

**RULES AND REGULATIONS GOVERNING
THE GRANTING OF SPECIAL PERMITS
Town of Ipswich Planning Board**

I. PURPOSE OF THE REGULATIONS

The purpose of these Rules and Regulations, which were adopted in their current form by the Ipswich Planning Board (hereinafter the "Board") on March 21, 2013, and revised on October 13, 2016 and May 4, 2017, pursuant to Section XI.J.6. of the Ipswich Protective Zoning Bylaw (hereinafter "Bylaw"), is to establish a standard policy for reviewing and acting upon special permit applications.

II. CRITERIA AND CONDITIONS FOR APPROVAL

A. Standard Criteria

Under the authority vested in the Board through the provisions of Sections 9 and 11 of Chapter 40A of the Massachusetts General Laws, and pursuant to Section XI.J.2. of the Bylaw, the Board may, for those uses, structures, or conditions designated in the Table of Use regulations or elsewhere in the Bylaw, approve an application for a special permit upon a written determination that:

1. The benefit to the Town outweighs the adverse effects of the proposed use, taking into account the characteristics of the site and of the proposal in relation to that site; and
2. The petitioner's application materials include, in the Board's opinion, sufficiently detailed, definite, and credible information to show the project meets the intent of the Bylaw.

In making this determination, the Board applies the following criteria:

- a) Social, economic or community needs which are served by the proposal;
- b) Potential fiscal impact, including impact on town services, tax base, and employment;
- c) Traffic flow and safety, including parking, loading;
- d) Adequacy of utilities and other public services;
- e) Compatibility with neighborhood character; and
- f) Impacts on the natural environment.

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B. Additional Criteria or Guidance for Certain Special Permits

For certain uses, besides meeting the standard criteria in Section XI.J.2 of the Bylaw, the Board may grant special permit approval **only** if the use also satisfies additional criteria described elsewhere in the Bylaw. These uses and their related criteria are as follows:

1. Uses requiring special permit pursuant to IX.C.7. of the Bylaw (Water Supply Protection)

The proposed use shall not adversely affect the existing or potential quality or quantity of water that is available in the Water Supply Protection District. Further, the use shall be designed to avoid substantial disturbance of the soils, topography, drainage, vegetation, and other water-related natural characteristics of the site to be developed.

2. Uses requiring special permit pursuant to IX.G. of the Bylaw [Wireless Communications Facilities (WCF)]

An Applicant proposing a freestanding WCF shall prove to the satisfaction of the Board that the visual, economic and aesthetic impacts of the facility on the community will be minimal. The Applicant must also demonstrate that the facility needs to be located at the proposed site due to technical, topographical or other unique circumstances. In determining whether to issue a special permit, the Board shall consider the following factors: height of the proposed WCF; the nature of uses adjacent and nearby properties; surrounding topography; surrounding tree coverage and foliage; the visual impact of the facility on the abutting neighborhoods and streets and the impact on existing vistas and natural resources.

3. Uses requiring special permit pursuant to IX.H. of the Bylaw [Great Estate Preservation Development (GEPD)]

The Board shall review the special permit application in accordance with the following criteria: the proposed GEPD will, by its design and layout, succeed in (a) preserving open space for conservation and/or recreation purposes, and providing appropriate public access to the open space; (b) protecting natural features of the land which are important to the character of the town; and (c) preserving the buildings, structures, and landscape features of the large estate properties in the RRA District.

In determining whether a proposed GEPD fulfills the criteria described in the preceding paragraph for special permit approval for the GEPD use, the Board shall consider the guidelines listed in Appendix A. The guidelines are intended to provide guidance to the applicant in the preparation of plans, as well as guidance to the Board during its review. They are not intended to be exhaustive, and specific additional guidelines may be applied for a project if the Board determines they are necessary. The guidelines are intended to encourage exemplary projects and good design, without discouraging creative and/or innovative solutions to problems of a site. The issues and concerns represented by the guidelines must be addressed to the satisfaction of the Board in the final site plan.

4. Uses requiring special permit pursuant to IX.N.4. of Bylaw (Hazardous and Toxic Materials)

The proposed use shall not adversely affect the existing or potential quality or quantity of water, and adequate safeguards shall have been taken to minimize public exposure to hazardous materials and reduce the risk of fire hazard.

5. Uses requiring special permit pursuant to IX.O.2. of Bylaw [Green Space Preservation Development (GSPD)]

The Board shall review the special permit application in accordance with the following criteria: (1) the proposed use(s) within the GSPD, by its design and layout, succeeds in preserving open space for conservation and/or recreation purposes and protecting natural features of the land which are important to the character of the town, especially the vistas of the road(s) upon which the GSPD takes its frontage; and (2) the use(s) proposed pursuant to this Section IX.O is compatible with any use on the property as of the date of the special permit application.

6. Uses requiring special permit pursuant to IX.P. of Bylaw (Conversion of Accessory Building into Residential Unit)

The Board shall not grant a special permit under this subsection unless the applicant can provide a community benefit as determined by the Board. Any conversion of an accessory building into a residential unit subject to a permanent affordability restriction shall be considered a community benefit. (The definition of affordable housing shall be as provided in the Bylaw at the time of application, except that the Board has the option to adjust the requirement provided that, at minimum, the proposed unit be affordable to a household earning no more than 80% of area median income). Other potential uses that the Board may find to meet a community need are: (a) use of the dwelling unit for a family member (upon the unit being vacated by family, its use may only be continued as a residential dwelling if it is subject to an affordable housing restriction); (b) applicant pays, to the affordable housing trust, a fee in lieu of providing an affordable unit, as determined by the Board; and (c) preservation, renovation, and reuse of an accessory building determined by the Board to have historical or architectural significance.

III. SUBMITTAL REQUIREMENTS

A. Uses, Activities, Improvements, or Dimensional Relief Requiring Special Permits from the Board

Uses indicated by the Table of Uses in Section V.D. as requiring a special permit (SPB) from the Board

There are approximately 40 uses that require Board Special Permits in certain zoning districts within the Residential, Community Facilities, Commercial, Wholesale, Transportation & Industrial, and Accessory categories of the Table of Use Regulations. See the Table in Section V.D. of the Bylaw to learn the specific uses. See also footnote 16 to the Table, which authorizes the Board in specified instances to assume the special permit granting authority (SPGA) for certain uses and/or structures, notwithstanding the SPGA designation in the Table of Uses or in any other provisions of the Bylaw.

Uses requiring site plan review which the Table of Use Regulations indicates require a special permit from a special permit granting authority other than the Board

See footnote 16 to the Table of Use Regulations in Section V.D. of Bylaw for more information.

Inns, if they are located in the same building as multi-family dwelling units

See footnote 25 to the Table of Use Regulations in Section V.D. of Bylaw for more information.

Outdoor hydronic heaters, if proposed as part of use requiring special permit or site plan review from Board

See footnote 28 to the Table of Use Regulations in Section V.D. of Bylaw for more information.

Expansion of an existing two-family or multi-family development which creates one or more additional residential dwelling units

See footnote 30 to the Table of Use Regulations in Section V.D. of Bylaw for more information.

Sale of gasoline at pump, if associated with a retail store*

See footnote 34 to the Table of Use Regulations in Section V.D. of Bylaw for more information.

Alternative screening plan for multi-family residential, commercial, and industrial uses*

See Section VI.E, second paragraph of Bylaw for more information.

Building heights greater than otherwise allowed by Bylaw*

See Section VI.G.2. of Bylaw for more information.

Frontage exception for larger lots, if more than two such lots are located within 1000 feet of proposed lot.

See Section VI.I.2. of Bylaw for more information.

Reduction of dimensional requirements for properties in the CB District*

See footnote 9 to Table of Dimensional and Density Regulations in Section VI.B. of Bylaw for more information.

Increased density of multi-family dwelling units if significant public benefit to the Town is provided*

See footnote 11 to Table of Dimensional and Density Regulations in Section VI.B. of Bylaw for more information.

Reduced lot size requirement for single-family homes on certain existing lots in IR District

See footnote 28 to Table of Dimensional and Density Regulations in Section VI.B. of Bylaw for more information.

Reducing curb cut performance standards for uses in the PC District*

See footnote 31 to Table of Dimensional and Density Regulations in Section VI.B. of Bylaw for more information.

Reduction of certain parking requirements described in Table of Minimum Parking Requirements*

See asterisks to Table of Minimum Parking Requirements in Section VII.B. of Bylaw for more information.

Reduction of dimensional requirements for lots created under Open Space Preservation Zoning*

See Section IX.A.5.d.(5) of the Bylaw for more information.

Reduction of certain parking requirements described in Table of Minimum Parking Requirements*

See asterisks to Table of Minimum Parking Requirements in Section VII B. of Bylaw for more information.

Uses/activities shown by Water Supply Protection District Table of Uses as requiring Board special permit*

There are approximately 14 uses or activities that require Board Special Permits in certain zoning districts within certain overlay zones. See Section IX.C.7. Water Supply Protection District Table of Uses.

Freestanding wireless communications facilities

See Section IX.G.2 of Bylaw for more information.

Partial relief of renovation requirement for historically or architecturally significant buildings located within a GEPD*

See Section IX.H.3(2) of Bylaw for more information.

Conversion of accessory building into residential unit

See Section IX.P.2 of Bylaw for more information.

* See also III.B. of the Bylaw.

B. Application

Application for a special permit for the uses, improvements, activities or dimensional relief requests described in A. above shall, unless otherwise noted, require the submittal of an *Application for Special Permit* form. The improvements, activities or dimensional relief requests marked with an asterisk are typically associated with uses requiring either a special permit or site plan review approval. In those instances, a separate special permit application is generally not required. Instead, the Applicant shall reference any additional required special permits on the application for the special permit use or site plan review application. Applicants are strongly advised to consult with the Planning Office prior to submitting an application for a special permit.

Applicants shall submit to the Planning Office two hard copies of the completed application form and any other materials as identified in the form, eight copies of the plan sheets (including architectural), as well as one electronic (PDF) file of the entire submittal. The Planning Office shall then review the application for completeness and shall file one complete copy with the Town Clerk's Office, or inform the Applicant that the application is incomplete, within five business days of its receipt. The statutory time frames for the Board holding a public hearing and issuing a decision begin when applications are filed with the Town Clerk.

C. Fees

Applications for a special permit for use or activity shall be accompanied by a submittal fee as established in Appendix B of these Rules and Regulations. Special permit requests for dimensional relief and/or activities or improvements that are not listed in Appendix B shall be accompanied by a fee of \$250. In addition, the fee for advertisement of the public hearing shall be paid by the applicant directly to the advertising newspaper.

D. Special Permit Public Hearing

In accordance with the provisions of Section 9 of M.G.L. Chapter 40A, as amended, the Board is required to hold a public hearing on all special permit applications, and by these regulations shall require a public hearing on the subject of modifications¹ to a special permit granted hereunder. Pursuant to Section 9, the Board has sixty five (65) calendar days from the date of application to hold this hearing, and is required to make its decision within ninety (90) calendar days from the close of the public hearing. If the above described time limits for making a decision prove unattainable, the deadlines for action may be extended by written mutual agreement between the applicant and the Planning Board, with a copy of said agreement filed with the Town Clerk. Any application to amend a previously approved special permit shall be accompanied by the submittal fee established in Appendix B of these Rules & Regulations. The Board may, in its discretion, waive the fee, in full or in part, based on the magnitude of the requested modification.

E. Project Review

1. Upon the receipt of a complete special permit application, the Board may distribute same to relevant town departments for their review and comment. As a general rule, the distribution list may include, but is not necessarily limited to, the following: DPW; Utilities; Code Enforcement; Health Department; Police; and Fire. Depending on the nature of the application, the Board may also seek input from relevant town Boards and Commissions, including, but not necessarily limited to, the following: Design Review Board; Historical Commission; Open Space Committee; Housing Partnership; Affordable Housing Trust Fund Board; Board of Selectmen; and the Architectural Preservation District Commission.
2. The Board reserves the right to engage the services of a technical consultant(s) to review any plan if the Board believes that professional review is necessary to accomplish the purposes of these Rules and Regulations. The costs for any professional review shall be borne by the Applicant and may be imposed in accordance with M.G.L. Chapter 44, Section 53G, and as duly adopted by the Board in accordance with said law. Cost estimates for review shall be provided to the Applicant before review is authorized, and funds shall be provided by the Applicant prior to any work being undertaken by any consultant.

¹Applicants who seek to modify a special permit may ask the Planning Board to consider whether the scope of the modification warrants the holding of a hearing as required by this paragraph C. If the Board finds that the modification is minor enough in nature so as to not substantively increase the impact of the project on immediate neighbors and the surrounding neighborhood, it may declare the requested change to be a minor modification and waive the public hearing requirement.

F. Site Inspection

The Board reserves the right to require site inspection(s) by a technical consultant, similar to those required in the Rules and Regulations Governing the Subdivision of Land. The costs for such inspections shall be borne by the Applicant and may be imposed in accordance with M.G.L. Chapter 44, Section 53G, and as adopted by the Board in accordance with said law. An estimate for site inspection services shall be provided to the Applicant and no inspections shall be completed, including pre-construction meetings, unless and until funds have been submitted by the Applicant to cover the costs of inspections.

G. Special Permit Commencement of Use Expiration

As stated in Section XI.J.5 of the Bylaw, a special permit shall lapse within two years of the date of approval if a substantial use thereof has not sooner commenced or, in the case of permit for construction, if construction has not begun by such date, except for good cause in both instances.

IV. STORMWATER MANAGEMENT

A. Applicability

Except as provided in paragraph C. below, stormwater runoff from all projects requiring special permit approval from the Board (including site preparation, construction, and additions/expansions) that result in a land disturbance exceeding an area of 10,000 square feet or an area of more than 50% of a parcel or lot, whichever is less, shall comply with the Ipswich Stormwater Management General Bylaw (hereafter “Stormwater Bylaw”). In the case of a single land alteration project, whether phased or not, involving more than one contiguous parcel or lot whether or not under common ownership, the entire area of the project shall be considered a lot or parcel under this Section IV.

Compliance with the Stormwater Bylaw requires the Applicant to obtain approval from the Board for any land disturbance as described in the preceding paragraph. In applying the requirements of the Stormwater Bylaw, the Board adopts and applies the Massachusetts Stormwater Management Standards as set forth in 310 CMR 10.05 (6)(k)-(q), except that within the jurisdiction of the Board as is now established or may be amended by the Regulations Governing the Granting of Special Permits, the application of the Stormwater Management Standards shall not be limited as set forth in 10.05(6)(l) and (m) as may be amended, but shall apply to any development and/or redevelopment project and/or land disturbance activity as set forth in Section 5.A of the Stormwater Bylaw, and is not exempted by other provisions thereof.

B. Definitions

The Board adopts, to the extent they are applicable, the definitions appearing as “Section 3. Definitions” of the Stormwater Bylaw.

C. Stormwater Buyout

The Board may allow the Applicant to contribute to the construction of a public or shared stormwater facility in lieu of an onsite stormwater facility if the Board determines that there is not sufficient space for onsite stormwater best management practices, and that accepting such a contribution is in the best interests of the Town.

D. Monitoring

To insure that the permitted stormwater improvements are performed in accordance with the approved plans, the Board may require Applicants, as a condition of approval and at their own expense, to retain a Board-approved consultant to monitor the progress and submit periodic reports. The consultant shall be a qualified environmental professional acceptable to the Board and shall prepare and submit certified reports on a schedule established by the Board. If, during construction, unexpected site conditions require modifications to the approved plans, the consultant shall immediately notify the Board and request the Board’s approval of any requested modifications. No work shall be performed without the prior approval of the Board.

Appendix A

Guidelines for a Proposed Great Estates Preservation Development

In determining whether a proposed Great Estates Preservation Development (GEPD) fulfills the criteria described in the preceding paragraphs for special permit approval for the GEPD use, the Board shall consider the following guidelines:

a) Preserving open space for conservation and/or recreation purposes and providing appropriate public access to the open space

When providing the Board with information regarding the intended use or uses of the proposed open space, the applicant shall:

- Identify the nature of all potential recreational uses of the open space (e.g., hiking, skiing, golf, horseback riding, biking, birding, educational tours) and their impact on other natural resources of the open space
- Describe the steps being taken to ensure compatibility between resource management and recreation planning, and how these procedures are integrated with an overall land use plan
- Provide evidence that archaeological and historic documents have been consulted when devising re-use plans for open space and that efforts have been made to preserve historic features and vistas
- Develop a plan for all recreational elements (e.g., trail network) within the open space which establishes responsibilities and procedures for ensuring their proper maintenance.

To ensure that the proposed open space is accessible to the public, the plan shall provide a signage scheme which includes welcome signs and directional signs to parking and trail heads, and proposed distribution points for maps and/or brochures which orient visitors and identify public areas. If the proposed development requires any trail relocation, the redesigned trails should maximize view potential and should ensure the adequacy of the trails for identified uses (e.g., minimum height clearance for equestrian use).

b) Protecting natural features of the land important to character of town

Finished site contours shall approximate the character of the natural site; in designing the proposed development, every effort shall be made to *reduce* the:

- Volume of cut and fill
- Number of removed trees
- Pollutants reaching the water table or surface waters
- Area of wetland vegetation displaced
- Amount of soil erosion
- Area of impervious surface
- Amount of stormwater runoff from the site.

For GEPDs which contain significant areas of forest, the Board will request the applicant to provide a forest management plan. Where tree coverage does not exist, or has been removed, new planting may be required. All new tree plantings shall have an initial trunk diameter of three inches, as measured six inches above grade.

Appendix A (continued)

c) Preserving the buildings, structures, and landscape features of the large estate properties in the RRA District.

Proposed development shall be related harmoniously to the terrain and to the use, scale, and architecture of existing buildings on the property that have functional or visual relationships to the proposed buildings. A common architectural theme shall be reflected by means of building materials, architectural style, sign controls, and /or color coordination. The building, siting and massing shall be done in a manner that (a) reduces the effect of shadows on adjacent buildings, landscape features and open spaces, and (b) maintains significant views and vistas.

Removal or alteration of historic, traditional or significant architectural elements shall be minimized insofar as practicable.

APPENDIX B
SPECIAL PERMIT FEE SCHEDULE*
Town of Ipswich Planning Board

TYPE OF USE OR ACTIVITY	FEE
Residential	
Bed and Breakfast Home; conversion to a Bed and Breakfast Home; temporary living facility	\$300
Multi-family or Multi-family residential development, five units or less; dormitory (residential, fraternity or sorority); conversion of accessory building to a residential unit	\$500
Multi-family or Multi-family residential development, greater than five units	\$500 + \$100 for each unit over five, with a maximum fee of \$10,000
Open Space Preservation Zoning Subdivision	\$250 + applicable subdivision fee or \$250+\$100/unit over five units, whichever is greater
Great Estate Preservation Development	\$2,500
Community Facilities	
Town outdoor recreational facility and any other outdoor non-commercial recreation use such as private boathouses and landings	\$300 for non-municipal facilities
Wastewater treatment facility, water treatment plant, sludge composting facility, sanitary landfill, refuse incinerator, recycling center, transfer station, other treatment or waste-related facility.	\$500 for non-municipal facilities
Wireless Communication Facilities	\$1,000
Registered Marijuana Dispensary	\$1,000
Commercial Facilities	
Performing Arts Center; retail establishment selling general merchandise; formula fast food restaurants; automobile, boat, aircraft, motorcycle, household or camping trailer sales or rentals; repair or service of automobiles, trucks, boats, aircraft, motorcycles, small engines, or trailers (both household and camping); filling station; inns, hotels and motels; bed and breakfast establishment, including conversion of an existing building; country, fishing, tennis, boating, golfing or similar club; commercial parking lot or structure, including public garage; adult entertainment establishment; car wash facility; body art establishment; golf driving range, miniature golf, and/or batting cage; campground; mini-storage warehouses	\$500
Commercial wind energy conversion system, solar energy collection apparatus	\$500

TYPE OF USE OR ACTIVITY	FEE
Shopping center	\$1,000, plus \$50 for every 1,000 s.f. of gross floor area over 20,000 s.f.
Assisted living or life care facility	\$2,500
Wholesale, Transportation & Industrial	
Enclosed manufacturing; bus or railroad passenger stations or other passenger transportation services	\$500
Accessory Use	
Accessory uses listed in Section V of the Zoning Bylaw	\$300
Uses/Activities in the Water Supply Protection Areas A & B	
Uses/Activities listed in Section IX.C Water Supply Protection District Table of Uses as requiring a special permit from the Planning Board	\$500
Other Uses	
Uses and/or structures for which the Planning Board, pursuant to footnote 16 to the Table of Uses in Section V, assumes the special permit granting authority (SPGA)	See III.C
Dimensional relief and/or activities/improvements that are not listed in this Section	\$250

*If a fee(s) is associated with a special permit application for a use or uses also subject to Planning Board special permit, the Board may waive, in whole or in part, the additional fee(s).