**Office of the Town Planner**246 Main Street
Rutland, MA 01543



**MEMORANDUM**

 **To: Planning Board**

**From: John Charbonneau
 Town Planner & Community Development Coordinator**

**Date: January 23, 2025**

**Re: New ANR Application Procedure**

There have been questions regarding the legality of the recently-approved changes to the application procedures for Approval Not Required (ANR) submissions that requires applications to be submitted to the Planning Department prior to being filed with the Town Clerk.  There has been speculation that it violates Massachusetts General Laws.  I submitted an inquiry to Town Counsel, as requested by the Planning Board Chair.  In the meantime, I sent out a query on the Planners’ Listserv for examples of communities that have a similar procedure and the results are as follows:

* The City of Fall River requires submission to the Department of Engineering and Planning and explicitly states that the submission will not be stamped by the City Clerk’s Office until such time as it has been reviewed and deemed complete by the Planning Office.
* The Town of Groveland requires submission to staff for review to ensure it meets all of the submission requirements prior to being stamped by the Town Clerk.
* The Town of Wilmington requires submission to the Planning Board and requires a review by the Director of Planning & Conservation before the time for action begins.
* The Town of Millbury requires submission to the Department of Planning & Development with notification of filing provided to the Town Clerk thereafter.
* The Town of Wareham requires submission to the Planning Department and is not placed on the Planning Board’s agenda until it is deemed complete. (This is a change from when I worked in Wareham from 2010-2013, when applicants would bring ANR applications directly to Planning Board meetings without review or being placed on the agenda.  This is a fairly recent change.)
* The City of Westfield requires submission to the Planning Board with notice sent to the City Clerk of the submission to the Planning Board thereafter.
* The Town of Sutton requires submission to the Planning Board.
* The City of New Bedford requires submission to the Department of City Planning and also requires a preliminary review by staff before submission.  The Director has the authority to endorse the ANR.
* The Town of Chelmsford requires submission to the Planning Board with notification to the Town Clerk to notify that office of the submission.
* The Town of Southborough requires a pre-application meeting with the Town Planner for completeness. Once complete, the formal submission is made to the Town Planner.

In addition, I spoke with a colleague that I have known for approximately 18 years.  She is a former Land Use Attorney who worked as such for 35 years before becoming the Planning Director in Medway.  She confirmed that the procedure is not a violation of M.G.L. In addition, I received the following feedback from Amy Kwesell of Town Counsel:

*“Additionally, with regard to subdivision and Approval Not Required Plans, in my opinion, a pre-application review is beneficial, but because the filing of plans is dictated by statute, G.L. c. 81, § 81T (filed with the Town Clerk or Planning Board with notice to the Town Clerk), again, in my opinion, the statute must be considered to avoid constructive approval.”* Given the slightly vague nature of the response, I followed up with a phone conversation on the morning of January 21, 2025. She confirmed that the procedure is NOT a violation of M.G.L. and she offered guidance on the proper way to handle an incomplete ANR application in order to avoid potential constructive approval.