

Town of West Boylston, Massachusetts

Comprehensive Permit Rules and Regulations

June 17, 2013

These rules and regulations supersede and replace in their entirety any and all prior comprehensive permit rules and regulations enacted by the Zoning Board of Appeals.



ZONING BOARD OF APPEALS

Section 1.0, “COMPREHENSIVE PERMIT” as detailed in these Rules and Regulations is formulated under the authority of Chapter 40B, Sections 20 through 23 of the Massachusetts General Laws [or Chapter 77A of the Acts of 1969].

Price \$20.00

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1.0 COMPREHENSIVE PERMIT

The following requirements shall apply to an Application for a Comprehensive Permit pursuant to Chapter 40A of the Massachusetts General Laws. This information is necessary for the Board to determine whether the proposed project should be classified as “Low or Moderate Income Housing” whether the proposed project will adversely affect the health or safety of the occupants of the project or the residents of the Town, whether any condition which the Board considers imposing on the project would render the project uneconomic.

Notice

Failure to provide the information required by these Rules & Regulations may result in the Application being dismissed on the grounds of incompleteness.

1.1 Application for a Comprehensive Permit

An application for a Comprehensive Permit consists of a completed application form with Parties-In-Interest Map and List (see Paragraphs 1.10 and 1.11), twenty (20) copies of the Site Plan, all information required by this Section (1.0), and a two part filing fee (See Section 1.9) (the “Application”).

1.1.1 The non-refundable General Administration and Process Fee portion is determined as follows:

1.1.1.1 A minimum-filing fee of one thousand dollars (\$1000.00) per project plus an additional two hundred (\$200.00) dollars per unit.

1.1.2 The Technical/Planning Review and Process Fee to cover all expenses incurred by the (Town) Zoning Board of Appeals with respect to the proposed project for engineering, professional planning review, plans, recording and filing of documents, inspection of construction when applicable, and other expenses including, without limitation, sampling and testing as required by the Zoning Board of Appeals or its agents, beyond the initial filing fee. This fee will be determined by the Board as outlined in paragraph 1.9.3 of this Section and shall be borne solely by the Applicant.

1.1.2.1. The escrow fees will be calculated as follows:

The minimum fee is \$20,000 for up to 24 units.

For 25-49 units, there shall be an additional fee of \$20,000.

For more than 49 units, there shall be an additional fee of \$10,000 for each 50 units in excess of 49 units, which fee shall not be prorated, such that the fee for 50-99 units would be \$50,000, the fee for 100-149 units would be \$60,000, and so on.

- 1.1.3 Twenty (20) copies of the Application including copies of all plans, schedules and other material required by the Board and/or included in the Application.

1.2 Standing and Status of the Applicant

The person or entity filing the Application shall submit to the Board the following evidence of its standing and status as a proper legal applicant (the “Applicant”):

- 1.2.1 Evidence if its organization as a public agency, non-profit organization, or limited dividend organization.
- 1.2.2 Evidence of its legal interest in the proposed site.
- 1.2.3 Written communication from the subsidizing agency indicating that the site is acceptable to the agency and a Project Eligibility letter, showing that the Applicant fulfills the requirements of 760 CMR 56.04(1)
- 1.2.4 A list of the development team, including the names, addresses, telephone numbers of the principals in the Applicant’s organization or agency, and the Applicant’s architect, chief design engineer and attorney.

1.3 Need for the Project and Town’s Compliance with Statutory Minimum Criteria

The Applicant shall provide the following information to demonstrate the need for the project, and the Town’s compliance, or lack of compliance with the statutory minimum:

- 1.3.1 the regional need for low and moderate-income housing,
- 1.3.2 The locale in the Town for low and moderate-income housing.
- 1.3.3 The number of low and moderate-income units in the Town.
- 1.3.4. The total number of housing units in the Town.
- 1.3.5 The total land area in the Town which is zoned for residential or commercial use, reduced by the land areas which are in the Flood Plain District, area of all water bodies, and the land area of all publicly owned land.
- 1.3.6 The total number of acres and/or sites on which there is low or moderate-income housing.
- 1.3.7 Calculation for each year during the construction phase of the proposed project showing the land area of all sites, including the proposed site, on which there will be construction of low and moderate-income units.

1.4 Description of the Proposed Project

- 1.4.1. A site plan showing, among other things, all existing and proposed buildings, structures, parking spaces, loading area, driveway openings, driveways, service areas and other open uses, all facilities for sewage, refuse and other waste disposal and for surface water drainage, and all landscape features (such as fences, walls, planting area and walks) on the lot. Said plan shall comply in all respects with the requirements of Development Plan Review, Section 8.4 of the Town of West Boylston Protective Zoning By-Law as amended.
- 1.4.2. Preliminary architectural scaled drawings for all buildings, including typical floor plans, typical elevations and section, and identifying construction types and exterior finish, signed by a registered architect.
- 1.4.3 A tabulation of the proposed buildings by type, size (number of bedrooms, floor area) and ground coverage, and a summary showing the percentage of the tract to be occupied by buildings, by parking and other paved vehicular areas, and by open space.
- 1.4.4 Preliminary utilities plan showing the proposed location and types of water including hydrants, drainage facilities, and sewage disposal facilities.
- 1.4.5 A report on existing site conditions and previous uses including existing structures, utilities, drainage, soils and groundwater. This report shall include a certification by a registered professional civil or structural engineer that the soils upon which the proposed project will be constructed have adequate weight-bearing capacity, and that the soils are not corrosive to steel, concrete, or other materials which will be located in the soils.
- 1.4.6 A preliminary subdivision plan (if a subdivision is proposed by the Applicant or otherwise required for the site or the project).
- 1.4.7 The Applicant shall a) list all local regulations, requirements, or conditions from which it requests an exemption or waiver; b) describe how the project, as proposed, does not meet each specific requirement; and c) provide an economic analysis to demonstrate that compliance with the local requirement would render the project uneconomic.

1.5 Description of the Health and Environmental Impacts of the Proposed Project

- 1.5.1 Calculations showing the amount of sewage that will be generated on a daily and peak flow basis in gallons per day.
- 1.5.2 Engineering plans showing the proposed method for disposing of the sewage, soil types (based on the U.S. Department of Agriculture's Soil Studies), maximum ground water elevations, location and results of soil percolation tests, and other subsurface tests at the proposed disposal site showing that the subsurface sewage disposal is feasible and will meet all State and Town requirements for such method of disposal.

- 1.5.3 The applicant shall provide a plan, which shows the location of any one hundred year floodplain on the site, the location of all areas, which are subject to protection under the Wetlands Protection Act. Further, the Applicant shall provide information and calculations to show the impact of the proposed project on floodplain and wetlands areas, both on-site and off-site and the location and nature of any compensatory or replication areas.
- 1.5.4 The applicant shall provide a report prepared by an independent qualified traffic study consultant, or firm, which estimates the traffic flows which will be generated by the project at peak periods, estimate the existing traffic flows on streets in and adjacent to the project, and evaluates the capacity of existing streets to carry the additional traffic from the project without undue delay, or risk of safety to the occupants of the project, or members of the public using public ways. Further, the report shall provide sight distances at all intersections or proposed driveways or streets in the project with other public ways in the Town.
- 1.5.5 A plan showing the location of all existing or potential public and private wells within two thousand feet (2,000') of the proposed site.
- 1.5.6 The Applicant shall define the plume of contaminated groundwater from sewage disposal, the zones of contribution to existing or future municipal well sites and the impact on down gradient existing and future well sites, lakes, ponds and wetlands.
- 1.5.7 The locations of all parcels within the town of open space or conservation land, abutting or otherwise affected by the project, which are owned, by any public entity or any non-profit organization.
- 1.5.8 A plan showing the sufficiency of off-street parking spaces for vehicles of residents and visitors to the proposed project.
- 1.5.9 Calculations showing the amount of water which the project will use on a daily and peak basis, the source of such water, and the adequacy of unused capacity in such source.

1.6 Economic Information on the Proposed Project

Project Proforma

(Use form Appendix A, pages 1 &2 for data, required by Sections 1.6.1, 1.6.2, & 1.6.3)

- 1.6.1 Development Costs
 - 1.6.1.1 Site Acquisition Costs
 - 1.6.1.2 Construction Costs
 - 1.6.1.3 Total Construction Costs
 - 1.6.1.4 Other Development Costs
 - 1.6.1.5 Total Other Development Costs
 - 1.6.1.6 Total Development Costs

1.6.2 Projected Revenues

- 1.6.2.1 Estimated Sales Prices
- 1.6.2.2 Total Sales Price
- 1.6.2.3 Profit

1.6.3 Projected Revenues – Rental Income

- 1.6.3.1 Rental Income
 - 1.6.3.1.1. Low/Moderate Units
 - 1.6.3.1.2 Market Units
 - 1.6.3.1.3 Other Income
 - 1.6.3.1.4 Subsidy (Specify)
 - 1.6.3.1.5 Total Income

1.6.4 Projected Operating Expenses

- 1.6.4.1 Debt Service
- 1.6.4.2 Operating Expenses (specify)
- 1.6.4.3 Other (specify)

1.6.5 Sources and Amounts of Capital Funds

- 1.6.5.1 Developer's Equity
- 1.6.5.2 Public Funds (specify agency and program)
- 1.6.5.3 Construction Loan (Specify month and rate)

1.6.6 Construction and Sales/Rental Schedule

- 1.6.6.1 Construction Schedule (specify number of units to be constructed in each year after construction commences)
- 1.6.6.2 Sales/Rental Schedule (specify number of units to be sold or rented in each year after construction is completed)

1.7 Residents of the Project

The applicant shall propose a mechanism which is acceptable to the Zoning Board of Appeals to insure that 70% of the subsidized units, and 70% of the market rate units, are offered initially in the following categories:

- 1.7.1 Current Town Employees;
- 1.7.2 Current Residents of the Town who are 65 years of age or older;
- 1.7.3 Current Town Residents.

1.8 Management of the Project

The Applicant should prepare a detailed management plan for review by the Zoning Board of Appeals specifying the following information:

- 1.8.1 The type of entity which will manage the project, the legal documents which create the entity and proposed service, and any and all contracts between the management entity and the owners of the project.

- 1.8.2 A financial analysis which demonstrates that the ownership entity will have financial reserves and cash flow sufficient to properly maintain the property through its useful lifetime.
- 1.8.3 Documents proposed to create the ownership entity.

1.9 Fees

- 1.9.1 The filing fee for an “Application for Approval of a Comprehensive Permit” and/or amendment/revision shall be composed of two parts:

- a.) A general Administration and Process Fee portion;
- b.) A technical/Planning Review and Consultation Fee portion,

The total of “a” and “b” shall be considered as the “filing fee”. The responsibility of payment of the two portions of the “filing fee” shall be borne solely by the applicant.

- 1.9.2 The General Administration and Process Fee portion shall be presented to the Board, in the form of a check made out to the Town of West Boylston, at the time of submission to the Zoning Board of Appeals with the Application for a Comprehensive Permit. Failure of the applicant to present this fee portion shall be grounds for the Zoning Board of Appeals to dismiss the Application on the basis that it is an incomplete submission.

The purpose of this fee portion is to cover all anticipated municipal/general government costs of all Town boards and departments as a result of the Application. Costs include but are not limited to inter-governmental processing, reviewing, providing comments, site inspecting, revising various town maps and the publishing of legal notices, regarding the submission of the Application and associated plan or plans, and all other related documents. This portion of the fee is non-refundable, and shall not be considered as the fee portion for costs of technical and planning reviews, which the Zoning Board of Appeals may require.

The General Administration and Process Fee shall be in accordance with the Zoning Board of Appeals Rules and Regulations Section 1.1.2 governing application fees unless otherwise waived by the Board. If an applicant feels that this amount is not applicable to his/her Application, the Applicant may submit a written waiver request to the Board prior to or at the time of submission of the Application.

- 1.9.3 The Technical/Planning Review and Consultation fee portion as outlined in 1.1.2.1. shall be paid, in total, upon the receipt of the notification of this fee amount, as sent or presented by the Board to the Applicant. Payment shall be made in the form of a check made payable to the Town of West Boylston. Failure of the Applicant to pay this fee portion shall be grounds for the rejection of the Application on the basis that it is in non-compliance with the Zoning Board of Appeals Rules and Regulations as described herein.

The purpose of this fee portion is to cover all technical, engineering, and plan review costs, as required by the Zoning Board of Appeals for the Board’s

adequate review and decision on the Applicant's plan. Costs include but are not necessarily limited to project coordination, pro forma review, legal support, professional engineering services, reviews, consultations, and reports; professional planning services, reviews, consultations and reports; site evaluation; on-site sampling and/or testing reports; special studies; and other related technical or planning services and inspections as required by the Board. The basis for the estimated fee is detailed in Appendix B of these Rules and Regulations.

The Zoning Board of Appeals shall present or mail to the Applicant either cost estimates of the above described services or copies of actual bills (as received by the Board) for the described services. In the event that the Applicant has paid an amount based on such cost estimate, then the remaining balance shall be refunded, in accordance with MGL Chapter 44, Section 53G and subject to the Board's determination that the Applicant has complied with all other Zoning Board of Appeals Rules and Regulations. In the event the actual cost of technical/planning services, as described above, exceeds the cost estimate paid by the Applicant, the Applicant shall pay all remaining costs as required by the Board, prior to the Board's action/vote on the Application. Failure to pay the remaining amount shall be grounds for the Board to dismiss the Application on the basis of non-compliance with the Zoning Board of Appeals Rules and Regulations. This fee portion, in no manner, shall be considered part of the general administration and process fee portion, which is non-refundable.

The Zoning Board of Appeals shall place the Technical/Planning Review and Consultation Fee portion in a "special account", in accordance with and as authorized by Massachusetts General Laws (MGL) Chapter 44, Section 53G.

The Zoning Board of Appeals, in its sole and exclusive discretion, shall determine the professional services that will be retained. The Applicant may appeal the selection of any outside consultant, for technical services as described above, to the Board of Selectmen, in accordance with MGL Chapter 44, Section 53G, on the grounds that the consultant has a conflict of interest or does not possess the minimum required qualifications either of an educational degree in or related to the field at issue or three (3) or more years of practice in the field at issue or a related field.

The time for action by the Zoning Board of Appeals upon the Application shall be extended by the duration of the administrative appeal. If the Board of Selectmen makes no decision within one (1) month following filing of an appeal, the selection of the Zoning Board of Appeals shall stand.

If the Applicant fails to pay the review fee within the stated time period, the Board may deny the Comprehensive Permit. A special account shall be established by the Town Treasurer/Town Accountant in the town treasury and kept separate and apart from other monies. The special account, including accrued interest, shall be extended by the Zoning Board of Appeals. Any excessive amount in the account for the Application, including, accrued interest, shall be returned to the Applicant following approval or disapproval of the Application. A final report of said account shall be made available to the Applicant upon written request.

1.10 Parties-In-Interest Map

In addition to any maps and/or plans as required by these regulations, the Applicant shall supply a “reduced scale” map showing all property lines of his/her property and all land and property lines within five hundred (500) feet of the property, including land directly across the street and, as applicable any land in an adjacent town. Each lot on said map shall be noted with the Assessor Map, Lot number, and property owners last name as shown on the most recent Assessors Tax List for each lot or part thereof shown.

1.11 Parties-In Interest List

A Certified List of the Parties-In-Interest, (as detailed and defined in “Certified List” and “Parties-In-Interest” definition given in Section 2.0 of these Rules and Regulations, shall be supplied in a manner that clearly indicates the Map Number, Lot Number, Owner’s Name and Mailing address, and the Certification by the Assessors.

2.0 Definitions

In addition to the definitions given in this Section, the definitions given in the Zoning By-Laws of the Town of West Boylston are to be used for these Rules and Regulations unless otherwise noted.

Application Form: Formal application form developed by the Board of Appeals, to be completed in its entirety by an Applicant and presented as part of an Application for action by the Board of Appeals.

Certified List: Names and addresses of all Parties-In-Interest (including Assessors’ Map, and Lot Numbers) certified by the Board of Assessors that the listed names and addresses shown are correct as of the latest tax listings. Such certified list shall be conclusive for all purposes.

Parties In Interest: Parties In Interest include the petitioner, abutters, owners of land directly opposite on any public or private street or way, and the abutters to the abutters within three-hundred (300) feet of the property line involved as shown on the most recent tax list, notwithstanding the land of any such owner is located in another city or town, the Planning Board of the city or town, and the Planning Board of every abutting city or town.

3.0 Excess Profits

Any funds in excess of the applicable limitations on profits and distributions shall be paid over to the municipality, as determined solely by the Town of West Boylston.

4.0 Changes after Issuance of a Permit.

If after a Comprehensive Permit is granted by the Board, including by order of the Committee pursuant, an Applicant desires to change the details of its Project as approved by the Board, it shall notify the Board through a certified letter to the Town Clerk, describing such change. Within 20 days the Board shall determine and notify the Applicant whether it deems the change substantial or insubstantial.

If the change is determined to be insubstantial or if the Board fails to notify the Applicant by the end of such 20-day period, the Comprehensive Permit shall be deemed modified to incorporate the Change.

If the change is determined to be substantial, the Board shall hold a public hearing within 30 days of its determination and issue a decision within 40 days of termination of the hearing, all as provided in

5.0 Validity

3.1 Severance Clause

The provisions of these Rules and Regulations are declared to be severable and if any section, sentence, clause, or phrase of the rules shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clause and phrases of these Rules and Regulations but they shall remain in effect, it being the intent that these Rules and Regulations shall stand notwithstanding the invalidity of any part.

APPENDIX A
COMPREHENSIVE PERMIT
PROJECT PROFORMA DATA

	PER UNIT	TOTAL
(a) SITE ACQUISITION COST		
(b) CONSTRUCTION COSTS		
Site Development		
Site Preparation		
Roads & Utilities		
Off-Site Costs		
Common Amenities		
Building & Grounds		
Residential Buildings		
Landscaping & Site Improvements		
Contingency @ 5.0%		
(c) TOTAL CONSTRUCTION COSTS		
(d) OTHER DEVELOPMENT COSTS		
Fees		
Permits & Surveys		
Architecture & Engineering		
Legal & Accounting		
Clerk-of-the Works		
Financing Fees		
Carry Costs		
Construction Loan Interest		
Real Estate Taxes		
Insurance		
Marketing		
Development Overhead		
(e) TOTAL OTHER DEVELOPMENT COSTS		
(F) TOTAL DEVELOPMENT COSTS (a+c+e)		

APPENDIX A COMPREHENSIVE PERMIT (continued)

II. PROJECTED REVENUES – HOP PROJECT

	ESTIMATED SALES PRICES	NO OF UNIT	PRICE PER UNIT	TOTAL REVENUE
	PHA Units	_____	_____	_____
	HOP Units	_____	_____	_____
	MHFA Units	_____	_____	_____
	Market Units	_____	_____	_____
(g)	TOTAL SALES PRICE		_____	_____
(h)	PROFIT (f minus g)		_____	_____

III. PROJECTED REVENUES – RENTAL INCOME

(a) RENTAL INCOME

Low/Mod Units

Type of Unit	No. of Units	Size of Units	Estimated Monthly Rental	Total Rent
0 BR	_____	_____	_____	_____
1 BR	_____	_____	_____	_____
2 BR	_____	_____	_____	_____
3 BR	_____	_____	_____	_____
4 BR	_____	_____	_____	_____

Market Units

Type of Unit	No. of Units	Size of Units	Estimated Monthly Rental	Total Rent
0 BR	_____	_____	_____	_____
1 BR	_____	_____	_____	_____
2 BR	_____	_____	_____	_____
3 BR	_____	_____	_____	_____
4 BR	_____	_____	_____	_____

(b) OTHER INCOME

	Monthly	Annual
Commercial Income	_____	_____
Parking Income	_____	_____
Other Income (Specify)	_____	_____

(c) SUBSIDY (Specify) _____

(d) Total Income (a+b+c) _____

APPENDIX B

TECHNICAL/PLANNING AGENT REVIEW

Review by the Technical Agent

The Zoning Board of Appeals shall select a Technical Review Agent and employ him/her to review and report on the technical, engineering and planning aspects of the proposed project. The Technical Review Agent shall review the project in two (2) phases as follows:

PHASE I – Initial Review

A. REVIEW OF FEES

1. Review fee requirements of the Zoning Board of Appeals Rules and Regulations under Sections 1.1.2 and 1.9.3 to assure compliance with it.
2. Prepare an estimate of technical/planning review and consultation fee and submit it to the Zoning Board of Appeals.

PHASE II – Upon receipt of notice from the Zoning Board of Appeals and direction to proceed with the review.

B. SUBMISSION REQUIREMENTS

1. Review the requirements of the Zoning Board of Appeals Rules and Regulations under Section 1.0 to determine completeness of submission.
2. Identify and list all materials submitted including plan or supporting documents titles, dates, scales, preparers name, title and address.

C. ZONING REVIEW

1. Review the submission for compliance with the Protective Zoning By-Law of the Town of West Boylston.
2. Identify zoning district(s), conformance to proposed use and compliance with zoning area and dimensional requirements.
3. Review and/or identify any special review procedure requirements such as the need for Zoning Board of Appeals action when granting the Comprehensive Permit to provide variances covering Town water supply protection permits, flood plain permits, State, Federal or other local permit procedures.

D. PLAN AND DOCUMENT CONTENT REQUIREMENTS

1. Review the projected submission for compliance with Zoning Board of Appeals Rules and Regulations Sections 1.2 through 1.5.
2. Assist in the review of data submitted in compliance with Zoning Board of Appeals Rules and Regulations Sections 1.6 through 1.8.
3. Assist in the review of responses from other Town departments/officials.

E. DESIGN AND CONSTRUCTION REQUIREMENTS

1. Review the project submission, plans, details, specifications, reports and supporting documents for compliance with State and Federal regulations.
2. Prepare a report covering the differences between the proposed site design and construction plans and the requirements of Section 4.0 (Design requirements) and Section 5.0 (Construction Requirements) of the West Boylston Planning Board Rules and Regulations in effect at the time of submission.
3. Requests and/or perform on-site sampling and/or testing, special studies, and site evaluations as determined necessary by Zoning Board of Appeals to assure that the project when completed will provide for the safety and health of all project residents.

F. STANDARD PLANNING AND ENGINEERING PRACTICE

Review the project submission on the basis of sound planning and engineering practices to ensure use of adequate and acceptable design criteria for the promotion of public safety and welfare of the project, surrounding area and Town.

G. COORDINATE REVIEW COMMENTS BY OTHERS

Interpret and respond to comments by other Town departments, as necessary. Quantify and collate these responses for use by the Zoning Board of Appeals.

H. PUBLIC HEARINGS/OTHER MEETINGS

1. Schedule and attend meetings with the Applicant and his/her consultants as directed by the Zoning Board of Appeals.
2. Attend Public Hearings or other public or Town department meetings relative to the project submission as directed by the Zoning Board of Appeals.

I. FOLLOW-UP PERMITTING

1. As directed by the Zoning Board of Appeals, perform and prepare follow-up reviews and reports relative to the project submission.
2. Make final recommendations to the Zoning Board of Appeals relative to submission approval and/or rejection.
3. Follow-up any conditions made as part of approval to assure procedural compliance with the Zoning Board of Appeals Rules and Regulations.
4. As directed by the Zoning Board of Appeals, prepare cost estimates for use in establishing Performance Guarantees.
5. Perform on-site inspections as directed by the Zoning Board of Appeals.