

APPLICATION FOR COMPREHENSIVE PERMIT
CHAPTER 40B, SECTION 22, M.G.L.

PLEASE PRINT OF TYPE

ALL ITEMS MUST BE COMPLETED

To the Zoning Board of Appeals
Bourne, Massachusetts

1. PETITIONER: _____

ADDRESS: _____ PHONE: () _____

2. OWNER/AGENT: _____

ADDRESS: _____ PHONE () _____

3. PREMISES AFFECTED: _____

ZONING DISTRICT: _____ MAP _____ PARCEL _____

LOT _____ FLOOD ZONE _____ DIMENSIONS OF LOT _____

FRONTAGE _____ WATER RESOURCE DISTRICT _____

4. DESCRIBE SPECIFICALLY THE NATURE OF YOUR REQUEST: _____

5. NUMBER OF UNITS: _____

NUMBER OF AFFORDABLE HOUSING UNITS _____

TYPE OF HOUSING PROGRAM _____

5. LIST OF ITEMS SUBMITTED:

- () CERTIFIED ABUTTERS LIST
- () BOURNE ASSESSOR'S MAP DEFINING LIST OF SUBJECT PROPERTY
- () SITE PLAN(S)
- () ARCHITECTUAL(S)
- () LETTER OF FUNDING COMMITMENT

COMPREHENSIVE PERMIT APPLICATION CONTINUED
PAGE (2)

7. CHECK LIST FOR RECEIPT OF PLANS BY THE FOLLOWING DEPARTMENTS:

SELECTMEN: _____
PLANNING BOARD: _____
BOARD OF HEALTH: _____
CONSERVATION COMMISSION: _____
PLANNING DEPARTMENT: _____
ENGINEERING: _____
BUILDING DEPARTMENT: _____
FIRE DEPARTMENT: _____
POLICE DEPARTMENT: _____
WATER DISTRICT: _____
CAPE COD COMMISSION: _____

8. SPECIFICALLY LIST ALL REQUESTED EXCEPTIONS TO LOCAL CODES, ORDINANCES, BYLAWS OR REGULATIONS:

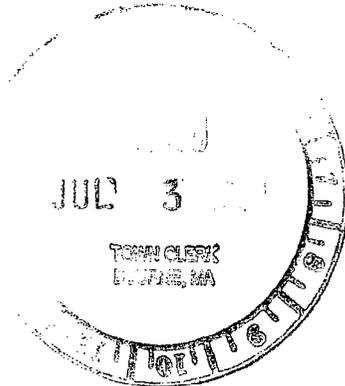
9. SIGNATURE OF APPLICANT/AGENT:

_____ DATE: _____

Comprehensive Permit Rules of the Board of Appeals
Bourne, Massachusetts

Section

- 1.00 Purpose and Context
- 2.00 Definitions
- 3.00 Filing, Time Limits, and Notice
- 4.00 Review of Applications and Review Fee
- 5.00 Public Hearing and Decision
- 6.00 Appeals



1.00: Purpose and Context

These Rules establish procedures for applications to the board of appeals for comprehensive permits granted under the Anti-Snob Zoning Act (Chapter 774 of the Acts of 1969), G.L. c. 40B, ss. 20-23. They are required by G.L. c. 40B, s. 21 and by 760 CMR 31.02. The purpose of these rules is to facilitate the development of affordable housing in the Town Of Bourne.

The Board's general Rules for conduct of hearings under 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.

2.00: Definitions

(a) *Board* means the zoning board of appeals established under G.L. c. 40A, s. 12.

(b) *Local board* is defined as any local board or official, including, but not limited to the board of health, planning board, conservation commission, historical commission, water, sewer or other commission or district, fire department, police department, building inspector, board of selectmen, and the Cape Cod Commission.

3.00: Filing, Time Limits, and Notice

3.01: The application for a comprehensive permit shall consist of:

(a) preliminary site development plans showing the locations and outlines of proposed buildings; the proposed locations, general dimensions and materials for streets, drives, parking areas, walks 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 matters in sections 3.01(a) and 3.01(c), below, which need not have an architect's signature. All structures of five or more units must have site development plans signed by a registered architect;

(b) 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. This submission may be combined with that required in section 3.01(a), above;

(c) 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;

(d) a tabulation of 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 areas;

(e) where a subdivision of land is involved, a preliminary subdivision plan;

(f) a preliminary utilities plan showing the proposed location and types of sewage, drainage, and water facilities, including hydrants;

(g) documents showing that the applicant fulfills the jurisdictional requirements of 760 CMR 31.01, that is,

(i) the applicant shall be a public agency, a non-profit organization, or a limited dividend organization,

(ii) the project shall be fundable by a subsidizing agency under a low and moderate income housing subsidy program, including, but not limited to, a Local Initiative proposal eligible for a comprehensive permit pursuant to 760 CMR 45.04; and

(iii) the applicant shall control the site and shall provide written notice of any statutory restriction, right of first refusal or other encumbrances, and the status of such restriction or encumbrance;

(h) a list of requested exceptions to local requirements and regulations, including local codes, ordinances, by-laws or regulations and a written explanation of why, but for the failure to grant the requested waiver, the proposed project would be rendered uneconomic.

(i) an abutter's list, certified by the Assessor's office.

(j) proof of filing of a Project Notification form with the Massachusetts Historical Commission for the site;

(k) proof of filing of a Rare Species Information Form with the Massachusetts Natural Heritage and Endangered Species Program for the site;

(l) a pro forma detailing anticipated expenses and revenues of the project, documenting site acquisition costs, and setting forth the applicant's proposed profit limitation. The pro forma is considered an essential component of the applicant's submission;

(m) a Project Eligibility letter issued by a qualified and approved subsidy agent or agency.

3.02: The application shall be accompanied by a filing fee based upon the number of proposed housing units of:

(a) for Limited Dividend Organizations - \$14 per unit for market rate units, \$0 for affordable units;

(b) for Non-Profit Organizations - \$7 per unit for market rate units, \$0 for affordable units;

(c) for Public Agencies - \$0

3.03: Within seven days of filing of the application, the Board shall notify each local board of the application by sending such board a copy of the list required by s. 3.01(h), above. Based upon that list, it shall also, within the same seven days, invite the participation of each local official who has a substantial interest in the application by providing such official with a copy of the entire application. In order to allow review by local officials, the Applicant shall provide the Town Clerk with twenty (20) copies of the complete application so that it may be properly distributed to all relevant town boards, departments, agencies and officials.

4.00: **Review Fees**

4.01: When reviewing an application for, or when conducting inspections in relation to, a comprehensive permit application, the Board may determine that the assistance of outside consultants is warranted due to the size, scale or complexity of a proposed project, because of a project's potential impacts, or because the Town lacks the necessary expertise to perform the work related to the comprehensive permit application. The Board may require that applicants pay a "project review fee" consisting of the reasonable costs incurred by the Board for the employment of outside consultants engaged by the Board to assist in the review of a proposed project.

4.02: In hiring outside consultants, the Board may engage engineers, wetlands scientists, planners, lawyers, urban designers or other appropriate professionals who can assist the Board in analyzing a project to ensure compliance with all relevant laws, bylaws, and regulations. Such assistance may include, but not be limited to, analyzing an application, monitoring or inspecting a project or site for compliance with the Board's decision or regulations, or inspecting a project during construction or implementation. If applicable, the Board shall comply with the Uniform Procurement act, G.L. c.30B,s. 1-19.

4.03: Funds received by the Board pursuant to this section shall be deposited with the municipal treasurer who shall establish a special account for this purpose. Expenditures from this special account may be made at the direction of the Board without further appropriation. Expenditures from this special account shall be made only for services rendered in connection with a specific project or projects for which a project review fee has been or will be collected from the applicant. Accrued interest may also be spent for this purpose. Failure of an applicant to pay a review fee shall be grounds for denial of the comprehensive permit application.

4.04: At the completion of the Board's review of a project, any excess amount in the account, including interest, attributable to a specific project shall be repaid to the applicant or the applicant's successor in interest. A final report of said account shall be made available to the applicant or applicant's successor in interest. For the purpose of this regulation, any person or entity claiming to be an applicant's successor in interest shall provide the Board with documentation establishing such succession in interest.

4.05: Any applicant may take an administrative appeal from the selection of the outside consultant to the Board of Selectmen. Such appeal must be made in writing and may be taken only within 20 days after the Board has mailed or hand-delivered notice to the applicant of the selection. 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. The minimum qualifications shall consist either of an educational degree in, or related to, the field at issue or three or more years of practice in the field at issue or a related field. The required time limit for action upon an application by the Board shall be extended by the duration of the administrative appeal. In the event that no decision is made by the Board of Selectmen within thirty (30) days following the filing of the appeal, the selection made by the Board shall stand.

5.00: Public Hearing and Decision

5.01: The Board shall hold a public hearing on the application within thirty (30) days of its receipt. It 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.

5.01.1. The Board shall not waive local codes, ordinances, by-laws or regulations of the Town of Bourne accepted by the Massachusetts Department of Environmental Protection designed or intended for the protection of public water supplies, pursuant to 310 CMR 22.00. unless appropriate mitigating safeguards are provided.

5.01.2. The Board may look to the goals, policies, minimum performance standards and other development review policies of the Cape Cod Regional Policy Plan (RPP) as a frame of reference in reviewing comprehensive permit applications and may base comprehensive permit decisions on the application's consistency with the RPP goals, polices and minimum performance standards.

5.02: 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 shall not be terminated until all public testimony has been received and all information requested by the Board has been received.

5.03: The Board may dispose of the application in the following manner:

(a) approve a comprehensive permit on the terms and conditions set forth in the application,

(b) deny a comprehensive permit as not consistent with local needs, or

(c) approve a comprehensive permit with conditions, including but not limited to:

(i) imposition of conditions that affect the height, site plan, density, or size of structures proposed, including any reasonable conditions designed to mitigate likely impacts upon public health and safety, if such conditions are required to protect public health or safety of the residents of the proposed dwelling units or residents of the Town of Bourne;

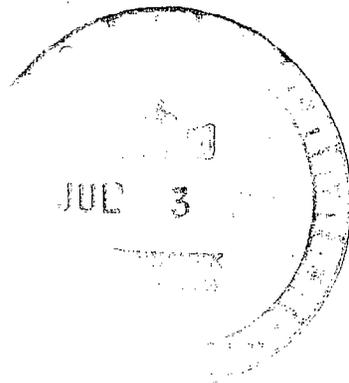
(ii) imposition of conditions that would result in a permit consistent with the Cape Cod Commission Regional Policy Plan or the Town of Bourne Comprehensive Plan

provided that the conditions imposed do not render the construction or operation of such housing uneconomic, as is determined by an analysis of a valid pro forma (see Section 3.01(I), above).

6.00: Appeals

6.01: If the Board approves the comprehensive permit, any person aggrieved may appeal within the time period and to the court provided in G.L. c. 40A, s. 17.

6.02: If the Board denies the comprehensive permit or approves the permit with conditions or requirements considered by the applicant to be unacceptable, the applicant may appeal to the Housing Appeals Committee as provided in G.L. c. 40B, s. 22.



CERTIFICATE OF VOTE

At a meeting of the Board of Selectmen of the Town of Bourne, held on January 10, 2012 at 7:00 p.m., a quorum being present and voting throughout, upon a motion duly made and seconded, it was unanimously

VOTED: To Adopt filing fee changes for 40B applications as follows:

Minimum \$100 per application.

In addition:

For limited dividend organizations, a fee of \$100 for each market rate unit, \$25 for each affordable unit.

For non-profit organizations, a fee of \$50 per unit for each market rate unit, \$25 for each affordable unit.

For Public Agencies, a fee of \$50 per unit for each market rate unit, \$25 for each affordable unit.

Fees for consultants who are not town employees, and also for Town Counsel, would be additional charges for the applicant to pay (under the Board's current chapter 40B regulations).

Substantial Amendment: \$150 + applicable unit fee