

CITY OF WORCESTER PLANNING BOARD



RULES AND REGULATIONS FOR SPECIAL PERMITS

**Adopted and effective
April 11, 1991**

**Amended July 18, 2007
Amended June 4, 2008
Amended June 24, 2009
Amended January 5, 2011
Amended June 15, 2011
Amended April 24, 2013**

**PLANNING BOARD
CITY OF WORCESTER**

MASSACHUSETTS

**RULES AND REGULATIONS
FOR
ISSUANCE OF SPECIAL PERMITS**

Adopted and effective

April 11, 1991

RECEIVED
CITY CLERK
WORCESTER, MASS

APR 23 3 07 PM '91

TABLE OF CONTENTS

		<u>Page</u>
ARTICLE I	- GENERAL PROVISIONS	1
Section 1	- Purpose and Authority	1
Section 2	- Adoption and Amendment	1
Section 3	- Effective Date	1
Section 4	- Filing	1
Section 5	- Powers	1
Section 6	- Advice, Opinion or Information	1
Section 7	- Waiver	1
Section 8	- Severability of Provisions	2
Section 9	- Coordination with General Laws and/or Zoning Ordinance	2
ARTICLE II	- APPLICATIONS TO THE BOARD	3
Section 1	- Applicant	3
Section 2	- Application Form	3
Section 3	- Filing of an Application	3
Section 4	- Contents of an Application	5
Section 5	- Site Plan	6
Section 6	- Fees	7
Section 7	- Amendments to Applications	8
Section 8	- Extensions	8
ARTICLE III	- HEARINGS	9
Section 1	- Procedural Requirements	9
Section 2	- Public Hearing	9
Section 3	- Notice	9
Section 4	- Contents of the Notice	10
Section 5	- Order of Hearings	10
Section 6	- Appearance and Opportunity to be Heard	10
Section 7	- Attendance by Applicant	10
Section 8	- Order of Presentation	11
Section 9	- Recess	11
Section 10	- Postponement	11
Section 11	- Withdrawal of an Application	12
ARTICLE IV	- DISPOSITION OF APPLICATIONS	13
Section 1	- Decisions	13
Section 2	- Voting Requirement	14
Section 3	- Reconsideration	14
Section 4	- Amendment and Revisions of Decisions	14
Section 5	- Performance Guarantee	14
Section 6	- Effective Date of Special Permit	15

ARTICLE V	- APPROVAL STANDARDS	17
Section 1	- General Standards	17
Section 2	- Specific Standards	17

ARTICLE I - GENERAL PROVISIONS

Section 1 - Purpose and Authority

The following Rules and Regulations are hereby adopted by the Worcester Planning Board as provided in Chapter 40A of the Massachusetts General Laws, for the purpose of establishing uniform procedures for the granting of special permits.

Section 2 - Adoption and Amendment

These Rules and Regulations may be adopted and from time to time amended by majority vote, provided such adoption or amendment is submitted in writing at a meeting of the Planning Board. If the matter proposed for adoption or amendment receives a positive vote, then such matter shall be placed on the agenda of the next meeting of the Board for a hearing. After the hearing, the Planning Board may vote final approval, which vote shall be by roll call.

Section 3 - Effective Date

These rules and regulations were finally approved and adopted in public meeting by the Planning Board on April 11, 1991, and shall be effective when voted.

Section 4 - Filing

A copy of these Rules and Regulations shall be filed in the office of the City Clerk.

Section 5 - Powers

A. The Planning Board shall have the power to hear and decide special permit applications under the following provisions of the City of Worcester Zoning Ordinance:

1. Article VII - Inclusionary Zoning
2. Article VIII - Cluster Zoning
3. Article IX - Mixed Use Development Overlays
4. Article X - Continuing Care Retirement Community
5. Article XII - Water Resources Protection Overlay District

Section 6 - Advice, Opinion or Information

A. Any advice, opinion or information given by any Planning Board member, or any employee or official of the City of Worcester shall not be binding on the Planning Board.

Section 7 - Waiver

A. The Planning Board may, in its discretion, where such action is not inconsistent with the intent and purpose of the

Worcester Zoning Ordinance, waive strict compliance with these Rules and Regulations.

B. To be effective, any action under this section shall require the concurring affirmative vote of a majority of those members present and voting.

Section 8 - Severability of Provisions

A. The provisions of these Rules and Regulations are severable. If any provision of these Rules and Regulations is held invalid, the other provisions shall not be affected thereby.

B. If the application of these Rules and Regulations, or any of its provisions to any person or circumstances is held invalid, the application of these Rules and Regulations and their provisions to other persons and circumstances shall not be affected thereby.

Section 9 - Coordination with General Laws and/or Zoning Ordinance

A. All matters upon which these Rules and Regulations are silent shall be determined by the applicable provisions of G.L. c. 40A and/or the Worcester Zoning Ordinance.

B. In the event of any conflict between these Rules and Regulations and any provision of the Worcester Zoning Ordinance, the Zoning Ordinance shall control.

ARTICLE II - APPLICATIONS TO THE BOARD

Section 1 - Applicant

A. An application for a special permit may be brought by a property owner, agent, or prospective purchaser who submits certification of a property interest and authority to file the application.

Section 2 - Application Form

A. Application for a special permit shall be made on an official form, as approved by the Planning Board, which shall be furnished by the Office of Planning and Community Development ("OPCD"). Any communication not on an official form shall be considered as a notice of intention to apply and not as an application.

B. All information indicated on the form shall be supplied by the applicant. Failure to meet this requirement may be considered a failure to submit an application, in which case the form will be returned and no public hearing will be scheduled. If an application is found to be incomplete after a public hearing thereon has been scheduled, and the applicant fails or refuses to supply the required information, such failure or refusal may constitute grounds for denial of the application.

C. All applicants shall also file, in fifteen (15) copies, completed "Findings of Fact" on the form provided with the approved application form. The document, entitled "Findings of Fact", shall accompany the initial application and must be filed simultaneously therewith.

Section 3 - Filing of an Application

A. The applicant shall file its application for a special permit with the Planning Board in care of the OPCD, which shall conduct a preliminary review for completeness and collect the applicable fee(s).

B. The OPCD shall endorse its receipt of the applicable fee(s) upon the original of the application and the applicant shall then file the application in the office of the City Clerk.

C. After filing the application with the City Clerk, the applicant shall forthwith return a copy of the application, certified by the City Clerk as to the date and time of filing to the OPCD.

D. Except for applications for a special permit under Article XII of the Worcester Zoning Ordinance, Water Resources Protection

Overlay District, copies of the application shall be sent by the OPCD to the following City of Worcester departments, boards and commissions:

1. Department of Code Inspection;
2. Department of Public Works;
3. Department of Public Health;
4. Parks and Recreation Department;
5. Department of Traffic Engineering
6. School Department;
7. Conservation Commission;
8. Bureau of Land Use Control;
9. Fire Department;
10. Law Department; and
11. Any other department, board, or commission the Planning Board deems advisable.

Transmittal to the above entities shall take place not more than three (3) business days after the date the OPCD receives the certified copy of the application.

E. In the case of an application for a special permit pursuant to Article XII of the Zoning Ordinance, the applicant shall distribute copies of the application to the following departments, boards and commissions subsequent to the filing of the certified application copy with the OPCD:

1. Department of Public Health;
2. Department of Public Works - Water Operations;
3. Department of Code Inspection;
4. Fire Department; and
5. Conservation Commission

The applicant, after distribution to the above entities, shall file with the City Clerk's office, an affidavit signed under the pains and penalties of perjury indicating the dates and departments to which the application was delivered. A copy of the affidavit shall also be filed with the OPCD. The OPCD shall transmit copies of the application to those entities otherwise listed in Section 4(D), but not included in the preceding list. Transmittal to all entities referred to under this paragraph shall take place not more than three (3) business days after the OPCD receives the certified copy of the application. The applicant shall file the required affidavit within five (5) business days of service upon the above listed entities.

F. Any City department, board or commission to which an application is referred for review, shall make such recommendations as deemed appropriate. Copies of the recommendations shall be sent to the Planning Board, in care of the OPCD, and to the applicant. Failure of any such department, board or commission to make its recommendations within thirty-five (35) days of receipt of the

application, or such lesser timeframe as may be required by the Planning Board, shall be deemed lack of opposition thereto.

Section 4 - Contents of an Application

A. A completed application shall consist of the following:

1. An original and fifteen (15) copies of the completed application form;
2. Evidence of payment of applicable fee(s);
3. An original and fifteen (15) copies of the site plan required under Section 6, below; and
4. A certified listing from the Worcester Assessing Department containing the names and addresses of "parties in interest", as that term is defined by G.L. c. 40A, s.11.

B. For all applications for a special permit pursuant to Article XII of the Zoning Ordinance, the application must also include the following:

1. A complete list of all chemicals, pesticides, fuels and other potentially toxic or hazardous materials to be used or stored on the premises in quantities greater than those associated with normal household use, along with a description of measures proposed to protect from vandalism, corrosion, leakage and counter-measures.
2. A description of potentially toxic or hazardous wastes to be generated, indicating storage and disposal method.
3. Evidence of approval by the Massachusetts Department of Environmental Protection (DEP) of any industrial waste treatment or disposal system and of any wastewater treatment system over fifteen thousand (15,000) gallons per day capacity.
4. For in-ground storage of hazardous materials, evidence of qualified professional supervision of the system design and installation.

5. Evidence of approval and recommendations by the Chief of the Worcester Fire Department for the above ground or underground storage of any flammable, hazardous, or toxic materials.
6. Filing of the affidavit referred to in Section 4(E), above.

Section 5 - Site Plan

A. All applications for a special permit, except those applications submitted pursuant to Article XII of the Zoning Ordinance, shall include fifteen (15) copies of the following described plan, unless the applicant's proposal is also subject to Article V of the Zoning Ordinance, Site Plan Approval, in which case the site plan required thereunder may be submitted with the special permit application in lieu of the plan required in this section.

B. The plan referred to in paragraph (A), above, shall conform to the following requirements:

The size of the plan shall be at least 8 1/2" x 11" or 11" x 17", and drawn to a minimum scale of 1 inch equals 40 feet; it shall have a north point, names of streets, zoning districts, and names of owners of properties up to abutters of abutters within 300 feet of the applicant's property lines. The location of any existing buildings or use of the property and distances from adjacent buildings and property lines shall be verified in the field and shown on the plan. The dimensions of the lot, and the percentage of the lot covered by the principal and accessory buildings, proposed and existing, and the required parking spaces shall be shown. Entrances, exits, driveways, etc., shall also be shown.

C. All applications for a special permit pursuant to Article XII of the Zoning Ordinance shall be accompanied by fifteen (15) copies of a plan of the land, as set forth in Article XII, section 7(C) of the Zoning Ordinance. The form and contents of the plan shall be as follows:

A site plan at a scale within the range of one (1) inch equal twenty (20) feet to one (1) inch equals one hundred (100) feet. The plan or plans shall be prepared by a Registered Professional Engineer, and a Professional Land Surveyor when applicable, and shall include but not be limited to the following:

1. Existing property boundaries.
2. Existing and proposed topography at two (2) foot contour intervals.
3. Existing and proposed structures and buildings.
4. All facilities for surface drainage and erosion control, and calculations for the volume and rate of pre-construction and post-construction runoff from the site using either the Rational Method or Soil Conservation Service Method.
5. All impervious areas and those left in a natural state.
6. Maximum seasonal groundwater elevation.
7. The type of all potential fill to be used on site.

If the applicant's proposal is also subject to Article V, of the Zoning Ordinance, Site Plan Approval, the site plan required thereunder may be submitted in lieu of the above required plan, provided however, that all of the above requirements are incorporated into the so-called "Article V Site Plan".

Section 6 - Fees

A. All applications shall be accompanied by a check in the amount of the applicable filing fee as determined under section 7(B), below. All checks shall be made payable to the City of Worcester and shall accompany the application form.

B. Calculation of the filing fee for each application shall be based upon the following:

Residential - \$125.00, plus \$50.00 per unit (\$175.00 minimum)

Non-residential - \$125.00, plus:

- a) Manufacturing - \$0.25 per square foot
- b) Business - \$0.20 per square foot
- c) General - \$0.15 per square foot

Amendments to existing Special Permits - \$100.00

Extension of Time

- \$ 50.00

Applicants requesting relief in more than one of the above categories shall be required to pay a total of the fees from each applicable category.

C. Fees are based on the magnitude of the relief requested and not that ultimately granted.

D. Notwithstanding anything above to the contrary, the fee for any one application shall not exceed Five Thousand Dollars (\$5,000.00).

E. Upon written request, and for good cause shown, the Planning Board may waive or reduce filing fees.

Section 7 - Amendments to Applications

The Planning Board shall only vote on applications pending before it. Any modifications, amendments or alterations of an application must be presented to the Planning Board for its consideration at a subsequent public meeting. For the purposes of this section, the public hearing originally scheduled to consider the application may be continued to a later date. If the applicant presents revised plans which differ substantially from those originally submitted, the Planning Board shall require that the application be withdrawn.

Section 8 - Extensions

Extension of time for completion of an activity authorized by a special permit may be granted by the Planning Board, provided, that the application for such an extension is filed prior to the expiration of the applicable time period.

1. Any vote to extend the effective date of the special permit shall require the concurring affirmative vote of a majority of those members present and voting.

ARTICLE III - HEARINGS

Section 1 - Procedural Requirements

A. The Planning Board, acting as a Special Permit Granting Authority, shall follow all procedural requirements of Chapter 40A, sections 9 and 11, of the Massachusetts General Laws.

B. The attendance of four (4) members shall be required in order to constitute a quorum whenever the Planning Board is acting as a Special Permit Granting Authority.

Section 2 - Public Hearing

A. Every application for a special permit shall be scheduled for a public hearing within sixty-five (65) days from the date of filing of such application with the City Clerk.

B. The time limits within which to hold the required public hearing and/or take such action as is required following the public hearing, may be extended by written agreement between the applicant and the Planning Board. A copy of such an agreement shall be filed in the office of the City Clerk.

Section 3 - Notice

A. Notice of hearings shall be made by publication in a newspaper of general circulation in the city, once in each of two successive weeks, the first publication to be not less than fourteen (14) days before the day of the hearing, and by posting such notice in a conspicuous place in City Hall for a period of not less than fourteen (14) days before the day of such hearing.

B. Notice shall also be sent by mail, postage prepaid, not less than fourteen (14) days before the day of the hearing, to all "parties in interest" as that term is defined in G.L. c. 40A, section 11, as amended, which reads as follows:

1. "Parties In Interest", shall mean the applicant, abutters, owners of land directly opposite on any public or private street or way, and abutters to abutters within three hundred (300) feet of the property line of the applicant as they appear on the most recent tax list (notwithstanding that the land of any such owner is located in another city or town), [the Planning Board], and the planning board of every abutting city or town.

C. The applicant is responsible for preparing notices to such parties in interest which shall be sent by mail, postage prepaid. The prepared notices shall be verified by the OPCD for conformity

with the certified list from the Assessing Department which will have been submitted with the application. Such certified list shall be conclusive for all purposes relative to determining "parties in interest".

D. All notices and pre-addressed, stamped envelopes required hereunder shall be delivered to the OPCD. After review of the notices as provided for in Section 4(C), above, the OPCD shall transmit the notice for publication, send a copy of the notice to the City Clerk's office for posting, and shall cause all other copies of the notice to be mailed accordingly.

E. The Planning Board may accept a waiver of notice from, or an affidavit of actual notice to any party in interest or, in his stead, any successor owner of record who may not have received a notice by mail, and may order special notice to any such person, giving not less than five (5) nor more than ten (10) additional days to reply.

Section 4 - Contents of the Notice

A. Publications and notices required under Section 4, above, shall contain the name of the applicant, a description of the area or premises, street address, if any, or other adequate identification of the location, of the area or premises which is the subject of the application, the date, time and place of the public hearing, the subject matter of the hearing, and the nature of action or relief requested.

Section 5 - Order of Hearings

All hearings shall be called to order by the Chairperson. The applications generally shall be heard in the order in which they appear on the agenda. Any application, however, may be heard out of turn at the discretion of the Chairperson.

Section 6 - Appearance and Opportunity to be Heard

Any person, whether entitled to notice of the application or not, may appear in person, or by agent or attorney, at any hearing or may submit a statement in writing to the Planning Board. Every person appearing before the Planning Board, or submitting a statement in writing, must identify himself/herself for the record by full name and current residential address.

Section 7 - Attendance by the Applicant

An applicant may appear in his own behalf, or be represented by an agent or attorney. In the absence of any appearances on behalf of an applicant, the Planning Board may consider the request based upon the application and any other evidence presented to it in public hearing.

Section 8 - Order of Presentation

A. The Applicant's case shall be presented first. The applicant shall have the right to present such witnesses, experts, exhibits, documents, charts, plans, models and displays as he/she deems necessary to adequately present the case. The Planning Board may retain any documents or plans which have been introduced into evidence.

B. Following the applicant's presentation, the Planning Board shall hear persons appearing either in person or by written statements, in opposition. There shall be no cross-examination of the applicant. Any and all questions directed to the applicant shall be directed through the Chairperson. Upon completion of all testimony in opposition, the applicant shall, at the discretion of the Chairperson, be given an opportunity to rebut any testimony given in opposition. After such rebuttal, if there are no other persons desiring to be heard, either in favor of or in opposition to a petition, the Chairperson shall declare the hearing closed.

C. All Planning Board members shall have the right, during a hearing, to question any applicant or any other person appearing before the Planning Board and to request additional information.

D. The Chairperson shall have the power and discretion to rule any person appearing at the hearing out of order and to exclude or limit any testimony which, in his/her opinion, is redundant, repetitive, improper or immaterial. Nothing in this section, however, shall deny to any person the right to appear at a hearing and be recorded, orally or in writing, in favor of or in opposition to any application.

E. The Planning Board may, by majority vote, continue a hearing to a date certain to enable an applicant, or any other interested person, to present such further evidence, exhibits, revised plans, financial statements and other documents which the Planning Board, may at its discretion, request or deem necessary.

Section 9 - Recess

If a hearing is not completed or, if by a majority vote the Planning Board requests that an applicant, or other interested party, present further evidence, the hearing may be recessed to a date certain. If the hearing is recessed to a date certain, no further notice, other than posting by the City Clerk's office shall be required.

Section 10 - Postponement

At the request of the applicant or upon motion by a Planning Board member, a scheduled hearing may be postponed to a later date by a majority vote of the Planning Board; provided that, if the

Planning Board deems it necessary, the application may be ordered readvertised and all interested parties and owners renotified and a new filing fee paid.

Section 11 - Withdrawal of an Application

An application may be withdrawn without prejudice at any time prior to the advertisement of the hearing on the application. Once the hearing has commenced, the applicant may not withdraw the petition without prejudice absent a majority vote of the Planning Board members.

ARTICLE IV - DISPOSITION OF APPLICATIONSSection 1 - Decisions

A. Following the close of the public hearing, the Planning Board shall make its decision on the application within ninety (90) days thereof.

B. The Planning Board shall take the following action upon each application:

1. Approve;
2. Approve with conditions; or
3. Disapprove

C. The Planning Board shall cause to be made a detailed record of its proceedings, indicating the vote of each member upon each question, or if absent or failing to vote; indicating such fact, and setting forth clearly, the reason for its decision and of its official actions, copies of all of which shall be filed within fourteen (14) days in the office of the City Clerk and shall be deemed a public record. Notice of the decision shall be mailed forthwith to the applicant, to the parties in interest designated in Article III, section 4(B)(1), and to every person present at the hearing who requested that notice be sent to him/her and stated the address to which such notice was to be sent. Each such notice shall specify that appeals, if any, shall be made pursuant to G.L. c. 40A, section 17 and shall be filed within twenty (20) days after the date of filing of such notice in the office of the City Clerk.

D. If the Planning Board fails to take such final action within ninety (90) days of the close of the public hearing or extended time, if applicable, the application shall be deemed to have been granted provided the following requirements are met:

1. The applicant shall notify the City Clerk, in writing within fourteen (14) days from the expiration of said ninety (90) days or extended time, that the application has been so approved, and that notice, as required in D(2) below, has been sent by the applicant to all parties in interest.
2. The notice required under D(1), above, shall be sent by the applicant to parties in interest by mail, postage pre-paid, and each such notice shall specify that appeals, if any, shall be made pursuant to G.L. c. 40A, section 17 and shall be filed within twenty (20) days after the date the City Clerk received such written notice from the applicant that the Planning Board failed to

act within the time prescribed.

3. After the expiration of twenty-one (21) days without notice of appeal, or if appeal has been taken, after receipt of certified records of the court in which such appeal is adjudicated; indicating that such approval has become final, the City Clerk shall issue a certificate stating the date of approval, the fact that the Planning Board failed to take final action and that the approval resulting from such failure has become final, and such certificate shall be forwarded to the petitioner.

Section 2 - Voting Requirement

A. Any special permit issued by the Planning Board, either with or without conditions, shall require a concurring affirmative vote of four (4) members of the Planning Board.

B. The concurring affirmative vote of a majority of the Planning Board members present and voting shall be sufficient to adopt or approve any matter or question other than the final disposition of an application, or a vote to reconsider an application pursuant to G.L. c. 40A, section 16.

Section 3 - Reconsideration

A. Once an application has been voted upon and the meeting adjourned, there shall be no reconsideration of a decision of the Planning Board, except in accordance with G.L. c. 40A, section 16.

Section 4 - Amendment and Revisions of Decisions

A. The Planning Board may clarify any order or decision and may, within a reasonable time, amend a decision by adding a statement of further reasons for its decision. Such action may be made for the purpose of correcting clerical errors and decision clarification only, and may not serve to alter the substantive manner of the decision.

B. Any action taken by the Planning Board under this section shall require the concurring affirmative votes of a majority of those members present and voting.

Section 5 - Performance Guarantee

A. As a condition to the issuance of a special permit, the

Planning Board may, in situations it deems appropriate, require the applicant to post a bond or provide other safeguards in the form and amount or penal sum acceptable to the Planning Board.

1. The purpose of the bond shall be to guarantee the applicant's performance in meeting any conditions the Planning Board may attach to the granting of the special permit. The penal sum of the bond shall reflect the estimated cost to the City of completing the required work should the applicant fail to do so.

2. The type and form of the performance guarantee shall be as approved by the City's Law Department.

B. Any performance guarantee required by the Planning Board shall be delivered prior to the expiration of the twenty (20) day appeal period, unless the Planning Board shall specify otherwise.

1. If the applicant is not the owner and must purchase to assume such obligations, he/she shall comply within twenty (20) days following the date of purchase, and such requirement shall be noted in the Planning Board's decision.

Section 6 - Effective Date of Special Permit

A. Upon the granting of a special permit, or any extension, modification or renewal thereof, the Planning Board shall issue to the owner, and to the applicant if other than the owner, a copy of its decision, certified by the Planning Board, containing the name and address of the owner, identifying the land affected, setting forth compliance with the statutory requirements for issuance of the special permit and certifying that copies of the decision and all plans referred to in the decision have been filed with the Planning Board and the City Clerk.

B. No special permit, or extension, modification or renewal thereof, shall take effect until one of the following sets of documents is recorded in the Worcester District Registry of Deeds and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title:

1. A copy of the decision bearing the certification of the City Clerk that twenty (20) days have elapsed after the decision has been filed in the office of the City Clerk, and that no appeal has been filed, or that if such appeal has been filed, that it has been dismissed or denied; or
2. If it is a special permit approved by reason

of the failure of the Planning Board to act thereon, within the time prescribed, a copy of the application accompanied by the certification of the City Clerk stating the fact that the Planning Board failed to act within the time prescribed and that no appeal has been filed and that the grant of the application resulting from such failure to act has become final, or that if an appeal has been filed, that it has been dismissed or denied.

C. In accordance with Article II, Section 9(4)(D) of the Worcester Zoning Ordinance, if the activity authorized by a special permit is not initiated within one (1) year of the date of grant, except for phased construction as approved by the Planning Board, and if the activity undertaken is not completed within two (2) years, then the special permit shall lapse, unless the Planning Board makes a determination that the failure to complete was for good cause. After a special permit has lapsed, the rights thereunder may only be re-established after notice and a new hearing is held.

D. Construction or operations under a special permit shall conform to any subsequent amendment(s) to the Worcester Zoning Ordinance unless the use or construction authorized is commenced within a period of not more than six (6) months of issuance of the special permit. In cases involving construction, such construction activity, once commenced, must continue through to completion as continuously and expeditiously as is reasonable.

ARTICLE V - APPROVAL STANDARDS

Section 1 - General Standards

A. The Planning Board may issue special permits for those applications which represent uses that are in harmony with the general purpose and intent of the Worcester Zoning Ordinance, provided the following conditions are met:

1. The specific site is an appropriate location for such use;
2. The use as developed will not adversely affect the neighborhood;
3. There will be no nuisance or serious hazard to vehicles or pedestrians; and
4. Adequate and appropriate facilities will be provided for the proper operation of the proposed use.

Section 2 - Specific Standards

A. In addition to the approval criteria set forth in Section (1), above, each application shall meet any additional approval standards which may be specifically set forth under the provisions of the applicable Article of the Worcester Zoning Ordinance.

City of Worcester, Massachusetts

Michael V. O'Brien
City Manager



Julie A. Jacobson
Assistant City Manager
Office of Economic and Neighborhood Development

Joel J. Fontane, AICP
Director
Planning and Regulatory Services Division

Memorandum

To: David Rushford, City Clerk
From: Joel Fontane, AICP – Director, Planning & Regulatory Services Division
Date: August 1st, 2007

A handwritten signature in blue ink, appearing to read "Joel J. Fontane".

Re: Amendment to Planning Board Rules & Regulations for Special Permit

Enclosed for filing, please find an amendment to the Special Permit Rules and Regulations of the Planning Board. The Worcester Planning Board voted at its meeting on July 18, 2007 to amend Article II, Section 6 related to fees (see attached for filing).

RECEIVED
WORCESTER CITY CLERK
2007 AUG - 1 P 4: 21



APPLICATION FEES WORCESTER PLANNING BOARD

Effective August 1, 2007

Definitive Site Plan	Special Permits	Definitive Subdivisions
Residential Uses (5 units or more, or lots in subdivisions) \$185.00 + \$60.00 per DU	Adaptive Reuse, Arts Overlay, CCRC, Cluster,	\$1250.00 + \$60.00 per lot
Non-Residential Uses \$185.00 + \$0.25 per SF of GFA over 10,000 SF	Common Drive, Density Bonus, Flexible Parking, Mixed Use, Water Resources. \$250.00 ea.	Preliminary Subdivisions \$625.00 + \$30.00 per lot
Other Site Plan Triggers: Airport Environs, Billboards, Lodging House, Historic (National Register) & Slope-15% \$185.00	Wind Energy Conversion Facilities \$500.00	More Than One Building on a Lot Definitive or Preliminary Plan (see Site Plan & Preliminary Site Plan fee - fee not applicable if site plan required)
Preliminary Site Plan	Other Special Permits:	81-G Street Opening
All Triggers, Thresholds & Types \$185.00	\$250.00	\$0
Parking Plan		ANR
\$185.00 + \$5.00 per parking space		\$100.00
Other Applications Types		
	Amendments \$250.00, or filing fee whichever is lower.	
	Extension of Time \$100.00	
General Notes		
<p>If more than one trigger is met for site plan, the greater of the two fees applies.</p> <p>Preliminary fees, if any, shall be deducted from Definitive fee total.</p> <p>All applications shall be accompanied by cash or check for the filing fee, payable to the City of Worcester.</p> <p>Filing fees shall be no more than \$5,000.00 for any combination of Planning Board applications filed at the same time.</p>		

City of Worcester, Massachusetts

Michael V. O'Brien
City Manager


Julie A. Jacobson
Assistant City Manager
Office of Economic and Neighborhood Development



Joel J. Fontane, AICP
Director
Planning and Regulatory Services Division

Memorandum

To: David Rushford, City Clerk

From: Joel Fontane, AICP – Director, Planning & Regulatory Services Division 

Date: July 1, 2009

Re: **Amendment to City of Worcester Planning Board's Rules and Regulations – Special Permits, related to Priority Development Sites**

Enclosed for filing, please find an amendment to the Planning Board's Rules and Regulations. The Worcester Planning Board voted at its meeting on June 4, 2008 to amend its Rules and Regulations, Special Permits with respect to the following sections:

- Amend Article 1(A) to establish new special permit criteria.
- Amend Article II, Section-6(B) so that fees for Special Permit review in a Priority Development Site will be the sum of the special permit fee and site plan fee.
- Amend Article III, Section-2(A) to provide that Special Permits in any Priority Development Site shall be scheduled for a public hearing within forty-five (45) days from the date of filing such an application with the City Clerk.
- Amend Article IV, Section (1)(A) to provide that following the close of the public hearing for Special Permits in any Priority Development Site, the Planning Board shall make its decision on the application within thirty (30) days thereof.

See attached for filing.

RECEIVED
WORCESTER CITY CLERK
2009 JUL -1 P 3:53



City of Worcester, Massachusetts

The Worcester Planning Board's Rules and Regulations for Special Permits adopted on April 11, 1991, be and are hereby amended as follows:

- 1.) Delete Article V Section 1 A of the Board's Rules and Regulations for Special Permits in its entirety and replace with new special permit criteria:

The adverse effects of the proposed use will not outweigh its beneficial impacts to the City with respect to each of the following considerations:

- Social, economic or community needs that are served by the proposal:
- Traffic flow and safety, including access, parking and loading areas:
- Adequacy of utilities and other public services:
- Neighborhood character and social structure:
- Impacts on the natural environment:
- Potential fiscal impact, including city services needed, tax base, and employment:

- 2.) Insert a new paragraph at the end of Article II, Section-6(B) of the Planning Board's Rules and Regulations for Special Permits as follows:

Fees for Special Permit review in a Priority Development Site will be the sum of the special permit fee and site plan fee.

- 3.) Delete the period at the end of Article III, Section-2(A) of the Planning Board's Rules and Regulations for Special Permits and add the following:

except for Special Permits in any Priority Development Site which shall be scheduled for a public hearing within forty-five (45) days from the date of filing such an application with the City Clerk.

- 4.) Insert a clause under Article IV, Section (1)(A) of the Planning Board's Rules and Regulations for Special Permits as follows:

Following the close of the public hearing for Special Permits in any Priority Development Site, the Planning Board shall make its decision on the application within thirty (30) days thereof.

City of Worcester, Massachusetts

Michael V. O'Brien
City Manager

Julie A. Jacobson
Assistant City Manager
Office of Economic and Neighborhood Development



Joel J. Fontane, AICP
Director
Planning and Regulatory Services Division

Memorandum

To: David Rushford, City Clerk

From: Joel Fontane, AICP – Director, Planning & Regulatory Services Division 

Date: July 1, 2009

Re: **Amendment to City of Worcester Planning Board's Rules and Regulations – Special Permits**

Enclosed for filing, please find an amendment to the Planning Board's Rules and Regulations. The Worcester Planning Board voted at its meeting on June 24, 2009 to amend its Rules and Regulations, Special Permits, Article II, Section 6 related to fees (See attached for filing).

RECEIVED
WORCESTER CITY CLERK
2009 JUL -1 P 3:53



APPLICATION FEES WORCESTER PLANNING BOARD

Effective July 1, 2009

Definitive Site Plan	Special Permits	Definitive Subdivisions
Residential Uses (5 units or more, or lots in subdivisions) \$225.00 + \$70.00 per DU	Adaptive Reuse, Arts Overlay, CCRC, Cluster,	\$1,500.00 + \$70.00 per lot
Non-Residential Uses \$225.00 + \$0.30 per SF of GFA over 10,000SF	Common Drive, Density Bonus, Flexible Parking, Mixed Use, Water Resources. \$300.00 ea.	Preliminary Subdivisions \$750.00 + \$35.00 per lot
Other Site Plan Triggers:	Wind Energy Conversion Facilities	Frontage Subdivision \$150.00
Airport Environs, Billboards, Lodging House, Historic (National Register) & 15% Slope \$225.00	\$600.00 ea.	ANR \$150.00
Preliminary Site Plan	Other Special Permits:	More than One Building on a Lot
All Triggers, Thresholds & Types \$225.00	\$300.00 ea.	Definitive or Preliminary Plans: \$0
Parking Plan		81-G Street Opening \$0
\$225.00 + \$6.00 per parking space		
Other Applications Types		
Amendments		
\$300.00 or filing fee (whichever is lower)		
Significant site plan amendment (See Attachment A) - \$600.00 or filing fee (whichever is lower)		
Extension of Time \$150.00		
General Notes		
If more than one trigger is met for site plan, the greater of the two fees applies.		
In cases where flat fee site plans also include changes that would otherwise trigger parking plan approval the greater of the two fees shall apply. Preliminary fees, if any, shall be deducted from Definitive fee total.		
All applications shall be accompanied by a check for the filing fee, made payable to the City of Worcester.		
Filing fees shall be no more than \$5,000.00 for any combination of Planning Board applications filed at the same time.		

City of Worcester, Massachusetts

Michael V. O'Brien
City Manager



Timothy McGourthy
Acting Chief Development Officer
Executive Office of Economic, Neighborhood
& Workforce Development

Joel J. Fontane, AICP
Director
Planning and Regulatory Services Division

Memorandum

To: David Rushford, City Clerk

From: Joel Fontane, AICP – Director of Planning & Regulatory Services JJF 

Date: March 31, 2011

Re: **Amendment to the Planning Board's Rules and Regulations (Special Permit) of the City of Worcester related to Consultant Review Fees**

Enclosed for filing, please find an amendment to the Planning Board Rules and Regulations (Special Permit) of the City of Worcester. The Planning Board voted at its meeting on January 5, 2011 to amend Section 6 of Article II by inserting a new part F.

RECEIVED
WORCESTER CITY CLERK
2011 APR - 1 A 9:01



AMENDMENT
TO THE SPECIAL PERMIT REGULATIONS
OF THE CITY OF WORCESTER PLANNING BOARD

The Rules and Regulations for Special Permits of the Worcester Planning Board approved and adopted April 11, 1991, be and are hereby amended, as follows:

I. Section 6 of Article II is hereby amended by inserting a new part F as follows:

“F. Consultant Review Fees. The Planning Board may retain outside consultants to assist in reviewing any application for a special permit where the Planning Board determines that the assistance of an outside consultant is warranted due to the size, scale or complexity of a proposed project or because of a project’s potential impacts. In hiring outside consultants, the Planning Board may engage engineers, planners or other appropriate professionals, who can assist the Planning Board in analyzing a project to ensure compliance with all relevant laws, ordinances and regulations.

The Planning Board may require that applicants pay a “review fee” consisting of the reasonable costs incurred by the Planning Board for the employment of such outside consultants. Funds received by the Planning Board under this section shall be deposited with the City Treasurer, who shall establish a special revolving fund for such purpose. Expenditures from this special account, including accrued interest, if any, shall be made at the direction of the Planning Board without further appropriation and shall be made only in connection with the review of a particular project or projects for which the review fee has been collected from the applicant. At the completion of a project, any excess amount in the special account attributable to a particular project, including any accrued interest, shall be repaid to the applicant or to the applicant’s successor in interest along with a final report of said account.

The Planning Board shall give written notice to the applicant of the selection of any outside consultant. Such notice shall state the identity of the consultant, the amount of the fee to be charged to the applicant and a request for payment of said fee. Failure of an applicant to pay the review fee within ten (10) days of the request for payment shall be cause for the Planning Board to deny the application.

Any applicant may take an administrative appeal from the selection of the outside consultant to the City Council. Such appeal must be in writing and received by the City Council within ten (10) days of the Planning Board’s notice to the applicant of the selection of an outside consultant. 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, which shall consist 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 related field. The required time limits for action upon an application by the Planning Board shall be extended by the duration of the administrative appeal.”

City of Worcester, Massachusetts

Michael V. O'Brien
City Manager



Timothy McGourthy
Acting Chief Development Officer
Executive Office of Economic, Neighborhood
& Workforce Development

Joel J. Fontane, AICP
Director
Planning and Regulatory Services Division

Memorandum

To: David Rushford, City Clerk

From: Joel Fontane, AICP – Director, Planning & Regulatory Services Division

Date: July 8, 2011

Re: **Amendment to the Planning Board Rules & Regulations, and Amendment to the City of Worcester Subdivision Regulations regarding the amendment to the fee schedule of the Worcester Planning Board.**

Enclosed for filing, please find an amendment to the Planning Board Rules & Regulations, and amendment to the City of Worcester Subdivision Regulations regarding the amendment to the fee schedule of the Worcester Planning Board (BR-2011-001).

The Planning Board voted at its meeting on June 15, 2011 to:

- 1) Amend the Planning Board Rules and Regulations pertaining to fees for the following:
 - o Special Permits, Article II, Section 6
 - o Site Plans, Article II, Section 8
 - o Parking Plans, Article II, Section 7
- 2) Amend the City of Worcester Subdivision Regulations pertaining to fees for the following:
 - o Plans Not Requiring Approval, Section IV, C, 2
 - o Preliminary Plan, Section V, E, 3
 - o Definitive Plan, Section VI, A
 - o Preliminary & Definitive Plan-More than One-Building on a Lot, Section VIII, A
- 3) Amend Attachment A – Site Plan Amendments (as affective July 1, 2009) by correcting for an internal consistency regarding minor vs. substantial site plan amendment triggers
- 4) Introduce a fee for the 81-G Street Opening applications.

(see attached for filing)

RECEIVED
WORCESTER CITY CLERK
2011 JUL - 8 P 12: 37



APPLICATION FEES WORCESTER PLANNING BOARD

Effective July 1, 2011

Definitive Site Plan	Special Permits	Definitive Subdivisions
Residential Uses (5 units or more, or lots in subdivisions) \$250 + \$77 per DU or Bed	Adaptive Reuse, Arts Overlay, CCRC, Cluster, Comprehensive Sign Common Drive, Density Bonus, Flexible Parking, Mixed Use, Water Resources. \$330 ea.	\$1,650 + \$77 per lot
Non-Residential Uses \$250 + \$0.33 per SF of GFA over 10,000SF		Preliminary Subdivisions \$825.00 + \$38.50 per lot
Other Site Plan Triggers: Airport Environs, Billboards, Lodging House, Historic (National Register) & 15% Slope \$250		Frontage Subdivision \$165
Wind Energy Conversion Facilities Large Scale: \$660 ea. Small Scale: \$330 ea.		ANR \$165
Preliminary Site Plan	Other Special Permits:	More than One Building on a Lot
All Triggers, Thresholds & Types \$250	\$330 ea.	Definitive or Preliminary Plans: \$0
Parking Plan		81-G Street Opening
\$250 + \$6.50 per parking space		\$165
Other Applications Types		
Amendments \$330 or filing fee (whichever is lower)		
Significant site plan amendment (See Attachment A) - \$660 or filing fee (whichever is lower)		
Extension of Time \$165		
General Notes		
If more than one trigger is met for site plan, the greater of the two fees applies.		
In cases where flat fee site plans also include changes that would otherwise trigger parking plan approval the greater of the two fees shall apply.		
Preliminary fees, if any, shall be deducted from Definitive fee total.		
All applications shall be accompanied by a check for the filing fee, made payable to the City of Worcester.		
Filing fees shall be no more than \$5,000.00 for any combination of Planning Board applications filed at the same time.		

Attachment A – Site Plan Amendments

Minor Site Plan Amendments.

The following shall constitute minor modifications for the purposes of charging site plan amendment fees.

1. All underground changes;
2. Any change less than or equal to two feet (2') in the location of buildings, parking, retaining walls or drainage facilities, caused by unexpected field conditions, as long as the new location does not penetrate the applicable setback required for the underlying zoning district or a non-zoning related setback specifically designated in the Planning Board's Site Plan Approval or Special Permit Approval;
3. Changes in the location of less than, or equal to, 10% of the total area devoted to parking;
4. Changes in the number of compact parking spaces, provided that the number of compact spaces is less than or equal to 25% of the total number of spaces provided;
5. Changes in the location and types of lighting provided that they meet the intent of the zoning ordinance;
6. Changes in the dimensions of landscape buffers, location of plantings, and materials used, provided that they meet the intent of the zoning ordinance;
7. Changes in the location of signs provided that it meets the new location requirements of the Zoning Ordinance;
8. Any reduction in area of impervious surfaces;
9. The addition of nonhabitable accessory structures that meet the by-right requirements of the zoning ordinance;
10. Changes in grade that do not change the height of buildings by more than 5% provided that the resulting height of all structures meet the maximum height requirements of the zoning ordinance and that it does not create or disturb a slope greater than or equal to 15%; and
11. Any other changes the Division of Planning & Regulatory Services, at its discretion, considers insubstantial, excluding those classified as substantial site plan amendments.

Substantial Site Plan Amendments.

The following shall constitute substantial modifications for the purposes of charging site plan amendment fees.

1. Any change in the location of buildings, retaining walls or drainage facilities greater than two feet (2') from the location approved.
2. Changes to building envelope that result in a larger footprint, an increase in height, an increase in volume, an increase in floor area, or any combination of such changes;
3. An increase in the land area devoted to parking, loading, or traffic circulation;
4. Changes to the architectural character including the color and style of materials used for the exterior façade of buildings;
5. Changes that result in a reduction of open space by more than 10%; and
6. Other changes the Planning and Regulatory Services Division, at its discretion, considers substantial in the context of the approved project.

City of Worcester, Massachusetts

Edward M. Augustus, Jr.
City Manager



Michael E. Traynor, Esq.
Chief Development Officer
Executive Office of Economic Development

Stephen S. Rolle
Assistant Chief Development Officer
Planning & Regulatory Services Division

Memorandum

To: David Rushford, City Clerk
From: Stephen S. Rolle, Assistant Chief Development Officer - Planning & Regulatory Services Division
Date: September 22, 2015
Re: Amendment to the Planning Board Rules and Regulations regarding electronic submissions of Board applications for Special Permits

Enclosed for filing, please find an amendment to the Planning Board Rules & Regulations (BR-2013-001) regarding new submission requirements for Special Permits to require submissions in electronic format (PDF).

The Planning Board voted at its meeting on April 24, 2013 to amend its Rules & Regulations accordingly (*see attached for filing*).

Received
Worcester City Clerk
2015 SEP 25 PM 4: 22

The Worcester Planning Board's Rules and Regulations for Special Permits, approved and adopted on April 11, 1991, are hereby amended as follows:

1. Amend Article II, Section 4(A) by inserting the following new subsection "5":

"5. All applications, plans and materials shall also be submitted on one (1) CD-ROM, DVD-ROM, or other media acceptable to the Division of Planning & Regulatory Services.

(a) Electronic files shall be:

- (i) In portable document format (.pdf), readable by Adobe Acrobat v.7.0 or later, named by project address and application type:
- (ii) Minimum resolution of 200 dpi; and
- (iii) No single file shall be greater than 10 MB (collections may be broken into separate files).

(b) Exceptions:

- (i) Any application items not produced electronically, such as hand-drawn plans, drawings or hand-written applications are not required to be submitted electronically; and
- (ii) Plans, drawings and applications created prior to March 2013 that are not available to the applicant in electronic format."

2. Amend Article II, Section 4(B) by inserting the following subsection "7":

"7. All applications, plans and materials shall also be submitted on one (1) CD-ROM, DVD-ROM, or other media acceptable to the Division of Planning & Regulatory Services.

(a) Electronic files shall be:

- (i) In portable document format (.pdf), readable by Adobe Acrobat v.7.0 or later, named by project address and application type:
- (ii) Minimum resolution of 200 dpi; and
- (iii) No single file shall be greater than 10 MB (collections may be broken into separate files).

(b) Exceptions:

- (i) Any application items not produced electronically, such as hand-drawn plans, drawings or hand-written applications are not required to be submitted electronically; and
- (ii) Plans, drawings and applications created prior to March 2013 that are not available to the applicant in electronic format."