

DIGHTON ZONING BOARD OF APPEALS

COMPREHENSIVE PERMIT RULES & REGULATIONS

DATED September 19, 2011

1.0 PURPOSE AND CONTEXT

1.1 These Rules establish procedures for applications to the Town of Dighton Zoning Board of Appeals for comprehensive permits granted under the Anti-Snob Zoning Act (Chapter 774 of the Acts of 1969), M.G.L. c. 40B 20-23. They are required by the provisions of M.G.L. c. 40B 21, as subsequently amended, and by 760 CMR 56.00, effective February 24, 2008, as subsequently amended.

These Rules alone are not sufficient to describe comprehensive permit procedures before the zoning board of appeals. They must be read in conjunction with and implemented in a manner consistent with the complete regulations relating to comprehensive permits, 760 CMR 56.00 et seq., as amended, and the Comprehensive Permit Guidelines, published and periodically amended by the Department of Housing and Community Development. They must also be read in conjunction with the general rules for conduct of hearings before the Board under M.G.L. c. 40A and the Rules and Regulations Governing Fees and Fees Schedules of the Board dated October 10, 2000, revised March 17, 2010, as they may be subsequently revised. In case of inconsistency or conflict between the regulations, the Guidelines, other rules of the Board, and these Rules, these Rules shall govern.

1.2 These Rules may be adopted and from time to time amended by majority vote of the Town of Dighton Zoning Board of Appeals members present and voting, provided such adoption or amendment is taken after a properly advertised public hearing.

1.3 These Rules are effective when voted, and a copy filed with the office of the Town Clerk.

2.0 DEFINITIONS

- (a) *Board* means the Town of Dighton Zoning Board of Appeals established pursuant to M.G.L. c. 40A 12.
- (b) *Developer* means the named applicant that has submitted an application for a comprehensive permit, or for a modification to a comprehensive permit, or its successors or assigns, which shall be a limited dividend organization, public agency or nonprofit organization that will be the entity utilizing the requested comprehensive permit or modification.
- (c) *Local Board* means any local board, department, commission, committee or official, including but not limited to the board of selectmen, board of health, planning board, conservation commission, sewer commission, highway

department, fire department, police department, electric commission, Dighton-Rehoboth School Committee, town clerk, building inspector, commissioner of the department of public works, tree warden, zoning enforcement officer, fire chief, police chief, playground commissioner, superintendent of the Dighton-Rehoboth school district, but specifically excluding the Dighton Water District and the North Dighton Fire District.

(d) *Local Concern* means any area that relates to: (1) the protection of the health or safety of the occupants of the proposed development of the residents of the Town of Dighton; (2) the protection of the natural environment; (3) the promotion of better site and building design in relation to the surrounding neighborhood of the proposed development, regional or municipal planning policies and requirements, and the Town of Dighton Affordable Housing plan; and (4) preservation of open space.

(e) *Project* means a development involving the construction or substantial rehabilitation of units of Low or Moderate Income Housing, as that term is defined in the State Regulations that is the subject of an application to the Board for a comprehensive permit. A Project may contain ancillary commercial, institutional, or other non-residential uses, so long as the non-residential elements of the Project are planned and designed to:

- i. compliment the primary residential uses, and
- ii. help foster vibrant, workable, livable, and attractive neighborhoods consistent with applicable local land use plans and state sustainable development principals.

(f) *State Regulations* means the Comprehensive Permit Regulations promulgated by the Department of Housing and Community Development of the Commonwealth of Massachusetts, at 760 CMR 56.00 et seq., as subsequently amended.

(g) *Town* means the Town of Dighton

3.0 FILING, TIME LIMITS AND NOTICE

3.1 The application for a comprehensive permit shall consist of the following:

- (a) Comprehensive Permit Application Form
- (b) Preliminary Site Development Plans (plans to be 24" x 36" and drawn to the scale of 1" = 40') showing the locations and outlines of existing and proposed buildings; the proposed locations, general dimensions and materials for streets, drives, parking areas, walks and paved areas; and a description and location of all open space or recreation areas within the Project. The plans must be prepared and stamped by a registered professional engineer and by a registered land surveyor and shall be signed under the penalties of perjury.
 - i. If four (4) or fewer units are proposed to be constructed, a sketch of the information required on the Preliminary Site Development Plans and on the Preliminary Scaled Architectural Drawings, below, may be submitted instead, and no architect's signature is required.

- ii. If the entire layout of the Project cannot be shown on one (1) sheet at the requisite scale, an additional sheet shall be included in the Preliminary Site Development Plans setting forth the layout of the proposed Project on one (1) page, utilizing the scale closest to 1" = 40', as possible and depicting the location, names and present widths of all public or private rights of ways or streets bounding, approaching or within reasonable proximity to the Project, the tracts of land, ownership and topography taken from the Assessor's plans or field survey, if available, and any existing structures thereon.
- iii. The Preliminary Site Development Plans shall show the following:
 - A. The scale, date, revision date, and north arrow.
 - B. Lot number, dimensions of lot in feet, size of lot in square feet, and width of abutting streets and ways;
 - C. The location of all existing and proposed building(s) on the property on which the Project is to be constructed, and the total square footage and dimensions of all such buildings, building elevations, floor plans (including size and number of bedrooms with floor area) and perspective rendered elevations.
 - D. The location of existing wetlands, unique vegetations (which locations shall be certified by a registered arborist), water bodies, wells, one-hundred (100) year flood plain elevation and other natural features, streams, wetlands, vistas, slope areas, geological features, historic features and other features that are important to the Project.
 - E. Existing and proposed topographical lines at two (2) foot contour intervals on the tract and within fifty (50) feet of any property on which the Project is to be constructed.
 - F. Information regarding all measures proposed to prevent pollution of surface water or groundwater, soil erosion, increased runoff, and flooding.
 - G. Projections of down gradient concentrations of nitrogen, phosphorus, and other relevant chemicals to be disposed of on-site, at Project boundaries and at other locations deemed pertinent by the Board, prepared and certified by a hydrogeologist or a Registered Professional Engineer possessing experience and education in Water Supply Protection and Hydrology

(c) A Report on Existing Site Conditions and a Summary of Conditions in the Surrounding Areas, showing the location and nature of existing buildings, existing street elevations, traffic patterns and character of open areas, if any, in the neighborhood.

(d) A Summary of Project Impacts on traffic (including on-site circulation, entrances and exists, proposed signage, trip generation data, sight and stopping distances, average traffic volumes and speed, intersection turning data, existing and proposed levels of service, and off-site traffic impacts); on historical, archeological, open spaces, plant and wildlife habitats or corridors, and recreational resources; on municipal services including public safety, water

supply, sewage treatment, roads, school enrollment; on construction impacts including noise, dust, erosion/siltation, waste (solid and liquid) and any potential releases.

- (e) Preliminary Scaled Architectural Drawings (Drawings to be 24" x 36") showing typical floor plans, typical elevations, and sections of all proposed styles of dwelling units, and identifying construction type and exterior finishes. The drawings shall be prepared and stamped by a registered architect. Each style of unit shall be identified separately by name from all other styles of units proposed.
- (f) A Tabulation of Proposed Buildings by type, size (number of bedrooms and floor area) and ground coverage.
- (g) A Summary showing the percentage of the tract to be occupied by buildings, by parking and other paved vehicular areas, and by open areas.
- (h) Where a subdivision of land is involved, a Preliminary Subdivision Plan (plan to be 24" x 36") that meets the requirements of the Town of Dighton Subdivision Rules and Regulations relating to preliminary subdivision plans, or, if not, specifically identifies which provisions of the Subdivision Rules and Regulations are not being met, and includes those provisions in the List of Requested Waivers, below. The Board does not guarantee that any Requested Waiver will be granted, and the Developer shall be required to submit, prior to the close of the public hearing, any and all additional documents that would be required if a waiver request is subsequently denied. The Plan shall be prepared and stamped by a registered professional engineer and by a registered land surveyor.
- (i) A Preliminary Utilities Plan showing the proposed location and types of sewage, drainage, and water facilities, including hydrants and a related description of the estimated amounts of water consumption and sewer discharge by the Project if fully built out. The Plan and related description shall be prepared and stamped by a registered professional engineer.
- (j) A copy of the Project Eligibility Letter issued by a qualified and approved Subsidizing Agency, as that term is defined in the State Regulations, showing that (1) the Developer is a public agency, a non-profit organization, or a Limited Dividend Organization, as that term is defined in the State Regulations; (2) the Project is fundable by a Subsidizing Agency, as that term is defined in the State Regulations under a Low or Moderate Income Housing subsidy program, as that term is also defined in the State Regulations; and (3) that the Developer controls the site on which the Project is proposed.
- (k) A List of Requested Waivers of all local rules, regulations, bylaws or ordinances, and the Layout and Design Guidelines set forth in Section 3.2, below, from which waivers are sought. Any local rule, regulation, bylaw or ordinance for which a waiver is not granted shall remain in full force and effect, and shall be complied with by the Developer in utilizing any Comprehensive Permit that may be granted. It is the Developer's sole responsibility to determine and identify which local rule, regulation, bylaw or ordinance needs to be waived in order to construct the Project as proposed.
- (l) Documentary evidence that the Developer controls the site on which the Project is proposed. Such documentation may include, but not be limited to a full and

complete valid Purchase and Sale Agreement naming the Developer as the Buyer; a Deed to the Developer.

(m) A list certified by the Town Assessor, of the names and mailing addresses as they appear on the most recent applicable tax list of the following:

- i. Abutters;
- ii. Owners of land directly opposite on any public or private way or street; and
- iii. Abutters to the abutters within three hundred feet (300') of the property line of the Project location

(n) A copy of the Municipal Lien Certificated for any and all lots that make up the Project site.

(o) A copy of all organization documentation establishing the Developer as an entity recognized as duly organized in the Commonwealth of Massachusetts.

(p) The name, address and telephone number of the Developer and of all principals, representatives, consultants, and agents associated with the Developer, including but not limited to engineers, architects, 40B Consultants, and legal counsel.

(q) A Resume or similar list of credentials and background information of all principal members of the Developer and/or the development team, and the relationship between each member. All affiliated companies and businesses must be identified and described. This documentation shall include a list of recent projects with which the Developer and/or the principal members and each member of the development team has been involved, and to what extent.

(r) A copy of the Proposed Regulatory Agreement for the Project.

(s) A copy of the Proposed Deed Rider to be utilized for all Affordable Units constructed in the Project.

(t) A copy of any pro forma submitted and/or reviewed by a Subsidizing Agency, as that term is defined in the State Regulations, as part of an application and/or finding of Project Eligibility, as that term is defined in the State Regulations. The pro forma shall detail anticipated expenses and revenues of the Project, document site acquisition costs, land value determinations, and set forth the Developer's proposed profit limitation. It is noted that the pro forma is considered an essential component of the Developer's submission, however the Board will comply with the State Regulations with regards to reviewing this document.

(u) Tax Status Application Form for the Town.

(v) Proof of filing of a Project Notification form with the Massachusetts Historical Commission for the Project, if applicable, or a statement identifying that this filing is not needed for the Project, and an explanation as to why it is not needed.

(w) Proof of filing a Rare Species Information Form with the Massachusetts Natural Heritage and Endangered Species Program (MESA, GGL. C. 131A, 321 CMR 10.00) for the Project, if applicable, or a statement identifying that this filing is not needed for the Project, and an explanation as to why it is not needed.

(x) A Statement from the Developer agreeing to the imposition of any condition requiring all affordable units which are ultimately approved as part of issuance of any comprehensive permit shall be reserved in perpetuity for sale and occupancy by households earning at or below eighty percent (80%) of the area median

income as defined by the Department of Housing and Community Development of the Commonwealth of Massachusetts.

(y) All filing fees, publication and mailing fees, and 53G account fees required by the Fee Rules and Regulations.

(z) Department Receipt of Plan Form.

(aa) Executed Agreement Regarding Outside Consultants.

(bb) A Landscape Plan depicting the total square feet of all landscape and recreation or open space areas proposed for the entire Project and for a “typical lot”, and depicting the materials to be used, and the quantity, size, methods and species of plantings.

3.2 Layout and Design Guidelines: The following layout and design guidelines shall be followed for all proposed Projects, and any modifications, unless a Waiver is granted from the provisions of this section in the course of the Board’s issuance of a comprehensive permit:

(a) All exterior lighting shall be limited to fifteen (15) feet in height and shall cast a maximum of eight (8) foot candles of light on the ground. Lighting shall also be directed not to blind vehicle or pedestrian traffic within or abutting the Project.

(b) Any proposed wastewater treatment system for a Project shall comply with Title V requirements and shall meet a ten (10) parts per million (PPM) of nitrate-nitrogen limitation on overall property.

(c) All proposed buildings shall be a maximum height of thirty-five feet (35'). All proposed projections (i.e. anything appearing above a roof ridge including but not limited to chimneys and cupolas) shall be a maximum height of forty feet (40').

(d) For attached unit buildings, the minimum setback from the property lines for any lot or exclusive use area within the Project, measuring from the midpoint of all streets on which the attached unit building fronts, shall be two (2) times the height of the building. The setback between attached unit buildings shall be equal to the height of the highest building or thirty feet (30') whichever is greater, measuring from the endpoint of all attached structures, enclosed or not, including but not limited to any attached decks, porches, chimneys or stairs.

(e) All proposed utilities for a Project shall be underground.

(f) No overnight parking shall be permitted on any proposed roadway within a Project, unless and until the roadway is accepted as a public way, whereupon all parking rules applicable to public ways in the Town shall apply, and appropriate signage to that effect shall be provided.

(g) A secondary emergency access road shall be required.

(h) A permanent sign shall be prohibited for any Project. Temporary “project name” signs shall be allowed during construction, only.

3.3 Twenty Eight (28) complete copies of the documents required by Section 3.1, above, shall be submitted by the Developer in order for the Application to be deemed complete. Notwithstanding, only three (3) of the twenty-eight (28) sets of documents shall include the requisite 24" x 36" sized full sets of the Preliminary Site Development Plan (3.01(b)), the Preliminary Scaled Architectural Plans (3.01(e)), the Preliminary Subdivision Plan, if

any (3.01(h)), and the Preliminary Utilities Plan (3.01(i)). The remaining twenty-five (25) sets of documents may provide for 12" x 18" sized full sets of these plans, instead.

3.4 All of the documents listed in Section 3.1 above must be submitted in order for an application to be considered complete. Incomplete applications shall not be heard by the Board, or if determined to be incomplete after a public hearing is opened, shall be grounds for dismissal of the application and/or denial of the comprehensive permit.

3.5 Prior to the close of the public hearing, in addition to the documents submitted as part of the application, the Developer shall submit the following documents. Failure to submit these documents shall be grounds for dismissal of the application and/or denial of the comprehensive permit:

- (a) Any and all documents requested by Board during public hearing.
- (b) Even if the Project is not considered a "subdivision" and/or if the Project is seeking a waiver from the Town of Dighton Zoning By-Law for construction of more than one (1) unit on a lot, a list of which provisions of the Subdivision Rules and Regulations will not be complied with for the Project.
- (c) A list of any waivers of any local rules, regulations or by-laws that are sought. Any local rule, regulation or by-law that is not waived by the Board shall be complied with by the Developer. The burden of identifying which local rule, regulation or by-law that a waiver is requested for shall be on the Developer.
- (d) Draft proposed performance guarantee
- (e) Draft of proposed Association Agreement which shall be reviewed and approved by the Board and special legal counsel and/or Town Counsel, and upon approval, shall be recorded at the Bristol County Northern District Registry of Deeds, prior to the commencement of construction for the Project. The Agreement shall establish an association of all the property owners within the common areas of the Project that will have the authority to guarantee that some or all aspects of the Project shall be maintained, repaired, reconstructed, etc. as needed, in perpetuity, assuming no "outside" or Town assistance. This includes, but is not limited to, snow plowing, street patching, repairing, street lights, street sweeping, catch basin cleaning, landscaping, pipe cleaning, painting common public areas inside and outside, building maintenance, mowing, water system maintenance, sewer/septic maintenance, stormwater management system maintenance, and solid waste removal, unless the terms of the comprehensive permit issued to the Project provide for one or more of these obligations to become the responsibility of another entity. The Developer shall make any and all initial monetary deposits as required into a special account to ensure the required funding for the maintenance obligations set forth in the Association Agreement in perpetuity. These funds shall be deposited and the Association Agreement shall be in full force and effect prior to the issuance of any occupancy permit for the Project.
- (f) A Safety and Evacuation Plan identifying all routes of evacuation available for use by the public safety and rescue departments.

- 3.6 Upon confirmation that the application is complete, the Developer shall deliver a complete copy of the application to each Local Board and to the Dighton Water District and the North Dighton Fire District, and obtain a signature of receipt confirming delivery, from each said Local Board, Dighton Water District and North Dighton Fire District. The Board shall be responsible for inviting the participation of each local official who has a substantial interest in the application to attend the public hearing on the application.
- 3.7 All percolation tests required for the proposed Project must be conducted in accordance with the Percolation Test Regulation of the Town of Dighton Board of Health, as amended, unless otherwise waived by the Board in any comprehensive permit that is granted. Any proposed waiver of the Percolation Test Regulations requires written recommended approval of such waiver from the Board of Health.
- 3.8 All stormwater management systems proposed for the Project shall be in accordance with the terms and conditions of the Town of Dighton Subdivision Rules and Regulations and the Town of Dighton Stormwater By-Law, as both may be subsequently amended. Any proposed waiver of the Town of Dighton Subdivision Rules and Regulations as it relates to the construction of the stormwater management system or of the Town of Dighton Stormwater By-Law requires written recommended approval of such waiver from the Board of Health.
 - (a) If a waiver is requested from the Town of Dighton Subdivision Rules and Regulations requirement for the construction of underground stormwater basins, the Developer must submit proof that a variance from this provision has been sought and denied by the Town of Dighton Board of Health in order for the Board to consider approving such a waiver.
- 3.9 Any additional documents submitted by the Developer to the Board after submission of the Application shall also be provided by the Developer to all Local Boards and to the Dighton Water District and the North Dighton Fire District, unless the Board indicates that some or all of the entities included within the definition of Local Boards, above, does not need to receive a copy. It shall be the Developer's sole responsibility for individually providing all copies of any documents to the Board, all Local Boards, the Dighton Water District, and the North Dighton Fire District, and obtaining a signed receipt confirming delivery from each entity. The Board will not be responsible for distributing copies of any documents received to any other Local Board, to the Dighton Water District or to the North Dighton Fire District.

4.0 REVIEW FEES

- 4.1 The Developer shall comply with all provisions of the Dighton Zoning Board of Appeals Regulations Governing Fees and Fee Schedules, adopted October 10, 2000, amended March 17, 2010, as further amended with regards to payment of all application fees and technical review fees. Any technical review fees paid by the developer shall be used in

accordance with the Agreement Regarding Outside Consultants which is a required submission of the application (Section 3.1(aa), above).

4.2 Failure by the Developer to submit any of the required fees, including any technical review fees, both initial and required supplemental fees (within fourteen (14) days of request) shall be grounds for dismissal of the application as incomplete or denial of the comprehensive permit

5.0 PUBLIC HEARING AND DECISION

5.1 The Board shall properly advertise and open a public hearing on the application within thirty (30) days after receipt of a complete application, unless such time period is extended by written agreement of the Board and the Developer.

5.2 The Developer shall appear on his or her behalf, or be represented by an attorney or agent at the public hearing, including any continued public hearing. If the Developer, or his or her representative, fails to appear at the public hearing, or any continuation of it, without due cause, the Board shall review the matter on the documents it has received to date, and such failure to appear shall be grounds for dismissal of the application and/or denial of the comprehensive permit.

5.3 In making its decision, the Board shall take into consideration the recommendations of any local board, commission, department or official, and shall hear all interested parties both for and against.

5.4 The Board shall render a decision, based upon a majority vote within forty (40) days after close of the public hearing unless such time period is extended by written agreement of the Board and the Developer. Notwithstanding, the Board shall, at its discretion, close the public input portion of the public hearing prior to closing the public hearing, whereupon no further documents shall be submitted into the record. Upon closing of the public input portion of the public hearing, the Board shall thereafter undertake deliberations on the requested waivers of local rules, regulations or by-laws, or of any draft decision or proposed conditions to a comprehensive permit, prior to closing the public hearing.

5.5 The public input portion of the public hearing shall not be closed until all public testimony has been taken, and all documents submitted for the record for consideration by the Board from the Developer, the Board's agents or consultants, any Local Board, the Dighton Water District, the North Dighton Fire District, and any member of the public has been received, and the public has been given an opportunity to comment on the same. No testimony or documents shall be given, or received or considered by the Board in its deliberations after closing of the public input portion of the public hearing. Notwithstanding, if the Board votes to close the public input portion of the public hearing, but leave the public hearing open for deliberation as set forth in Section 5.04, above, it may receive and include into the record modifications to the requested waivers

or to a draft decision or proposed conditions to attach to a comprehensive permit may occur without violating the terms of this Section.

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

- (a) approve a comprehensive permit on the terms and conditions set forth in the application,
- (b) deny a comprehensive permit as not consistent with local needs, or
- (c) approve a comprehensive permit with conditions including but not limited to:
 - i. imposition of conditions that affect the height, site plan, size, shape or building materials proposed, including any reasonable conditions designed to mitigate likely areas of Local Concern; and/or
 - ii. imposition of conditions that would result in a permit consistent with the Town of Dighton Affordable Housing Plan, provided that the conditions imposed do not render the construction or operation of such housing uneconomic, as is determined by an analysis of a valid pro forma (see Section 3.1(t) above).

5.7 Any comprehensive permit decision that is granted shall include a condition prohibiting the commencement of any construction in the proposed Project until such time a copy of the decision of the Town of Dighton Board of Health certifying the compliance of all proposed wells and septic systems in the Project with the requirements of Title V, and a copy of the approval of the Conservation Commission and, if appropriate, determination of issuance of order of conditions, or if no such approval is granted, a copy of a superseding order of conditions issued by the Department of Environmental Protection relating to any wetlands within the proposed Project, is provided to the Board. The Board shall require that copies of any decisions required by this condition contain the date such decision is filed with the Town clerk, and proof that such decision has been recorded at the Bristol County Northern District Registry of Deeds and indexed under the name of the owner of record of the land.

5.8 No comprehensive permit shall take effect until a copy of the approved comprehensive permit, and approved Definitive Plan, endorsed by the Board, bearing the certification of the Town Clerk, that twenty (20) days have elapsed after the filing of the decision and no appeal has been filed, and all requisite documents (covenants, decisions of the Board of Health, the Conservation Commission and/or the Department of Environmental Protection) are recorded in the Registry of Deeds or Land Court (if applicable) and is indexed under the name of the record owner of land.

5.9 The Developer shall record all approved plans, documents, covenants, etc. at the Bristol County Northern District Registry of Deeds or Land Court, if applicable, and shall notify the Board in writing of such recording information. The Building Inspector shall not issue any building permits for the Project until evidence of the recording of the plans, documents, and covenants, etc. have been received by the Board. The Developer shall deliver to the Board one (1) copy of the approved and recorded Definitive Plans, and a copy of an affidavit filed by the owner of the property on which the Project is to be

located stating that the title to the premises shown on said plan and appurtenances thereto are in the name of the Developer and free of all encumbrances or with encumbrances as set forth, before issuance of any building permit on any approved comprehensive permit.

6.0 MODIFICATIONS

6.1 Any request for modification of a comprehensive permit granted by the Board, or any condition thereto, shall be submitted to the Board and reviewed in accordance with the regulations relating to comprehensive permits in force and effect at the time of the requested modification. Notwithstanding, the following provisions shall apply to requested modifications:

- (a) Requests for modifications shall be submitted in writing and shall clearly identify which provisions of the comprehensive permit are requested to be modified. The Board shall only consider modifications to the provisions so identified.
- (b) Written requests for modification shall also include a statement of the proposed modified language, if appropriate.
- (c) If the requested modification relates to a modification of a plan previously endorsed by the Board, a proposed modified plan shall be submitted for endorsement by the Board clearly showing the areas being replatted, the reference number(s) of all previous plans of these same areas, together with filing dates. The plans shall clearly indicate previously existing lot lines by dashed lines and proposed lines by solid lines. These lines shall be clearly identified with proper notations.
- (d) The Board shall reserve the right to impose conditions on any modification request which is deemed insubstantial, and thereby not requiring a public hearing, as part of its approval of such modification.
- (e) The Board shall reserve the right to require the Developer to submit additional funds to the 53G account related to reviewing the requested modification, which funds shall be provided by the Developer before any modification shall take effect.
- (f) The Developer, or its representative, shall attend any and all meetings of the Board associated with the requested modification, including but not limited to a meeting to determine if the requested modification is "substantial" or "insubstantial" and any public hearing scheduled for the requested modification. Failure to so attend may be grounds for denial of the requested modification.
- (g) If the Board deems a requested modification a substantial change, and schedules a public hearing on the same, the Developer shall be responsible for all costs and expenses associated with publication, advertisement, and notification of abutters regarding the public hearing and the requested modification. Payment of these costs and expenses shall be made prior to the opening of the public hearing on the requested modification. Failure to make such payments shall be grounds for denial of the requested modification.
- (h) No modification to a comprehensive permit shall take effect until a copy of the approved modified decision and approved modified plan, if any, endorsed by the

Board, bearing the certification of the Town Clerk, that twenty (20) days have elapsed after the filing of the decision and no appeal has been filed, and all requisite documents (covenants, decisions of the Board of Health, the Conservation Commission and/or the Department of Environmental Protection) are recorded in the Registry of Deeds or Land Court (if applicable) and is indexed under the name of the record owner of land.

- (i) The Developer shall record all approved modified plans, documents, covenants, etc. at the Bristol County Northern District Registry of Deeds or Land Court, if applicable, and shall notify the Board in writing of such recording information. The Building Inspector shall not issue any building permits for the Project until evidence of the recording of the plans, documents, and covenants, etc. have been received by the Board. The Developer shall deliver to the Board one (1) copy of the approved and recorded modified Definitive Plans, if any, and a copy of an affidavit filed by the owner of the property on which the Project is to be located stating that the title to the premises shown on said plan and appurtenances thereto are in the name of the Developer and free of all encumbrances or with encumbrances as set forth. If such an Affidavit has previously been provided to the Board by the Developer, an updated Affidavit shall be provided prior to any approved modification taking effect.

7.0 GENERAL PROVISIONS AND TRANSITION RULES

- 7.1 Severability of Provisions. The provisions of these Rules are severable. If any provision of these Rules are held invalid, the other provisions shall not be affected thereby. If the application of these Rules, or any of its provisions to any person, entity, Project or circumstances is held invalid, the application of these Rules and their provisions to other persons, entities, Projects or circumstances shall not be affected thereby.
- 7.2 Waiver. Full compliance with any or all of the provisions of these Rules may be waived by the Board in issuance of any comprehensive permit provided such waiver is deemed to serve the public interest and does not conflict with the provisions of M.G.L. c. 40B s. 20-23, or the regulations promulgated thereto, or any other state or federal law or regulation.
- 7.3 Administration.
 - (a) After endorsement, the Developer shall supply to the Board a hard copy of all approved plans as well as a computer copy of all approved plans in pdf format.
 - (b) Approval of any Plan shall not constitute laying out or acceptance by the Town of any street shown on such plan
 - (c) If the ways in the proposed Project are not completed and all proposed utilities are not installed within the time required by the comprehensive permit, any bond provided by the Developer to guarantee the completion of such ways or the installation of such utilities and/or any deposit related to such guarantee and/or any other form of guarantee may be enforced or applied by the Board for the benefit of the Town of Dighton. Ways, site work, buildings or portions thereof

not completed within the time required by the comprehensive permit, or otherwise not completed prior to lapse of the comprehensive permit as set forth in these Rules, shall thereafter be completed in accordance with the design and construction standards applicable to all developments for which a comprehensive permit is not granted within the Town of Dighton, including but not limited to compliance with the Town of Dighton Subdivision Rules and Regulations and the Town of Dighton Zoning By-Law.

7.4 Lapse of Permit

- (a) A comprehensive permit shall be valid for a period of three (3) years from the date it is deemed final. Any endorsement of a plan shall also remain valid for so long as the comprehensive permit on which its endorsement is based is valid. Failure to commence construction before expiration of such three (3) year period shall result in the expiration of the comprehensive permit.
- (b) The period of validity of the comprehensive permit may be extended by the Board at the written request of the Developer, accompanied by satisfactory proof that such extension is necessary and in the public interest.
- (c) Any request to extend a comprehensive permit shall be submitted to the Board at least thirty (30) days prior to the date the permit is expected to lapse. Failure to file a timely request for an extension shall be grounds for denial of the extension.

7.5 Pre-Meeting with Affordable Housing Committee. Prior to submission of an application for a comprehensive permit it is recommended that the Developer meet first with the Town of Dighton Affordable Housing Committee.

7.6 Transition Rules.

- (a) If no application for a comprehensive permit has been filed with the Board prior to the effective date of the adoption of these Rules, then the entirety of these Rules shall apply to the Project.
- (b) If an application for a comprehensive permit has been filed with the Board, but the Board has yet to issue a decision on the application, prior to the effective date of the adoption of these Rules, then the entirety of these Rules shall apply to the Project, except for the provisions of Sections 3.1, 3.3, 3.4 and 3.6, and 5.1.
- (c) If the Board has issued a comprehensive permit for a Project prior to the effective date of the adoption of these Rules, then the entirety of these Rules shall apply to the Project, except for the provisions of Sections 3.0 and 5.0.