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TOWN OF SOUTH HADLEY

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As Amended by Zoning Board of Appeals on
March 13, 2013 and
Filed with Town Clerk on
March 14, 2013

South Hadley Zoning Board of Appeals Rules of Procedure and Regulations for Comprehensive Permit Applications

1.0 Purposes and Context

1.1 These rules establish procedures for applications to the Zoning Board of Appeals for comprehensive permits granted under the Anti-Snob Zoning Act (Chapter 774 of the Acts of 1969), M.G.L. c.40B, §20-23. They are required by M.G.L. c. 40B, §21, as amended by Stat. 1989, c. 593, and by 760 CMR 31.02. The purpose of the statute is to facilitate the development of affordable housing in Massachusetts, and the purpose of these regulations is to facilitate processing of applications for development of affordable housing that meets local needs in a fair and consistent manner. Further explanation of the background and purpose is provided in the regulations of the Housing Appeals Committee, 760 CMR 56.00.

1.2 These rules alone are not sufficient to describe comprehensive permit procedures before the Zoning Board of Appeals. They must be read in conjunction with and implemented in a manner consistent with the complete regulations of the Housing Appeals Committee, 760 CMR, 56.00 and the Guidelines for Local Review of Comprehensive Permits, published periodically by the Executive Office of Housing and Community Development.

1.3 *Relationship to the Board's general rules.* In addition, the Board's general rules for conduct of hearings under M.G.L. c. 40A apply to comprehensive permit applications. In case of inconsistency or conflict between those general rules for conduct and these rules, these rules shall govern.

2.0 Administration – Records, Adoption/Amendment, Fees

2.1 Records at the Office of Planning Board

The Town Planner, acting as staff/agent for the Zoning Board, shall be responsible for keeping and maintaining all official records and documents at the Office of the Planning Board:

2.2 Procedure for Amending

These Rules may be amended at any regular meeting by a majority vote of the Zoning Board of Appeals, provided that any original proposal or amendment has been properly posted on the Town's website for public review and copies of the same have been provided to all members prior to the meeting at which the matter is to be considered.

2.3 Fees

a) **Filing Fees.** The Zoning Board of Appeals shall adopt and file with the Town Clerk a schedule of filing fees which must be paid by the applicant at the time of filing of a complete application.

b) **Public Hearing Expenses.** The applicant shall be responsible for the cost of the required advertisement of the public hearing and the cost of providing certified mail notices to abutters and parties of interest in accordance with the Zoning Board of Appeals adopted fee schedule.

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c) **Review Fee.** If, after receiving an application, the Board determines that in order to review that application it requires technical advice unavailable from municipal employees, it may employ outside consultants. The Board may require the applicant to pay a review fee to cover the cost of such review in accordance with Section 5.0 of these Rules and Regulations.

3.0 Definitions

3.1 Except as specified herein, all terms shall be as defined in the governing statutes and Rules and Regulations of the Housing Appeals Committee.

3.2 **Board** means the South Hadley Zoning Board of Appeals established under M.G.L. c. 40A, s. 12.

3.3 **Local official** means any Town Board or Department, including but not limited to, Board of Health; Planning Board; Conservation Commission; Historical Commission; either Fire District Department; Police Department; Department of Public Works; Town Planner; Planning Board; and Building Commissioner.

4.0 Permit Process

4.1 Permit Applications

Applications shall be prepared in accordance with the procedures in the applicable statutes, bylaws, and regulations and the instructions on and attached to the application form. Every application for action by the Board shall be made on the official application form published on-line by the Zoning Board of Appeals.

4.2 Complete Permit Applications

Applicants for a Comprehensive Permit must submit a complete application as provided for in these Rules and Regulations. A complete application for a comprehensive permit shall consist of:

- a) The application form;
- b) A narrative describing the nature and location of the project and the site, including a legal description of the property; complete dimensions and area; the amount of uplands; the amount of wetlands the zoning classification(s) that apply to the property; assessor's map and lot numbers; the size of the proposed building(s); calculation of existing and proposed lot coverage; a description of measures the applicant proposes to prevent soil erosion and storm water runoff during construction; estimated cost of all site improvements; projected public water demand, if any; projected parking spaces required for the development based on proposed use(s) or number of employees, as applicable; the name and address of the property owner and the applicant, if different from the property owner; and a discussion of how the proposed development conforms to the South Hadley Master Plan;
- c) An abutters list, certified by the Board of Assessors;

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- d) Preliminary site development plans showing the locations and outlines of proposed buildings; the proposed locations, general dimensions and materials for streets, drives, parking areas, walkways and paved areas; and proposed landscaping improvements and open areas within the site. An applicant proposing to construct or rehabilitate four or fewer units may submit a sketch of the materials in section 2.f below, which need not have an architect's signature. All structures of five or more units must have site development plans signed by a Massachusetts Registered Architect, Landscape Architect, or Civil Engineer;
- e) A report on existing site conditions and a summary of conditions in the surrounding areas, showing the location and nature of existing buildings, existing street elevations, traffic patterns and character of open areas, if any, in the neighborhood;
- f) Preliminary, scaled, architectural drawings. For each building the drawings shall be signed by a registered architect, and shall include typical floor plans, typical elevations and sections, and shall identify construction type and exterior finish;
- g) A tabulation of proposed buildings by type, size (number of bedrooms, floor area) and building 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 areas;
- h) A photometric analysis and lighting plan showing the location height, intensity, and bulb type of all external lighting fixtures, the direction of illumination, and methods to reduce glare onto adjoining properties (this does not apply where the development is proposed to be a single-family subdivision or where the lighting is to illuminate parking areas of less than ten (10) parking spaces);
- i) Conceptual landscaping plan showing the location and approximate number and size of plant types, and the locations and elevation and/or height of fences, walls, steps, paths and other walkways and or sidewalks;
- j) If a subdivision of land is involved, a preliminary subdivision plan;
- k) A preliminary utilities plan showing the proposed location and types of sewage, drainage, and water facilities, including hydrants;
- l) A stormwater analysis and design which provides a quantitative and qualitative analysis of existing and expected post-development stormwater conditions including but not limited to measures proposed to prevent pollution of surface and ground water, erosion of soil, any increase in runoff of precipitation, excessive raising or lowering of the water table, or flooding of other properties; with drainage calculations prepared by a registered engineer;
- m) A narrative analysis of existing and expected post-development environmental conditions, including but not limited to measures to protect air quality, minimize noise levels, prevent harmful or noxious emissions, and damage or threat to wetlands, flood plain,

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wildlife habitat, historical or archaeological resources, and the visual environment. Potential smoke, odors, vibration and electromagnetic radiation should be identified and addressed. The environmental impacts analysis should also describe proposed methods of waste disposal;

n) Analysis of traffic impacts: estimated average daily traffic and peak hour traffic to be generated by the development. The Board of Appeals may request that the Applicant prepare a traffic study;

o) Analysis of community impacts: a narrative assessment of existing and projected demands for community services and facilities, including but not limited to public water or sewer service;

p) A complete list of requested exceptions to local codes, bylaws, and regulations, including but not limited to, the zoning bylaw, subdivision regulations, Board of Health regulations, town general bylaws, and wetlands protection bylaw. The application shall cite the specific sections of the local codes, bylaws, and regulations from which an exception is being requested;

q) The Project Eligibility Letter from the subsidizing agency; and,

r) The application filing fee based upon the fee scheduled adopted by the Zoning Board of Appeals and filed with the Town Clerk. In addition to the filing fee, the applicant is responsible for the cost of the public hearing ad and the notification of abutters and parties of interest (pursuant to the requirements of MGL Chapter 40A, Section 11) as specified in the fee schedule adopted by the Zoning Board of Appeals and filed with the Town Clerk.

4.3 Number of Copies

a) Paper or "hard" copy submittals. The applicant shall submit no less than one (1) original and seventeen (17) copies of the Complete application as detailed in Section 4.2 of these Rules and Regulations.

b) Digital copy submittal. In addition to the paper or "hard copies" specified in Section 4.3a above, the applicant shall also submit a pdf of the Complete application and each plan set submitted for posting on the Town's website for public information and review.

4.4 Review by Municipal Boards and Departments

Upon receipt of the complete application, the Zoning Board of Appeals shall have a copy of the submitted application transmitted to the Town and municipal boards and departments for review and comment. At a minimum, the application shall be submitted to the following:

- a) Building Commission
- b) Conservation Commission
- c) Planning Board
- d) Board of Health

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- e) Department of Public Works
- f) Town Engineer
- g) Chief of Police
- h) Fire Chief for the District(s) in which the project site is located
- i) Water Superintendent for the District(s) in which the project site is located
- j) Historic Commission
- k) South Hadley Electric Light Department
- l) Selectboard

4.5 Public Hearing and Decision

a) The Board shall open a public hearing on the completed application within thirty days of its receipt, or such other time frame that may be mutually agreed upon by the Board and the applicant. The Board may request the appearance at the hearing of such representatives of local officials as it considers necessary or helpful in reviewing the application. In making its decision, the Board shall take into consideration the recommendations of local officials. The hearing shall be held at the date, time and place established by the Chair of the Board in accordance with these Rules and Regulations and Massachusetts General Law.

- (1) Notice of the public hearing shall be advertised and given by the Board to abutters and parties of interest in accordance with these Rules and Regulations and Massachusetts General Law.
- (2) The public hearings shall be conducted in accordance with the Board's General Rules and Regulations and standard procedures. Accordingly,
 - a. The applicant and their representatives shall be afforded opportunity to present their proposal prior to receipt of Board or public comments.
 - b. Persons may speak at the public hearing only upon recognition by the Chair.
 - c. All questions and comments are to be directed to the Board, and the Chair shall refer the questions to the appropriate persons for response.
 - d. Information may be presented to/at a hearing by members of the public but after the person presenting agrees to provide a paper/or electronic copy of such presentation.
 - e. At any point, a public hearing may be continued or postponed to a time, place and date certain, provided that these rules and procedures are adhered to when it is resumed, or may be continued or postponed to a time, place and date not certain, providing required advertising and notice procedures are followed to announce the time, place and date of resumption.

b) The Board shall render a decision, based on a majority vote of the Board, within forty days after termination of the public hearing, unless such time period is extended by written agreement of the Board and the applicant. The hearing is deemed terminated when all public testimony has been received and all information requested by the Board has been

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received.

c) In accordance with 56.05(8)(b), the Board may dispose of the application in the following manner:

- (1) Approve a comprehensive permit on the terms and conditions set forth in the application,
- (2) Deny a comprehensive permit as not consistent with local needs if the Board finds that there are no conditions that will adequately address local concerns, or
- (3) Approve a comprehensive permit with conditions consistent with the requirements of M.G.L. c. 40B and 56.05(8)(b) with respect to height, site plan, size, shape or building materials that address matters of local concern.

4.6 Appeals

- a) If the Board approves the Comprehensive Permit, any person aggrieved may appeal within the time period and to the court provided in M.G.L. c. 40A, s. 17.
- b) If the Board denies the Comprehensive Permit or approves the permit with unacceptable conditions or requirements, the applicant may appeal to the Housing Appeals Committee as provided in M.G.L. c. 40B, §22, if applicable.

5.0 Review Fees

As noted in Section 2.3 above, If the Board determines that in order to review the application it requires advice unavailable from municipal employees, it may employ outside consultants. Whenever possible it shall work cooperatively with the applicant to identify appropriate consultants and to negotiate payment of all of consultant fees by the applicant. Alternatively, the Board may, by majority vote, require that the applicant pay a reasonable review fee for the employment of outside consultants chosen by the Board alone.

5.1 A review fee may be imposed only if:

- (1) The work is in connection with the applicant's specific project, and
- (2) All written results and reports are made part of the record before the board.

5.2 Award of the contract is contingent upon payment of a review fee. If the applicant fails to pay the review fee within ten days of receiving written notification of selection of a bidder or offer or, the Board may deny the comprehensive permit.

5.3 Prior to paying the review fee, the applicant may appeal the selection of the consultant to the South Hadley Selectboard as provided for under G.L. Chapter 44, Section 53G.

5.4 The grounds for such an appeal shall be limited to claims that the consultant selected has a conflict of interest or does not possess the minimum, required qualifications.

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5.5 The minimum qualifications shall be established by the Board to ensure that a competent and qualified consultant is utilized.

5.6 The required time limits for action upon the application by the Board shall be extended by the duration of the appeal. In the event that no decision is made by the Selectboard within one month following the filing of the appeal, the selection made by the Board shall stand.

5.7 Each review fee shall be deposited in a special account established by the Town of South Hadley Treasurer pursuant to M.G.L. c. 44, Section 53G.

5.8 Within 60 days of the completion of the Board's decision regarding the application, or the completion of the appeal process (if any) associated with the Board's decision regarding the application or of such time as the applicant formally withdraws the proposal, the applicant shall receive a final report of funds in the special account and, upon request, shall be paid any unspent excess in the account, including accrued interest.

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**SOUTH HADLEY ZONING BOARD OF APPEALS FEE SCHEDULE
FOR COMPREHENSIVE PERMIT APPLICATIONS
(As Adopted November 28, 2012)**

APPLICATION FEES

FORM B – Preliminary Subdivision Plan

Small Subdivision* \$100 plus \$100 per lot

For Any Other Subdivision:

<6 lots	\$400 plus \$100/lot
6-25 lots	\$400 plus \$ 75/lot
>25 lots	\$400 plus \$ 50/lot

FORM C – Definitive Subdivision Plan (After Preliminary Plan)

Small Subdivision*: \$100 plus \$100 per lot

For Any Other Subdivision: \$400 plus \$100/lot plus \$2.00 per linear foot of roadway

FORM C – Definitive Subdivision Plan (without Preliminary Plan)

Small Subdivision*: \$400 plus \$200 per lot

For Any Other Subdivision:

<6 lots	\$1,000 plus \$200 per lot+
6-25 lots	\$1,000 plus \$175 per lot+
>25 lots	\$1,000 plus \$150 per lot+
	+plus \$2.00 per linear foot of roadway*

*Small Subdivision is defined as a proposed subdivision meeting all of the following conditions: a. Creation of no more than 2 building lots; and, b. Proposed street length of no more than 400 feet; and, c. Street is proposed to be privately owned and maintained; and, d. All municipal services to be provided only to the edge of the public right of way.

FORM H – More Than One Building for

Dwelling Purposes per Lot \$200 & \$ 25/unit

PUBLIC HEARING NOTICES -

In addition to the required application fee, whenever an application requires a public hearing, the following fees are to be assessed to and paid by the applicant:

- Notices to Abutters - \$50.00 plus actual cost of postage (certified mail with return receipts). This charge must be paid prior to beginning of public hearing.
- Public Hearing Advertisement – actual cost (to be billed directly to the applicant from the newspaper in which the notice is advertised)

OTHER RESIDENTIAL DEVELOPMENT

Two-Family (new)	\$125
Three-Family	\$200
Multi-Family	\$200 plus \$50 per unit