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TOWN OF CARLISLE

**OFFICE OF
Zoning Board of Appeals**
66 Westford Street
Carlisle, MA 01741
978-369-6155

Rules and Regulations

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Revision 5

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I. Authority

The Board operates under authority of the Bylaws of the Town of Carlisle and the Massachusetts General Laws. These Rules and Regulations are adopted by the Board pursuant to General Laws Chapter 40A, sections 9 and 12 and General Laws Chapter 40B section 21.

II. Powers of the Board

The Board shall have the following powers:

- 1) To hear and decide appeals as provided in Chapter 40A, section 8 of the General Laws, including appeals by any person aggrieved by reason of his or her inability to obtain a permit under the Zoning Bylaw, or by any officer or board of the Town or other person aggrieved by an order or decision of any administrative official under the Zoning Bylaw.
- 2) To hear and decide the applications as provided in Chapter 40A, section 9 of the General Laws for special permits for use of land and/or buildings upon which the Board is required to pass by the Zoning Bylaw.
- 3) To hear and decide requests for variances as provided in Chapter 40A, section 10 of the General Laws, upon appeal or upon petition, which may be granted under the limited circumstances set forth in Sections 5.3.11 and 7.5 of the Zoning Bylaw and General Laws Chapter 40A, section 10.
- 4) To hear and decide applications for permits for removal, deposit and stockpiling of earth material (hereinafter referred to as Earth Permit) as provided by Article VIII of the General Bylaws.
- 5) To hear and decide upon petitions seeking a Comprehensive Permit to construct low and moderate income housing as authorized by Chapter 40B, sections 20-23 of the General Laws.

III. Organization

- A. The Board of Appeals shall consist of three members and two associate members who shall be appointed by the Board of Selectmen under the provisions of Chapter 40A of the General Laws.
- B. The Board shall elect annually a Chairman and Clerk from its own number.

- C. The Chairman may direct an associate member to sit on the Board in case of absence, inability to act or interest in the part of a member; or, in the event of a vacancy, may direct an associate member to sit as a member until said vacancy is filled by the Board of Selectmen.

IV. Procedural Requirements

A. Submissions to the Board

1. All appeals, applications for permits, and petitions for variances shall be filed with the Town Clerk. The number of copies and disposition thereof shall be as follows:

<u>Submission</u>	<u>No. of Copies</u>	<u>Disposition</u>
Appeal	2	Board of Appeals Officer or Board whose order or decision is being appeals (copy)
Application for Special Permit	1	Board of Appeals
Petition for Variance	1	Board of Appeals
Application for Earth Permit	1	Board of Appeals
Application for Comprehensive Permit	*	*See Section VIII.3.03 regarding Comprehensive Permit Regulations

2. All appeals, applications and petitions to the Board of Appeals shall be in writing on a form prescribed by the Board and shall state the specific sections of the Bylaws involved and the relief desired. The Board shall not grant any relief not specifically requested in the application
3. An appeal, application or petition other than for a Comprehensive Permit must be filed by (or with the specific written authorization of) all owners of record of the property which is the subject of the petition.
4. Payment of the fee for a hearing before the Board shall accompany the application.
5. In the case of appeals, the notice of said appeal must be filed with the Town Clerk within 30 days after the date of the refusal of a permit or the issuance of the order or decision. The appeal shall include a copy of the

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denial of a permit, or the order or decision being appealed. The officer or board whose order or decision is being appealed shall forthwith transmit to the Board of Appeals all documents and papers constituting the record of the case in which the appeal is taken.

6. If the requested action involved land, copies of a plan of the plot made by the registered surveyor or copies of a plan on file at the Registry of Deeds shall be included. The plan shall be drawn to a suitable scale showing the following information:
 - a. The lot in question, measurement of all boundaries, and indication of North,
 - b. Any structure already on the lot with the dimensions of the same,
 - c. The proposed structure or other use with dimensions, including height and distances to all lot lines,
 - d. The location and the names if known of present owners of all adjoining land and buildings thereon that abuts the lot in question or is across any street or way from the lot in question,
 - e. Provisions for on-site parking, if applicable, in conformity with the requirements of the Zoning Bylaws,
 - f. Any additional dimensional or land condition information necessary to further define the request or, in the case of a variance application, to illustrate hardship,
 - g. In the case of applications or petitions for a special permit or variance or for any extension, modification or renewal thereof, a new plan is not required if there is an existing plan on file with the Board and if there are not relevant changes in the information contained in that plan.
7. In the case of an application for an Earth Permit, pursuant to Article VIII of the General Bylaws, the applicant shall submit with the application plans of the area showing longitudinal and lateral elevation profiles at a sufficient scale and level of detail to determine the condition of the land both before and after the proposed transfer, and if the circumstances warrant, additional profiles as deemed necessary by the Board. In addition, the application shall include a statement of plans for the disposal of rocks, tree stumps, and other waste materials, and for the drainage of the site, if necessary, during and after the transfer operations. The

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application shall also include a statement of the hours and days of operation, the trucking route and type of vehicle to be used on any street for the transfer of materials, and the treatment of the site during operation to reduce dust, mud and noise.

8. In the case of Comprehensive Permits, see Section VIII of these Rules.

B. Scheduling of Hearings and Decisions.

1. Hearings

a. Appeals, Applications for Special Permits, and Petitions for Variances.

Appeals, applications for special permits, petitions for variances, and requests for extensions of variances will normally be scheduled for hearing on the next regular hearing date (see IV.C.) provided they are received by the Town Clerk in their proper form not less than 27 days before the date of the regular hearing. Appeals, applications and petitions received later than 27 days before the next hearing date shall be put over for hearing on the next subsequent regular hearing date. In any case, the hearing shall be held within sixty-five days from the time of filing with the Town Clerk.

b. Applications for Earth Permits

Applications for Earth Permits shall be scheduled for hearing on the next regular hearing date to be held within 21 days of receipt of an application. Applications must be filed no earlier than 21 days before a regular hearing date or later than 14 days before a regular hearing date in order to be heard on the next hearing date.

c. Applications for Comprehensive Permits

See Section VIII of these Rules.

2. Decisions

a. Appeals and Petitions for Variances

The decision of the Board shall be made within one hundred days after the date of the filing.

b. Applications for Special Permit

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The decision of the Board shall be made within ninety days following the hearing.

c. Application for Earth Permit

The Board shall render its decision within 21 days of the conclusion of the public hearing.

d. Application for Comprehensive Permit

The Board shall render its decision within 40 days after the termination of the public hearing.

3. The required time limits in this section IV.B. may be extended by written agreement between the petitioner or applicant and the Board. A copy of such agreement shall be filed with the Town Clerk.

C. Hearings

1. Regular hearings shall normally be held at 8:00 p.m. on the first Thursday of the month except when this date is a holiday, state or municipal election, caucus or primary, in which case the regular hearing shall be on the second Thursday or other date established by the Board. Other hearings may be held at the call of the Chairman or the Clerk, as the need arises.
2. The Clerk shall cause notice of the hearing to be published in a newspaper of general circulation in the Town once in each of two successive weeks, the first publication to be not less than fourteen days before the day of the hearing; post a copy of the notice in a conspicuous place at the Town Offices; and send notice by mail to the petitioners, abutters, owners of land directly opposite on any public or private street or way, and abutters to abutters within 300 feet of the property line, all as they appear on the most recent applicable tax list, notwithstanding that the land of any such owner is located in another town, and to the Planning Board, and, if pertinent to the Planning Board of the adjoining town, and to the Board of Selectmen, and the officer or board involved in the appeal, if applicable. In cases of Earth Permits, notice shall be given not less than five days before a hearing by publication once in a newspaper of general circulation in the town, and by mail to abutters.

D. Decisions

1. A decision granting a special permit shall include a condition that the special permit shall lapse if the rights granted are not exercised within a

period of one year, and including such time required to pursue or await the determination of an appeal referred to in Chapter 40A, section 17, Massachusetts General Laws, from the grant thereof.

2. The Clerk shall mail notices of the decisions to parties in interest as designated in Section IV.C.2., and to every person present at the hearing who requests in writing that the notices be sent to him and who states the address to which such notice is to be sent.

V. Records

The following records, reports and notice shall be prepared:

- A. Minutes of Meetings. The Clerk shall cause to be made a record of regular meetings and public hearings. The minutes shall include the vote of each member upon each question, or if, absent or failing to vote, indication of such fact, and set forth clearly the reason or reasons for the Board's decisions, and its other official actions. The minutes shall be signed by the Board's Secretary or the Clerk, and a copy filed with the Town Clerk.
- B. Decisions. The Clerk, or the Secretary under the Clerk's direction, shall prepare the Board's decision on any appeal, application or petition. The decision shall include the findings and reasoning for the decision, and be signed by the voting members. A copy shall be filed with the Town Clerk.
- C. Notices. The Clerk shall cause to be prepared hearing notices, and be responsible for publication, posting and distribution. The Clerk shall prepare notices of decisions and be responsible for distribution.

VI. Fee Schedule

All appeals, petitions and applications except application for Comprehensive Permits: \$100.00 hearing fee to be submitted with the application.

VII. Reference Effectivity

Any reference herein to any statute, bylaw or regulation shall include any amendment thereto or any successor statute, bylaw or regulation.

VIII. Comprehensive Permit Rules

VIII.1.00: Purpose and Context

The purpose of these Regulations is to establish rules for the procedural and substantive review and adjudication of comprehensive permit applications filed pursuant to G.L. c.40B, s.20-23 and in doing so, protect the health, safety and welfare of the present and future inhabitants of the proposed development and the town, including but not limited to, the following purposes: to protect drinking water supplies as the town has no piped water system—but rather, all homes, businesses, and municipal users rely on individual on-site water wells—and no public wastewater treatment system; to maintain open spaces by recognizing the concern for irretrievable loss of farmlands, wetlands and woodlands while respecting the rights of property owners; to encourage the most appropriate uses of land through a proper balance of development and preservation given the town’s limited infrastructure, including few commercial services and the complete absence of public transit; to preserve the historical and cultural characteristics of the town; to provide a mix of housing types and a range of housing costs that encourage diversity; and to enable long-term residents of Carlisle to remain in the town, providing a sense of history and continuity.

These Regulations establish procedures for applications to the Carlisle Board of Appeals for comprehensive permit projects authorized under G.L. c. 40B, §§ 20-23, including amendments to previously approved comprehensive permits. The Regulations also provide substantive guidance to the Board of Appeals and to the applicant for a comprehensive permit. These Regulations are adopted pursuant to G.L. c.40B, s.20-23 and 760 CMR 56.05. As such, these Regulations and incorporated documents shall govern all comprehensive permit applications, decisions, appeals and requests for modifications to previously issued comprehensive permits. A true and attested copy of these regulations shall be affixed to every decision to approve, approve with conditions or deny a comprehensive permit in the Town of Carlisle. Accordingly, any aggrieved person filing an appeal of a comprehensive permit decision issued by the Board of Appeals pursuant to G.L. c.40B, s.21 or s.22, shall cause to affix thereto a true and attested copy of these Regulations.

These Regulations supplement various other rules, polices and regulations governing land development in Carlisle. Where in conflict, these Regulations shall apply.

These Regulations incorporate by reference the requirements and procedures of the following documents, attached hereto and the requirements stated therein.

1. Comprehensive Permit Performance Standards (Attachment A);
2. Development Review Hearing Schedule and Policy Regarding Use of Town Hall Advisory Groups (Attachment B); and
3. Agreement for Reimbursement of Expenses and Certification of Accuracy of Application (Attachment C).

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Full compliance with these Regulations and the above noted documents are a jurisdictional prerequisite to filing and maintaining an application before the Carlisle Board of Appeals.

Strict compliance with these Regulations may be waived if the Board finds that granting the waiver is in the public interest and is not inconsistent with the intent and purpose of the law and these Regulations, and is otherwise in accordance with G.L. c.40B, s.20-23. Any request by an applicant for a waiver from these Regulations must be submitted to the Board in writing as part of the application. Such requests shall identify the specific sections of these Regulations from which waivers are sought and shall include a statement setting forth the reasons why the applicant believes a waiver should be granted. See also section 3.01(h) below.

VIII.2.00: Definitions

- A. *Board* means the Carlisle Board of Appeals.
- B. *Bylaws* (including policies and regulations) means any and all bylaws, policies or regulations adopted by the Board or any “Local board,” including the Carlisle Subdivision Rules and Regulations, even when the proposed comprehensive permit proposal does not include the division of land into two or more lots.
- C. *Local board* means any local board or official, other than the Carlisle Board of Appeals, including, but not limited to the Board of Health, Planning Board, Conservation Commission, Historical Commission, Fire Department, Police Department, Building Commissioner and Board of Selectmen. “Local board” shall not include any state agency or any department of the Commonwealth or Federal government. Notwithstanding the designation of “Local board”, where said board or official is implementing or enforcing federal law or the State Building Code, the Wetlands Protection Act, the State Sanitary Code or the Massachusetts Drinking Water Regulations, such body shall be understood to be acting in its capacity as a delegate of such State or Federal authority and, as such, the decisions of said “Local board” in such capacity shall not be disturbed by the Board of Appeals. Designation as a “Local board” shall not serve to negate, in whole or in part, the regulatory authority of said “Local board” where the Board does not assume the regulatory authority of said “Local board.” Only that authority of a “Local board” specifically stated to be assumed by the Board in the Board’s written decision shall be assumed by the Board of Appeals.
- D. *Project* means any comprehensive permit development proposed pursuant to and in strict conformance with, these Regulations and G.L. c.40B, s.20-23. A Project shall not include and the Board shall not approve any non-residential component of said development unless the Carlisle Zoning Bylaws authorize the non-residential use(s) on the locus.

VIII.3.00: Pre-submission Conference, Filing, Time Limits and Notice

Prior to filing an application, an applicant is encouraged to have a discussion of the filing requirements and these Regulations in general with Town of Carlisle staff. As many issues raised by comprehensive permit applications can be identified at the initial stages of a proposed project, discussion of the proposed Project is also strongly encouraged during a “pre-submission” conference with Town of Carlisle staff and the various boards, departments and commissions that are relevant to a successful development project.

Where a comprehensive permit application includes a portion of a parcel that lies, in whole or in part, in an abutting municipality, and any portion of said parcel or adjoining parcel(s) within the Town of Carlisle are proposed for use for ingress, egress, access or development, including but not limited to use for stormwater disposal, wastewater disposal or water supply, these Rules shall apply to said parcel(s) as if the entire project was proposed within the Town of Carlisle.

3.01: At a minimum, the application for a comprehensive permit shall, unless any of the items listed in Sections 3.01(a) – (v) below is waived by the Board, normally consist of:

- a) site development plans at a scale of no greater than 1” = 40’ (exclusive of cover sheets and locator maps) showing the locations and outlines of proposed buildings and dwellings; wetlands as defined by G.L. c.131, s.40 and the Carlisle Wetlands Protection Bylaw; Wetland/Flood Hazard zones as shown on the Carlisle Zoning Map and “Zone A” and “Zone B” as shown on the Federal Flood Insurance Rate Maps; on-site locations of prominent rock outcroppings; the proposed locations, dimensions and materials for streets, drives, parking areas, walks and paved areas; proposed landscaping improvements, and proposed exterior lighting and open areas within the site. All developments of five or more units must have site development plans signed by a professional engineer licensed in the Commonwealth;
- b) a report, with plans, on existing site and neighborhood conditions within 200’ of the locus, including but not limited to: topographical and wetland features; existing or potential trails, trail connections, paths and cart paths; public lands; public facilities; areas under conservation restriction, agricultural protection restriction and/or historical restriction, and all areas identified for acquisition or other protections pursuant to the then current Open Space & Recreation Plan of the Town of Carlisle; all mapped Priority Habitat and Rare and Endangered Species Habitat by the Massachusetts Natural Heritage and Endangered Species program; all public and private ways providing access to the site, including the nature of easement and access rights for all private ways providing site access, as applicable; and the location and nature of existing tree cover, existing buildings, existing street elevations, and traffic patterns;

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- c) scaled architectural drawings for each building or dwelling which 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, and where the market rate units contain an interior finish of different quality or design than the below market rate units, the plans shall so specify;
- d) a tabulation of proposed dwellings by type, size (number of bedrooms, floor area), square footage and ground coverage, and a summary showing the percentage of the tract to be occupied by buildings, by parking and paved vehicular areas, by other impervious coverage, by wetlands as defined by G.L. c.131, s.40 and the Carlisle Wetlands Protection Bylaw, and by open areas;
- e) where the applicant proposes a division or subdivision of land, a plan illustrating the intended division or subdivision (note, the Board in appropriate circumstances may approve but is not empowered to endorse any land division plan, including a Preliminary or Definitive Subdivision plan, Form A plan or Approval Not Required (ANR) plan, pursuant to G.L. c.41, s.81-P, s. 81-S, s. 81-U, or s. 81-X);
- f) a preliminary utilities plan at a scale of no greater than 1"= 40' showing the proposed location and types of wastewater disposal facilities, stormwater drainage facilities and structures, and public and private drinking water facilities (wells and piping), including any proposed hydrants and/or cisterns, and the location of existing drinking water wells, wastewater disposal systems, and fire hydrants, ponds and cisterns within two hundred (200) feet of the locus, and any and all waste sites, underground storage tanks, agricultural land uses, and/or utility rights-of-way that are within 500 feet of the proposed well site(s), including adequate testing and engineering data to support the viability of proposed facilities at the proposed locations and to demonstrate whether and to what extent the proposed facilities may have an adverse impact to off-site drinking water wells and wastewater disposal systems within 200 feet of the locus;
- g) clear and convincing evidence that the applicant fulfills the jurisdictional requirements of 760 CMR 56.04, that is:
 - i) at the time the application is submitted to the Board of Appeals, the applicant shall be a public agency, a non-profit organization, or a limited dividend organization. Claims of status as a limited dividend organization must be accompanied by proof of incorporation in the Commonwealth or registration to conduct business in the Commonwealth, together with appropriate limitations on the activities of the organization and restrictions on dividends or profit; and
 - ii) the Project shall be fundable by a subsidizing agency under a low and moderate-income housing subsidy program. Unless the Project has received approval from the Carlisle Board of Selectmen pursuant to the Local Initiative Program Regulations of the Town of Carlisle Board of Selectmen and the Department of Housing and Community Development pursuant to 760 CMR

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56.00 et seq., the applicant must provide to the Board identification of the specific subsidy program(s) for which it seeks financing to construct the Project; and

- iii) the applicant shall provide evidence satisfactory to the Board that it has title to the locus or be in possession of an option to purchase or a purchase and sales contract that represents an arm's length transaction in which, unless otherwise disclosed, the seller retains no financial or equitable interest upon consummation of the sale. If the seller is to retain a financial or equitable interest upon consummation of the sale, the application shall so state and disclose the percentage interest to be retained by the seller. The applicant shall identify for the Board any and all restrictions, covenants, easements, licenses or any other encumbrance that would materially impact the proposed Project. The applicant shall provide the Board with a true copy of the purchase and sale agreement or option to purchase and a true copy of the deed(s) to the locus, including any encumbrances and any benefiting easements or appurtenant rights and/or obligations that would materially impact the proposed Project.

- h) a list, stated with particularity, of requested exceptions to Carlisle's requirements and regulations, including by-laws, policies or regulations, including these Regulations and a written explanation of why, but for the failure to grant the requested waiver, the Project would be rendered uneconomic pursuant to G.L. c.40B, s.20. With particular respect to regulations promulgated by the Carlisle Board of Health and Planning Board, the application shall provide supporting documentation as to why the relevant regulation should be waived, why the Project would be uneconomic without said waiver and how the purpose of the regulation would not be compromised should a waiver be granted. Requests for waivers shall be supported by the documentation required by these Regulations and as submitted by the Applicant. No waiver from a local by-law, policy or regulation shall be granted unless and until a request for a waiver from a local by-law, policy or regulation is requested by the applicant in writing and with particularity and unless and until the Board issues a written waiver of said local by-law, policy or regulation, approved by a majority of the Board. Waivers granted prior to the issuing of a final comprehensive permit decision may be rescinded based on subsequent information presented during the hearing;

- i) an abutters' list, certified by the Assessor's office. The abutters' list shall, in addition to property owners as defined by all other applicable law, also include property owners as measured from the center lines of any private ways (1) within or running through the parcel subject to the comprehensive permit application or (2) providing a means of access or ingress or egress to or from the parcel subject to the comprehensive permit application. It shall be the responsibility of the Assessor's office or, upon its election, the Board, to cause to be mailed, notice of the public hearing held for a comprehensive permit application to all parties in interest pursuant to provisions of G.L. c.40A, s.11. Neither the Assessor's office

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nor the Board may delegate the mailing of said notice to the applicant or its agents;

- j) proof of filing of a Project Notification Form with the Massachusetts Historical Commission for the locus;
- k) if the locus is identified as Priority Habitat or Rare and Endangered Species Habitat by the Massachusetts Natural Heritage and Endangered Species program, copies of filing for a Conservation and Management Permit or, at a minimum, copies of correspondence with the Massachusetts Natural Heritage and Endangered Species program regarding the proposed Project;
- l) if the same will be ultimately required under applicable State law, proof of filing of an Environmental Notification Form or Environmental Impact Report if required, regarding the Project, pursuant to the Massachusetts Environmental Policy Act;
- m) detailed pro forma financial analyses of anticipated expenses and revenues of the Project, documenting site acquisition costs, and setting forth the applicant's proposed profit limitation. If the claimed land acquisition value is five percent (5%) or greater than the land's most recent assessed valuation as determined by the Town of Carlisle, the application shall contain an appraisal of the property, prepared by an appraiser certified as a Massachusetts General Appraiser, with a valuation date no greater than six months prior to the application date. A pro forma shall be submitted with the initial application and revised, as appropriate, throughout the course of the Project's review. It is the applicant's responsibility to ensure that the Board has in its possession an accurate and updated pro forma at all times. The pro formas shall be signed and dated by the applicant or its agent, under the pains and penalties of perjury and contain the following statement, "To the best of the applicant's knowledge, the pro forma submitted herein is accurate and complete as of the date executed below." A detailed and accurate pro forma is considered an indispensable document to ensure the Board's ability to review the economic viability of the Project. The submission and review of the pro forma shall be conducted in conformance with 760 CMR 56.05(6);
- n) a narrative description of how the Project complies with Massachusetts Governor's Executive Order 385, "Planning for Growth" and Executive Order 193, "Preservation of State Owned Agricultural Land";
- o) a narrative description of how the Project complies with MassHousing's and the Office of Commonwealth Development's "Smart Growth" policies;
- p) a narrative description of how the Project complies with and/or fails to comply with Carlisle's Housing Production Plan, as the same may be amended from time to time;

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- q) the applicable Regulatory Agreement, Deed Rider and Monitoring Agreement to be used for the proposed Project;
- r) an identification of the source(s) of subsidy funds to be used for the proposed Project;
- s) a valid project eligibility letter from MassHousing or state or federal agency recognized as a bona fide subsidy source, together with a narrative explanation of the applicant's plans to address the issues listed within the project eligibility letter;
- t) an executed agreement for reimbursement of expenses and certification of accuracy of application (in the form provided as Attachment C);
- u) the complete application submitted to the project administrator (e.g. MassHousing) upon which the project eligibility letter was based. Where the application materials required above are included in the submission to the project administrator, the application may so state, in lieu of providing the materials with the application to the Board of Appeals, by specific cross-reference to the applicable section of the submission; and
- v) if applicable, the complete application submitted to the Board of Selectmen and DHCD for a Project designated as a LIP, together with the final endorsement, conditions and recommendations thereon. Where the application materials required above are included in the submissions to the Board of Selectmen, the application under these regulations may so state, in lieu of providing the materials with the application to the Board of Appeals, by specific cross-reference to the applicable section of the submission.

3.02: The application shall be accompanied by a filing fee to cover the costs associated with statutorily required notice and mailings plus an additional cost based upon the number of proposed housing units:

- a) for Limited Dividend Organizations pursuant to a project eligibility letter issued by a federal or state agency - \$1000 per unit plus \$5000 filing fee;
- b) for Limited Dividend Organizations, Non-Profit Organizations or the Town of Carlisle pursuant to a project eligibility letter issued pursuant to the Local Initiative Program- \$100 per unit plus \$2000 filing fee. The Board may waive or reduce the filing fees if the Project was approved or endorsed by the Board of Selectmen pursuant to the Local Initiative Program. The Board will consider such waiver or reduction in light of the extent of the materials submitted in connection with the LIP application and the extent of due diligence already performed in connection with such application;

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- c) for Non-Profit Organizations or the Town of Carlisle - \$100 per unit plus \$2000 filing fee not pursuant to a project eligibility letter issued pursuant to the Local Initiative Program.

3.03: Within seven (7) days of filing of the complete application with Board and the Town Clerk, the Applicant shall provide the Town Clerk with copies of the completed application for distribution by the Town Clerk as follows: to the Board of Appeals (7 copies); to the Planning Board (8 copies); to the Board of Health (7 copies); to the Board of Selectmen (3 copies); to the Conservation Commission (8 copies); to the Housing Authority, the Building Department, the Fire Department, the Police Department, the DPW; the Library (for public inspection); and town counsel (1 copy each); to the Town Clerk, one unbound copy for copying purposes and six (6) electronic PDF copies on CD or DVD to be submitted to the Planning Board. Additionally 11"x17" copies of all plans (with match lines) shall be made available to the Town Clerk for copying purposes. In addition, the Applicant shall, within the same seven days, invite the participation of each Local board in the plan review process.

VIII.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 anticipated and 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. The "project review fee" shall be paid prior to the consultant commencing work on the Project and shall be replenished as directed by the Board.

4.02: In hiring outside consultants, the Board may engage, but is not limited to, any or all of the following: engineers, planners, lawyers, architects, landscape architects, geologists, hydrogeologists, hydrologists, sanitarians, wetlands scientists, urban designers, accountants or others competent to review financial statements or other appropriate professionals who can assist the Board in analyzing a Project to ensure compliance with all relevant laws, bylaws, and regulations, including these Regulations. Such assistance may include compiling a stenographic record of the public hearings and deliberative sessions, 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. The Board's engagement of outside consultants shall be consistent with the requirements of G.L. c.44, s.53G.

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 or replenish a review fee account when requested by the Board to do so shall be grounds for denial of the comprehensive permit application.

4.04: At the completion of the Board's review of a Project and the filing of its decision, 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: Pursuant to G.L. c.44, s.53G, an 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 process 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 one month following the filing of the appeal, the selection made by the Board shall stand.

VIII.5.00: Coordination with Approvals Required from Other Departments and Agencies

5.01: The Board acknowledges that G.L. c.40B, s.20-23 does not require an applicant for a comprehensive permit to obtain approvals from state agencies such as the Department of Environmental Protection or the Carlisle Planning Board, Conservation Commission, Board of Health or other local departments, commissions and boards prior to applying for and receiving a decision on a comprehensive permit. However, the Board urges comprehensive permit applicants to obtain approvals from relevant state and municipal entities prior to or coincident with applying for a comprehensive permit. Where an applicant for a comprehensive permit fails to obtain appropriate approvals prior to applying for or receiving a comprehensive permit and the Board approves said comprehensive permit application, the Board shall include as a condition of approval the following or use words of similar import: "This comprehensive permit is conditioned upon the applicant receiving approval from all relevant state and federal agencies and Local boards. Should the decision of any state or federal agency or any Local board be a denial, or should the decision of any state or federal agency or any Local board modify the Project or be based upon a project other than that described in the comprehensive

permit, said decision of any state or federal agency or any Local board shall require a modification of the comprehensive permit issued by the Board of Appeals pursuant to the procedures required by these Regulations.”

VIII.6.00: Public Hearing

6.01: The Board shall open a public hearing on a complete application within thirty days of its receipt thereof provided that said complete application includes the filing fees and all the information required by these regulations. Unless one or more of the items of information required by these Regulations is waived by the Board, an application will not normally be deemed complete if it does not contain all of the filing requirements established herein. The Board may in its discretion allow one or more of the items of information required by these Regulations to be submitted during the Board’s public hearing on an application. The Board shall request the appearance at the hearing of such representatives of Local boards or members of the general public as it considers necessary or helpful in reviewing the application. In making its final decision, the Board shall take into consideration the recommendations of Local boards and the public and acknowledge within the Board’s written decision, all written comments received from Local boards, officials or members of the general public.

6.02: The applicant or its agent(s) shall appear at each of the public hearing sessions held on the completed application and be available for questioning by the Board, the Board’s agents and representatives, representatives from any Local boards and the general public, subject to the principles of due process and the procedural rules of the Board. Unless otherwise excused by the Board or its agents, the applicant shall cause to be present at each of the public hearing sessions held on the completed application any professional, expert or other witness who has participated in the drafting of the proposed Project plans or relevant elements of the Project or whose testimony would otherwise be relevant to the Board’s deliberations and the public’s understanding of the proposed Project. The Board will not accept the testimony of a lay witness (whether said witness is the applicant or the applicant’s agent) with regard to technical matters (including legal, engineering, financial, scientific or construction) unless the lay witness demonstrates to the Board that he/she possesses sufficient skills and knowledge to so testify and then, and only then, the Board may permit such testimony but only in regard to the demonstrated area(s) of expertise of the witness.

6.03: The Board may in its discretion collect appropriate fees from the applicant for the retaining of a notary public or other qualified stenographer and may in its discretion cause a stenographic record of the proceedings to be made. The applicant shall be entitled to a copy of the stenographic record and said record shall be referred to either directly or by reference in the Board’s decision.

6.04: Where the application materials required by these Regulations, by statute, by 760 CMR 56.00 et seq. and as required by the Board during the course of the public hearing in this matter have been received or their submission waived in writing by the Board, the

Board shall close the public hearing within 180 days unless said time period is extended by written agreement of the Board and the applicant. In all other respects, the public hearing is deemed terminated, in the Board's sole judgment, when all public testimony has been received and all information requested by the Board and required by these Regulations, by statute and by 760 CMR 56.00 et seq. has been received.

VIII.7.00: Decision

7.01: The Board shall render a decision, based on a majority vote of the Board, within forty (40) days after termination of the public hearing, unless such time period is extended by written agreement of the Board and the applicant.

7.02: 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; or
- b) deny a comprehensive permit as not consistent with local needs pursuant to G.L. c.40B, s.20-23 or due to the failure of the applicant to conform to these Regulations or those found at 760 CMR 56.00 et seq.; or
- c) approve a comprehensive permit with conditions consistent with these Regulations provided that the approval does not render the construction or operation of such housing uneconomic, as uneconomic is defined by the Board with the assistance of the Board's advisors and consultants, subject to the definition of "uneconomic" stated in M.G.L. c.40B, s.20.

7.03: Where the Board approves a comprehensive permit application with or without conditions, the Board shall not waive bylaws, rules or regulations of the Carlisle Board of Health where the Board of Health is charged with implementation of G.L. c.111, or 310 CMR 22.00 or regulations of the Massachusetts Department of Environmental Protection regarding wellhead protection, private well protection or the protection of Zones I, II or III regarding the protection of drinking water supplies or rules and regulations of the Commonwealth regarding the protection of surface water supplies used for drinking water purposes.

7.04: The Board shall consider the goals, policies and standards of plans and policies adopted by the Town of Carlisle, including but not limited to, the Carlisle Open Space and Recreation Plan, Carlisle Housing Production Plan, Carlisle Study Plan and any master plan adopted by the Town as they may be revised from time to time, as a frame of reference in reviewing comprehensive permit applications and as grounds for imposing conditions on or denying comprehensive permit applications as provided for in 760 CMR 56.07(3)(f) and (g).

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7.05: In rendering a decision to approve a comprehensive permit or approve a comprehensive permit with conditions, the Board shall:

- a) never require or permit the use, via easement, license or any other means, of private or public property, not under the control or authority of the applicant, unless the applicant demonstrates the legal right to use, via easement, license or otherwise, said private or public property;
- b) always require, as a condition of comprehensive permit approval, that prior to the commencement of any construction activities or any site clearing, the comprehensive permit, with a true and attested copy of these Regulations affixed, be recorded at the North Middlesex County Registry of Deeds.
- c) always require, as a condition precedent of recording the comprehensive permit, the execution of a regulatory agreement limiting the profit of the proposed Project to that set by the subsidizing agency, unless the Board chooses to establish stricter profit limitations, subject to applicable law;
- d) always require, as a condition precedent of recording the comprehensive permit, the execution of a deed rider ensuring that the below market rate units remain affordable in perpetuity, or the longest period allowed by law;
- e) always require, as a condition precedent of recording the comprehensive permit, the execution of a monitoring services agreement ensuring that the applicant has engaged the services of a competent professional or agency to monitor, in perpetuity, the transactions of the below market rate units in a for sale Project and the renting of the below market rate units in a rental Project;
- f) always require the following condition: “Prior to the commencement of any construction activities or any site clearing, the Applicant shall submit to the Board a final comprehensive permit site plan and the final engineered plans and calculations associated with the construction of the roadways and related infrastructure, stormwater management utilities, the approved septic systems, and the approved water supply wells for technical review by the Board to ensure that it is consistent with and in conformity with this Decision, which upon such finding shall be approved and endorsed by the Board (the ‘Approved Plans’).” The Board shall render a decision under this Condition within 45 days of the Applicant’s complete submittal of these plans and calculations;
- g) always require the following condition to be included in for “for sale” comprehensive permit Projects: “No more than three building permits shall be issued by the Building Commissioner for units designated for sale at fair market prices until at least one affordable housing unit has been sold. Affordable housing units shall be constructed and sold coincident with the development of market rate units. In no event shall the number of affordable units built and sold relative to the

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number of market rate units built and sold be less than that set forth in the example schedule below:

Number of market rate units sold	Corresponding number of affordable units to be sold	Total number of units built and sold
3	1	4
6	2	8
9	3	12

For the purposes of this section, ‘built’ means constructed to a degree sufficient for issuance of a certificate of occupancy. Prior to the issuance of the certificate of occupancy for the last-to-be-sold market rate dwelling unit in any phase of the Project, the Applicant shall complete construction, obtain certificates of occupancy for, and sell all of the affordable dwelling units in that phase.”

- h) always require the following condition: “No structure authorized for construction by this comprehensive permit shall be altered, reconstructed, extended, or changed unless authorized by the Board under a special permit pursuant to Section 6.3 of the Carlisle Zoning Bylaws, as may be amended, and by amendment to this comprehensive permit.

VIII.8.00: Modification of Previously Approved Comprehensive Permits

8.01: Notwithstanding anything to contrary found in 760 CMR 56.00, et seq., all the provisions of these Regulations and G.L. c.40B, s.20-23 shall apply, so far as apt, to any amendment or modification to a previously approved comprehensive permit.

VIII.9.00: Appeals

9.01: If the Board approves the comprehensive permit, any person aggrieved may appeal within the time period and to the Superior Court or Land Court as provided in G.L. c. 40A, § 17 and G.L. c.40B, s.21.

9.02: If the Board denies the comprehensive permit or approves the permit with conditions or requirements considered by the applicant to render the Project uneconomic, the applicant may appeal to the Housing Appeals Committee as provided in G.L. c. 40B, § 22.

9.03: Where an appeal is taken pursuant to both Section 9.01 and Section 9.02, appeals brought pursuant to Section 9.01 shall be stayed pending final disposition of the appeal brought pursuant to Section 9.02.

9.04: Where the Housing Appeals Committee, pursuant to an appeal brought under Section 9.02 above, disturbs a decision of the Board and orders the Board to issue a

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revised decision, said revised decision or failure of the Board to issue same shall constitute a decision which may be appealed by any person aggrieved pursuant to Section 9.01, above.

Attachment A: Comprehensive Permit Performance Standards

Carlisle's land use plans and regulations reflect the development goals and desires of Carlisle Town Meeting and the Town's many land use boards, departments and committees, as well as the informed input of the Town's professional staff. These plans and regulations articulate the town's land use vision as expressed in density, setback, design and environmental performance standards. With the exception of requests for variances from the Board of Appeals pursuant to G.L. c.40A, s.10, the ability to petition Town Meeting for a change to the Zoning Map and/or the text of the Zoning Bylaws, and requests for waivers to Local Boards' regulations in accordance with the standards set forth within the applicable regulations and applicable law, the land use regulations adopted by Town Meeting and the Town's various land use boards and commissions are enforced as written.

With the possible exception of some comprehensive permits issued pursuant to the Local Initiative Program, the comprehensive permit process (G.L. c.40B, s.20-23) upsets this normative standard of land use regulation by enabling a qualified applicant to request waivers from any or all local land use regulations according to an "economic" standard. Due to the likelihood that a comprehensive permit applicant will request waivers from Carlisle's land use regulations, but precisely because the Town cannot predict which waivers will be asked for in advance, the Board of Appeals has developed the following performance standards for comprehensive permit projects. These performance standards are intended to assist comprehensive permit applicants by providing guidance to identify project characteristics that the Board will generally support, and also to assist the Board to ensure that comprehensive permit projects will be reviewed in a manner consistent with the review of non-comprehensive permit projects. Accordingly, this document presents the Performance Standards for review by the Board of Appeals as both "General," governing generalized substantive areas applicable to developments, and "Specific," identifying adopted and particularized rules and regulations including zoning, subdivision control and health regulations.

I. General Performance Standards

A. Introduction: All land development projects in Carlisle shall, as applicable, conform to current zoning and land use regulatory standards, including, but not limited to, the Subdivision Rules and Regulations, Conservation Cluster Rules and Regulations and Senior Residential Open Space Community ("SROSC") Rules and Regulations adopted by the Planning Board, the Water Supply and Sewage Disposal Regulations adopted by the Board of Health, and the Wetlands Protection Bylaws and Regulations adopted by Town Meeting and the Conservation Commission (collectively, "Land Use Standards"). Comprehensive Permit applications should conform to the greatest extent feasible to such Land Use Standards. In keeping with over 200 years of development history in Carlisle, new development should be consistent with the immediate neighborhood, make a concerted effort not to detract from existing homes and land development patterns, and assure that development will not adversely impact the environment, particularly the

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private water sources exclusively relied upon by Carlisle residents. The town has limited water resources, lacks a significant aquifer, and has no piped water system—but rather, all homes, businesses, and municipal users rely on individual on-site water wells—and no public wastewater treatment system. Further, Carlisle has a small population of barely over 5,000 people, a limited tax base, no public transit, and lacks the roadway and utility infrastructure required to support commercial development or other dense development. As a result, the Board of Appeals must be sensitive to the burden and impact of any increase in housing density.

Safe and convenient entrance and exit from the proposed development to public streets is required. There should be appropriate street access for the size of the development, and an adequate vegetative buffer should be provided to minimize the visual impact of the development from existing roadways, from protected open space, and from existing and future housing development.

B. Developments should minimize, to the extent possible:

1. Alteration of ground water, septic water levels or chemical constituents;
2. Alteration or relocation of water ways and drainage patterns;
3. Disruption, reduction of capacity, contamination, and other adverse effects on existing on site and off site drinking water wells;
4. Any use of groundwater for irrigation of landscaping;
5. Alteration of existing, natural grades, and overall volume of cut and fill;
6. Area over which existing vegetation will be disturbed, especially if within 200 feet of a river, pond or stream, or having a slope of more than 15%;
7. Removal of mature trees;
8. Soil loss or instability during and after construction;
9. Alteration or disturbance of land within any flood plain or wetlands area;
10. Blockage of trails or potential trails;
11. Disturbance of important wildlife habitats or corridors, outstanding botanical features or scenic or historic environment;
12. Removal of existing stone walls;
13. Visual prominence of man-made elements which are not necessary for safety or orientation including visibility of building sites from existing streets and existing protected open space;
14. Blockage of vistas through new development; and
15. Number of driveways exiting onto existing streets.

C. Developments should maximize, to the extent possible:

1. Preservation of uncontaminated water resources for drinking water and preservation of legal and practical functionality of existing drinking water wells and existing septic systems;
2. Recharge of the underlying water aquifer;
3. Visual prominence of natural features of the landscape;

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4. Legal and physical protection of views from public ways and existing protected open space;
5. Connections via publicly accessed trails to and between protected open space and other trails;
6. Buffers for and connections among existing protected open spaces;
7. Wildlife corridors;
8. Preservation of: (a) stone walls and (b) scenic points as identified in the Massachusetts Landscape Inventory and historic sites as identified by the Massachusetts Historical Commission, by incorporating them within public open space or easements as provided by the relevant regulation(s); and
9. Curvilinear street patterns;

D. Units per acre: As noted above, all land development projects in Carlisle shall, as applicable, conform to current zoning—including density—requirements. Comprehensive permit applications should conform to current zoning—including density—requirements, to the greatest extent feasible.

E. Architecture: Detached and attached housing units should be designed to reduce overall visual massing and to blend compatibly with the landscape and with surrounding single-family residential neighborhoods. Building design, including exterior materials, should be in harmony with and enhance the town's existing and historic architectural traditions. The appearance of a gated community is discouraged. The architecture should also provide visual and acoustical screening of HVAC units.

F. Site planning, Height, Set-Backs, Screening, Landscaping, and Lighting: All developments including comprehensive permit developments should provide visual screening consistent with the density and setback requirements included within the Zoning Bylaws and incorporated into the engineering design standards of the Carlisle Subdivision Rules and Regulations, Conservation Cluster Regulations and SROSC Regulations. Similarly, consistent with the requirements applied to all development in Carlisle, comprehensive permit projects should rely on and protect the natural features of the site such as open meadow, woodland, hillsides, rock outcroppings, water bodies, open vistas, valuable habitat and wildlife corridors, existing and potential trail connections which can provide public accessibility to open space, and buffers for and connections among existing protected open spaces through careful siting of roadways and structures. Exterior lighting should not impact adjacent residential areas or degrade wildlife habitat. The project design should to the extent possible preserve the existing and natural landscaping, and additional landscaping should be provided using water efficient plantings of a variety of native species to minimize and if possible eliminate irrigation and to provide visual and noise screening of the development from the street, abutting properties and protected open space. Building height should conform to the requirements of the Zoning Bylaws.

G. Open Space: Consistent with the requirements of the Carlisle Zoning Bylaws and regulations, including, but not limited to the Subdivision Rules and Regulations, the

SROSC Regulations, and Conservation Cluster Regulations, all developments including comprehensive permit projects should to the extent possible set aside, for perpetual protection, sufficient open space to serve the needs of the project residents and ensure that the proposed project is integrated within the existing neighborhood. Open Space is defined as land that is not covered with buildings, roadways, parking or any other structure or impervious surface. Open Space should be selected to maximize the value of wildlife habitat, should be contiguous to the extent required to preserve significant habitat, should be configured to maximize and preserve large blocks of undisturbed land and should encourage passive recreational opportunities for residents and the public where possible. Open Space should predominantly be left in a natural, undisturbed state. Landscaping of Open Space areas should utilize native vegetation to the extent practical, and should complement the values and functions of the natural resources on the site. In developments proposed to be denser than underlying zoning would otherwise allow, Open Space is critical to protect the private water sources exclusively relied upon by residents in Carlisle.

H. Development Infrastructure: To avoid adverse environmental and public health impacts, to avoid costly and potentially severe impacts and liability to the project proponent, future owners and renters at the project, and abutters from a future failure of on-site and/or off-site drinking water supply wells and wastewater disposal systems (such impacts potentially including but not limited to revocation of the project's and/or abutters' certificates of occupancy for failure to have a safe drinking water supply), and to avoid costly future maintenance problems for future owners and renters at the project, the Board requires compliance with all local Board of Health regulations governing wastewater disposal and water supply development.

I. Green Development Practices: All developments including comprehensive permit projects should, to the greatest extent practicable, include strategies for environmentally responsible design as formalized in Leadership in Energy and Environmental Design (LEED) gold standards, which minimize the depletion of natural resources; control erosion and minimize impact on natural areas; use native and water efficient plants in landscaping; increase energy efficiency in construction and operations; conserve water through use of efficient fixtures and appliances and irrigation systems using rainwater and greywater; and use environmentally "friendly" materials. To this end, the development should incorporate Low Impact Design (LID) techniques to the greatest extent practicable. The greater the density of the development, the more important the use of these techniques becomes to protecting the environment and on site and off site individual water wells, which are the exclusive source of drinking water for all residents, businesses and municipal users in Carlisle.

II. Specific Performance Standards

A. Zoning Bylaws

The Carlisle Zoning Bylaws were adopted and are amended by Carlisle Town Meeting in accordance with the provisions of the Zoning Act. The Zoning Bylaws are applicable without exception, to all land development and land use projects within the corporate boundaries of Carlisle. While G.L. c.40B, s.20-23 permits the Board of Appeals to waive provisions of the Zoning Bylaws, where applicable, unless and until the Board of Appeals waives those provisions, the entirety of the Zoning Bylaws applies equally to comprehensive permit proposals as it does to “traditional” development proposals.

As included in Section 3.01(h) of the Comprehensive Permit Regulations, “no waiver from a local bylaw, policy or regulation shall be granted unless and until a request for a waiver from a local bylaw, policy or regulation is requested by the applicant in writing and with particularity and unless and until the Board issues a written waiver of said local bylaw, policy or regulation, approved by a majority of the Board.”

Example: A comprehensive permit applicant seeks to develop sixteen (16) dwelling units on a ten (10) acre parcel of land, in violation of Section 4.1.1 of the Zoning Bylaw. The proposed dwelling units will be closer to front and side yards than permitted by Section 4.2 of the Zoning Bylaw. The proposed development is located in a Wetland/Flood Hazard Zoning District as regulated and otherwise prohibited by Section 5.2 of the Zoning Bylaw.

Discussion: In the example above, Section 3.01(h) of the Comprehensive Permit Regulations requires the applicant to demonstrate to the Board of Appeals why, “but for” the waivers requested (e.g. waivers from density, setback and Wetland/Flood Hazard requirements), the project would be uneconomic pursuant to G.L. c.40B, s.20. In addition, and even where the applicant can demonstrate that the waiver is needed to keep the project from being uneconomic, the applicant is required to provide an explanation as to why the density, setback and Wetland/Flood Hazard requirements, including the public health and safety bases for these requirements, would not be compromised should the Board grant the requested waivers.

Without limiting the above and the Town’s desire that all provisions of the Carlisle Zoning Bylaws be satisfied in any development, the following are specific examples of development standards to be applied in all situations subject to applicable law, unless waived, as explained above, by the Board of Appeals in a Comprehensive Permit:

1. Density — Density shall be controlled by the provisions of the Zoning Bylaws, including but not limited to, Sections 4.1.1, 5.5 and 5.7.4.

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2. Setbacks — No building shall be erected or altered so as to extend nearer to the line of any street or nearer to its front lot line, where different, than forty (40) feet and no building shall be erected or altered so as to extend nearer to any side or rear lot line of its lot than forty (40) feet. In addition, in non-traditional developments (developments other than single family homes on individual building lots conforming to the Zoning Bylaws and local boards' rules and regulations), such as a development with attached homes or density not following Section 4.1.1 of the Zoning Bylaws, all residential buildings are to be located at least 100 feet from the boundary of the property subject to the development, at least 50 feet from any Open Space, and at least 30 feet from other residential buildings, as set forth in Section 5.7.4.16 of the Zoning Bylaws.
3. Height — No building shall be erected or altered so as to contain more than two and one-half (2 1/2) stories or to exceed more than forty (40) feet in height, however, where the setback of the building from the street and the minimum distance of the building from each lot line all exceed the minimum distances required above by at least ten (10) feet, said building may be erected or altered to contain three (3) stories and to have a height of not over forty-five (45) feet.
4. Lot Coverage — No building shall be erected to cover, together with all other buildings within the development, more than twenty-five per cent (25%) of the total area of the Project.
5. Units on Common Drives — Drives and roads that are not built to the standards for a roadway that may be accepted by the Town as a public way should limit the number of homes or units within the development to no more than six.

B. Subdivision Rules and Regulations, Rules and Regulations Regarding Special Permits for Common Driveways and Rules and Regulations for SROSC

The Carlisle Subdivision Rules and Regulations were adopted and are amended by the Carlisle Planning Board in accordance with the Subdivision Control Law. The Rules and Regulations include specific engineering criteria for the layout and construction of roads, utilities and other infrastructure and are based upon historic and time-tested analysis of pedestrian and vehicular safety, stormwater management and the maintenance of public and private infrastructure. Accordingly, the specific requirements of the Subdivision Rules and Regulations apply to all development projects involving the layout and construction of a roadway and other infrastructure regardless of whether the roadway and other infrastructure involves the division of land into two or more lots, unless waived, as explained above, by the Board of Appeals in a Comprehensive Permit.

Example: A comprehensive permit applicant seeks to develop sixteen (16) dwelling units on a ten (10) acre parcel of land. No division of land is proposed. The roadway to be constructed will include a right of way of forty (40) feet and a pavement width of eighteen (18) feet in violation of Sections 10.3.8.1 and 10.3.8.3 of the General

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Bylaws and Article III, Section 5 of the Subdivision Rules and Regulations. The roadway will be a dead end road of 1,400 feet in length in violation of Article III, Section 2(D).

Discussion: In the example above, Section 3.10(h) of the Comprehensive Permit Regulations requires the applicant to demonstrate to the Board of Appeals why, “but for” the waivers requested (e.g. right of way layout, road width construction and dead end maximums), the project would be uneconomic pursuant to G.L. c.40B, s.20. In addition, and even where the applicant can demonstrate that the waiver is needed to keep the project from being uneconomic, the applicant is required to provide an explanation as to why the right of way and road construction requirements, including the public health and safety bases for these requirements, would not be compromised should the Board grant the requested waivers.

Carlisle’s Common Driveway Rules and Regulations and SROSC Regulations also set forth development standards depending upon the nature of the development.

Without limiting the above and the Town’s desires that all provisions of the applicable rules and regulations of the Town be satisfied in any development, the following are specific examples of development standards to be applied in all situations subject to applicable law, unless waived, as explained above, by the Board of Appeals in a Comprehensive Permit:

1. Utilities — Utilities serving any development shall be either buried or substantially concealed by mature woods.
2. Roadways and Common Driveways
 - a) Any driveway shared by more than one home or unit (a “common driveway”) shall have a traveled way at least 12 feet wide that can be maintained as such throughout the year. In addition, there shall be two shoulders, each at least two feet wide, for a total drive width of at least 16 feet.
 - b) A common driveway shall be at least 40 feet from the outer lot lines of the land being developed.
 - c) Where a common driveway exceeds 300 feet in length, turnouts shall be installed and maintained (e.g. gravel and/or snow storage shall be prohibited) at reasonable intervals along the driveway, but at least every 300 feet, in order to allow vehicles to pass. Where the common driveway exceeds 300 feet in length, it shall end in a circle with a radius of no less than 25 feet.
 - d) A common driveway shall not be longer than 1,000 feet. No part of a roadway shall be more than one thousand (1000) feet measured by the centerline from the point of closure referred to in the definition of a Dead-end Street in Article II, Section 1 of the Subdivision Rules and Regulations.
 - e) A common driveway that provides access to more than six (6) but fewer than eleven (11) units shall conform to the following requirements of

Article III, Section 2.D of the Subdivision Rules and Regulations:

- i. Dead-end Streets shall be provided at the closed end with a Cul-de-Sac turnaround having an outside street line diameter of one hundred and sixty (160) feet, with an outside diameter of the paved surface of one hundred and forty (140) feet. A landscaped island having a diameter of one hundred (100) feet shall be provided in the center of the turn-around and the natural vegetation should be retained where possible; in areas that cannot retain the natural vegetation, a landscaping plan shall be provided for the Cul-de-Sac island.
 - ii. A Cul-de-Sac of a dead-end roadway shall not have a slope in any direction of greater than 2%.
 - iii. No more than three dwelling units shall be accessed directly from a Cul-de-Sac.
- f) A development shall not have fewer than two (2) noncontiguous accesses with existing Town roads except in a development of ten (10) or fewer homes or units having legal frontage on a single dead end street. Roads within a development shall be laid out such that the closure of any single road will deny access to no more than 10 homes or units.
 - g) At locations where on-site roadways intersect existing Town roads, sight distances shall comply with AASHTO standards for the 85-percentile speed measured along the existing roadway. No intersection shall occur at a point where grades along the existing road are in excess of 5 percent.
 - h) Where the grade of any driveway or roadway at the approach to an intersection exceeds two percent (2%), a leveling area shall be provided having not greater than two percent (2%) grades for a distance of not less than fifty (50) feet, measured from the edge of pavement of the intersecting road.
 - i) Curbing shall be required for the full length of a roadway if any part of the roadway exceeds three percent (3%) grade, except where alternate means of flow and erosion control is proposed.
3. Access to Water Source for Fire Safety — All homes and units within a development shall have access to an adequate source of water, as defined below, to ensure satisfactory fire protection, as determined by the Fire Chief.
 4. Stormwater Management — Storm drainage for the development shall comply with the provisions of Article III, Section 5.G of the Subdivision Rules and Regulations.
 5. Water Balance — A hydrologic water balance calculation for pre- and post-development conditions based on annual precipitation that quantifies evapotranspiration, runoff, recharge, and water usage flow shall be included in any development of greater than four (4) dwelling units.

C. Board of Health Regulations

The Carlisle Board of Health Regulations were promulgated and are enforced by the Carlisle Board of Health in accordance with G.L. c.111, s.31. The Regulations include specific requirements and carefully calibrated standards for the development of drinking water wells and wastewater disposal systems as the Town has no municipal water system—but rather, all homes, businesses, and municipal users rely on individual on-site water wells. The Town also has no public wastewater treatment system, relying exclusively on individual private septic systems. The Board of Health Regulations controlling wells are intended to protect the public health and general welfare by ensuring that all wells are constructed in a manner that will protect the quality of the groundwater derived from these wells. Accordingly, the Board of Health adopted local Water Supply Regulations for private wells and Supplementary Regulations for Sewage Disposal Systems for the Town of Carlisle with stated objectives as follows:

1. The Carlisle Board of Health feels the long term health interests of the Town can only be served by adopting certain regulations which are stricter than Title 5, which was written as a minimum protection standard in 1977, revised in 1995 and in 2006 and designed to cover all towns in Massachusetts utilizing subsurface disposal systems;
2. Carlisle has no town water backup. Unlike a number of Massachusetts towns covered by Title 5, if a residence or a business loses a well to pollution, there is no town water which can be brought in, nor any town wells at all;
3. Carlisle geographically is an area of extensive wetland, high water table, and extensive ledge. Safeguards in the original septic system installations are necessary because alternative repair locations are often unavailable;
4. Carlisle presently has no municipal sewerage to hook up to in cases of septic system failure; and
5. Current estimates indicate that the distance viruses and bacteria travel is much greater than previously estimated. In Carlisle, where groundwater travels some distance through bedrock crevices, pollution may not be adequately filtered in gravel or sand with Title 5 percolation rates used for design.

The general purpose of the aforementioned Regulations is to protect, preserve, and maintain the existing and potential groundwater supply, and groundwater recharge areas for the safety of the public health and the environment of the Carlisle community given the town's exclusive reliance on private water supplies.

Attachment B: Development Review Hearing Schedule and Policy Governing Use of Town Hall Advisory Groups

Introduction

Land development in Carlisle raises concerns not found in many other eastern Massachusetts communities. The Town has no piped water system. All homes, businesses and municipal users rely exclusively on individual on-site water wells. The Town also has no public wastewater treatment system.

Carlisle also contains lands with abundant bedrock outcrops, variable soils, vast wetland resources and an historic road network largely unchanged since the Revolutionary War. These facts require Carlisle's land use boards, commissions and departments to review development projects more intensely than would be required in other communities and with a greater sensitivity toward concerns of cumulative impacts from small projects that could, over time, lead to significant degradation of the town's resources and limited infrastructure. Accordingly, the Zoning Board of Appeals ("Board") hereby adopts the following Development Review Hearing Schedule and Policy Governing Use of Advisory Groups to apply to all development projects before the Board.

Within seven (7) days of filing of a development application before the Board that proposes to create more than four (4) dwelling units, or to divide a parcel of land into four (4) or more lots, or anticipates the disposal of greater than 1,500 gallons per day of wastewater, the Board shall notify the Board of Health, Planning Board, Conservation Commission, Historical Commission, Fire Department, Police Department, Building Commissioner and Board of Selectmen of the application by sending such entity a copy of the application and accompanying plans and related materials. It shall also, within the same seven days, invite the participation of each entity or their designee during the public hearing on the application, if applicable, or at anytime while the public record is open on the application.

Use of Town Hall Advisory Groups

Carlisle's regulatory and adjudicative boards, committee and agencies have, at times, found it beneficial to utilize the services and advice from a Town Hall Advisory Group (THAG) when conducting reviews of proposed development projects. A Town Hall Advisory Group (THAG) consists of representatives from key land use boards, Committees, and Town staff with the relevant expertise necessary to assist the regulatory board or agency in conducting its due diligence review of an application.

The use of an Advisory Group is seen as benefiting both the Town and the applicant for a development permit. It does not add an additional layer of formal review nor should it cause the review process to be lengthened. It is intended that the THAG will seek to clarify, frame or resolve issues outside of the formal hearing process and to then provide recommendations to the Board for the Board's consideration.

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Comprehensive Permit Applications

Before a Comprehensive Permit may be filed with the Town Clerk, the applicant must apply for a written determination of project eligibility from a subsidizing agency or a project administrator. Under these regulations, the subsidizing agency or project administrator provides the Town, through the Board of Selectmen, notice of the application, and affords the Selectmen a 30-day period in which to provide comments on the application to the subsidizing agency or project administrator.

As early as possible during this 30-day period, the Applicant shall, on request, meet with the Board of Selectmen and, if requested by the Board of Selectmen, with other Town boards, committees and/or officials, to provide such information reasonably requested by them regarding the site, the proposed project and the anticipated application for a comprehensive permit. The Applicant shall make itself available for such meetings at reasonable times, and with reasonable notice from the Board of Selectmen.

Upon notice of the application, the Board of Selectmen should consider the formation of a Town Hall Advisory Group (THAG) for purposes of assisting the Town in its response to the subsidizing agency or project administrator and, later, once the project eligibility letter has been issued, for purposes of assisting the Board of Appeals during the conduct of the Board's formal review of the comprehensive permit application pursuant to G.L. 40B, s.20-23 and the Comprehensive Permit Regulations of the Carlisle Board of Appeals. If they deem it advisable, the Board of Selectmen should recommend the formation and composition of the THAG and appoint the THAG chair.

Work Sessions

- a) Work sessions may be held between the Applicant, the THAG, officials of the Town of Carlisle, and the Town's reviewing consultants for the purposes of discussing the findings and recommendations of the reviewing consultants, discussing, where relevant, the waivers requested from local regulations, discussing issues raised at public hearings and discussing proposed approaches to address procedural and substantive matters raised by the development application. Work sessions shall generally be held during normal business hours to enable maximum participation by public officials, including staff.
- b) Work sessions shall conform to the requirements of the Open Meeting Law and Public Records Law.
- c) Work sessions shall focus on the information presented during the public hearing process and no new information, materials or testimony shall be considered part of the formal record before the relevant reviewing board(s), committees and officials. No materials submitted during a work session by the Applicant for a development permit or by a public official or board member

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shall be deemed part of the formal record unless and until such material is submitted to the Board during a public hearing.

- d) A summary of the work session(s) shall be presented by the THAG at a public hearing on the application for which the THAG was convened, if and when such hearing is opened. Recommended solutions of issues discussed at work sessions shall be presented to the Board for its consideration. The Board may accept, reject or modify any recommendations offered by the THAG.

Attachment C: Agreement for Reimbursement of Expenses and Certification of Accuracy of Application

Whereas the undersigned applicant has petitioned the Carlisle Zoning Board of Appeals (“Board”) for approval of a permit and whereas the Town of Carlisle has authorized the Town Clerk / Treasurer to charge for reimbursement of legal, consulting and incidental expenses incurred on behalf of and/or for the benefit of third parties for services rendered by the Town of Carlisle;

And whereas the undersigned has requested services and/or authorizations of the Town of Carlisle that may result in the necessity to incur legal, consulting or incidental expenses on behalf of the undersigned or in consideration of the request submitted by the undersigned;

And whereas the applicant’s petition contains affirmative statements upon which the Town is asked to rely;

Now, therefore, it is agreed that the undersigned will, in accordance with all applicable law, make payment to the Town of Carlisle by providing payment to the Carlisle Town Clerk / Treasurer within five (5) days of receiving a written request for payment by the Town or its appointed designee for all anticipated and reasonable legal, consulting and incidental expenses incurred by the Town for the benefit of the undersigned or for the consideration of the request submitted by the undersigned, all as authorized by these Regulations and G.L. c.44, s.53G.

This Agreement shall be signed prior to the initiation of any action by the Board including the opening of a public hearing, where relevant.

I, as the Applicant/Agent for a permit before the Board, hereby consent to the terms of this Agreement and verify, under the pains and penalties of perjury that the application and its content are accurate and complete as of the date executed below.

Signature of Petitioner(s) Date

Signature of Agent(s) Date