Division of Conservation Services, or Department of Agricultural Resources in accordance with G.L. Chapter 184 Section 31-33, approved by the Planning Board and Select Board and held by the Town, the Commonwealth of Massachusetts, or a non-profit conservation organization qualified to hold conservation restrictions under G.L. Chapter 184, Section 31-33. Any proposed open space that does not qualify for inclusion in a Conservation Restriction, Watershed, or Agricultural Preservation Restriction or that is rejected from inclusion in these programs by the Commonwealth of Massachusetts shall be subject to a Restrictive Covenant in perpetuity under G.L. Chapter 184, Sections 26-30, which shall be approved by the Planning Board and Select Board and held by or for the benefit of the Town.
  - a) The restriction shall specify the prohibited and permitted uses of the restricted land, which would otherwise constitute impermissible development or use of the open space, consistent with the Allowable and Prohibited Uses subsections of this bylaw and any permits. The

restriction may permit, but the Planning Board may not require, public access or access by residents of the development to the protected land.

- 4) Timing: Any restriction or other legal document necessary to permanently conserve open space as required herein shall be recorded before lots are released or building permits are issued, whichever comes first.
- 5) Allowable Use of the Open Space: Such land shall be perpetually kept in an open state, preserved exclusively for the purposes set forth herein and in the deed and/or in the restriction, and maintained in a manner which will ensure its suitability for its intended purposes. Proposed use(s) of the open space consistent with this section shall be specified in the application.
  - a) The open space shall be used for wildlife habitat and conservation and the following additional purposes: historic preservation, outdoor education, passive recreation, aquifer protection, agriculture, horticulture, forestry, scenic views, or a combination of these uses, and shall be served by suitable access for such purposes.
    - i) Active and passive recreation: Active and passive recreation areas shall not comprise more than 50% of the total common open space.
  - b) The Planning Board may permit a small portion of the open space, not to exceed 5%, to be paved or built upon (preferably using permeable pavement and other means of retaining natural hydrology) for structures accessory to the dedicated use or uses of such open space (i.e. barns or other farm structures, parking to facilitate public access for passive recreation, informational kiosks, pedestrian walks, ADA access, and bike paths) so long as the conservation values of the open space are not compromised.
  - c) The open space may be used as the land subject to a restriction for the purpose of an aggregate calculation under Title V.
- 6) Prohibited Use of the Open Space: The open space within an OSRD shall be perpetually kept in an open state, preserved exclusively for the purposes set forth in the Allowed Uses section of this bylaw, and maintained in a manner that will ensure its suitability for its intended purposes. The following uses are expressly prohibited except in conformance with an allowed use:
  - a) Constructing or placing of any temporary or permanent building, tennis court, landing strip, mobile home, swimming pool, fences, asphalt or concrete pavement, sign, billboard or other advertising display, antenna, utility pole, tower, conduit, line or other temporary or permanent structure or facility on, above, or under the open space that is not in conformance with an authorized use of the open space (e.g. a barn or other structure associated with agriculture);
  - b) Mining, excavating, dredging, or removing soil, loam, peat, rock, gravel or other mineral resource or natural deposit;
  - c) Placing, filling, storing, or dumping of soil, refuse, trash, vehicles or parts thereof, rubbish, debris, junk, waste, or other substance or material whatsoever or the installation of underground storage tanks;
  - d) Cutting, removing, or destroying of trees, grasses or other vegetation unless in conformance with an authorized use such as agriculture, forestry, recreation, vegetation and habitat management, or scenic view preservation;
  - e) Activities detrimental to drainage, flood control, water conservation, water quality, erosion, soil conservation, or archeological conservation;

- f) Purposefully introducing or allowing the introduction of species of plants and animals recognized by the Executive Office of Energy and Environmental Affairs to pose a substantial risk of being invasive or otherwise detrimental to the native plant and animal species and plant communities on the property;
  - g) The use, parking or storage of motorized vehicles, including all-terrain vehicles, motorcycles, and campers, except in conformance with an authorized use of the open space or as required by the police, firefighters, or other governmental agents in carrying out their duties; and
  - h) Any other use or activity which would materially impair conservation interests unless necessary in an emergency for the protection of those interests.
- 7) Ownership of the Open Space: At the applicant's discretion the open space may be owned by:
- a) A private owner for agricultural, horticultural, forestry or any other purpose not inconsistent with the conservation restriction;
  - b) A non-profit organization or agency of the Commonwealth whose principal purpose is the conservation of open space for any of the purposes set forth herein;
  - c) The Town Conservation Commission; or
  - d) A homeowners association or a condominium owners association (HOA) as defined in herein owned jointly or in common by the owners of lots or units within the project. If option d) is selected the following shall apply:
    - i) The documents organizing the HOA shall be drafted and approved by the Planning Board before final approval of the OSRD development, recorded prior to the issuance of building permits, comply with all applicable provisions of state law, and pass with conveyance of the lots or units in perpetuity. Each individual deed, and the deed, trust, or articles of incorporation, shall include language designed to effect these provisions.
    - ii) Membership must be mandatory for each property owner, who must be required by recorded covenants and restrictions to pay fees to the HOA for taxes, insurance, and maintenance of common open space, private roads, and other common facilities.
    - iii) The HOA must be responsible in perpetuity for liability insurance, property taxes, the maintenance of recreational and other facilities, private roads, and any shared driveways.
    - iv) Property owners must pay their pro rata share of the costs in subsection iii) above, and the assessment levied by the HOA must be able to become a lien upon individual properties within the OSRD.
    - v) The HOA must be able to adjust the assessment to meet changed needs.
    - vi) The applicant shall make a conditional grant to the Town, binding upon the HOA, of the fee interest to all open space to be conveyed to the HOA. Such offer may be accepted by the Town, at the discretion of the Select Board, upon the failure of the HOA to take title to the open space from the applicant or other current owner, upon dissolution of the association at any future time, or upon failure of the HOA to fulfill its maintenance obligations hereunder or to pay its real property taxes.
    - vii) Ownership shall be structured in such a manner that real property taxing authorities may satisfy property tax claims against the open space lands by proceeding against individual property owners in the HOA and the dwelling units they each own.
    - viii) Town Counsel must find that the HOA documents presented satisfy the conditions in Subsections a through g above, and such other conditions as the Planning Board shall deem necessary.

Selection of ownership option a), b), or d) requires:

- i) The conveyance of a conservation restriction as outlined herein; and
  - ii) The granting of an access easement over such land sufficient to ensure its perpetual maintenance as agricultural, conservation, or recreation land. Such easement shall provide that in the event the trust or other owner fails to maintain the open space in reasonable condition, the Town may, after notice to the lot owners and public hearing, enter upon such land to maintain it in order to prevent or abate a nuisance. The cost of such maintenance by the Town shall be assessed against the properties within the development and/or to the owner of the open space. Pursuant to G.L. Chapter 40 Section 58 the Town may file a lien against the lot or lots to ensure payment for such maintenance. Pursuant to G.L. Chapter 40 Section 57 the Town may also deny any application for, or revoke or suspend a building permit or any local license or permit, due to neglect or refusal by any property owner to pay any maintenance assessments levied.
- 8) Maintenance: The Planning Board shall require the establishment of ongoing maintenance standards as a condition of development approval to ensure that utilities are properly maintained and the open space land is not used for storage or dumping of refuse, junk, or other offensive or hazardous materials. Such standards shall be enforceable by the Town against any owner of open space land, including an HOA. If the Select Board finds that the maintenance provisions are being violated to the extent that the condition of the utilities or the open land constitutes a public nuisance, it may, upon 30 days written notice to the owner, enter the premises for necessary maintenance, and the cost of such maintenance by the Town shall be assessed ratably against the landowner or, in the case of an HOA, the owners of properties within the development, and shall, if unpaid, become a property tax lien on such property or properties.
- 9) Submission Requirements: In order to enable the Planning Board to determine whether or not a proposed OSRD satisfies the purposes and standards of the OSRD section of the Zoning Bylaw an applicant must present sufficient information on the environmental and open space resources for the Board to make such as determination. The required information shall include the requirements of Section III, Submission of Plans for Approval of the Town's Rules and Regulations Governing the Subdivision of Land in Lynnfield, Massachusetts, as well as any calculations to determine the yield and density bonuses, if any. In the case of an OSRD that is not a subdivision, and that is presented as a Site Plan Review application, the Planning Board may require the submission of all or only part of the requirements described in the Subdivision Regulations.
- 10) In extraordinary cases in which the project does not meet the minimum amount of conserved open space but does achieve the purposes of this bylaw, the Planning Board may grant a Special Permit.

#### **X.1.12 Septic Requirements**

- 1) The property shall be served by a private central sanitary sewer system, central septic system, or by individual septic systems. If, however, in the judgment of the Planning Board, the topography and/or soil conditions are such that it would be more efficient to allow the underground common septic system or individual septic systems to be placed in the preserved

open space, this configuration may be permitted. All systems are subject to approval by the Board of Health and any other permitting authority of competent jurisdiction.

### **X.1.13 Parking Requirements**

- 1) The Minimum Parking Requirements defined in Table 9.5.8-1 Table of Parking Requirements apply to the OSRD.
- 2) Shared Driveways and Clustered Parking
  - a) Purposes:
    - i) To provide practically adequate common vehicular access to and from a public street to lots and/or parking locations, which would otherwise be required to have their own access and frontage.
    - ii) To further encourage clustering by clustering parking spaces near homes, reducing the need for driveways and impervious surfaces, while encouraging a more pedestrian-focused development.
- 3) Parking spaces: A portion, or all of required parking may be clustered in one or more lots, provided required parking is located within 150 feet of the entry door and adequate pedestrian access from said lots to associated units is constructed.
- 4) Administration: A shared driveway may be administered as part of a Homeowners Association. Alternatively, it may be jointly owned in fee or as an easement as specified on the deeds of the owners of the properties to which it provides access. Where an Homeowners Association is not utilized as the mechanism for administration, maintenance of a shared driveway is arranged between the joint owners as specified in deeded covenants.
- 5) The Planning Board may issue Special Permits allowing shared driveways and/or clustered parking. The owner(s) of all lots or dwelling units to be served by the shared driveway and/or clustered parking must be party to the application for a Special Permit. If serving more than two units a shared driveway will be called a “way” with a sign placed in plain view of its intersection with a way on which the public has a right of access.
- 6) Applicants must provide:
  - a) Evidence of deeded covenants for all lots or dwelling units served by the shared driveway and/or cluster parking, which include provisions that are adequate in the opinion of the Planning Board and Town Counsel to:
    - i) Establish a maintenance association or be included as part of the HOA comprised of the owners of all lots or units served by the shared driveway and/or clustered parking;
    - ii) Ensure continued maintenance of the shared driveway and/or clustered parking surface and its drainage structures;
    - iii) Provide for the collection of dues and assessments for any necessary ongoing maintenance, repairs, and any plowing/sanding of the shared driveway and/or clustered parking; and
    - iv) Provide a compliance mechanism enforceable by the maintenance association or HOA in the event of non-payment of dues or assessments by a member.

- v) Guarantees including but not limited to financial security that the shared driveway and/or clustered parking will be constructed if the permit is issued;
  - vi) A plan signed by a registered professional engineer for the shared driveway and/or clustered parking showing alignments, grades, subsurface preparation, drainage facilities, and surface materials.
- 7) The Town may not be compelled to provide construction, reconstruction, maintenance, snow plowing, school bus pick-up, police patrols, or other services along a shared driveway.
- 8) Shared driveways need not become public ways.
- 9) A shared driveway and/or clustered parking shall not exempt an applicant from meeting applicable parking requirements for individual dwelling units.

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