

**Wireless  
Communication  
Special  
Permit  
Application  
Package**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARLBOROUGH THAT THE CODE OF THE CITY OF MARLBOROUGH, Chapter 200 Zoning, as amended, be further amended as follows:

By adding to Chapter 200, §20, Article V, Permitted Uses, the following new section:

**ARTICLE V -SECTION 20 Wireless Communications Facilities**

**§ 200-20 Wireless Communications Facilities**

**A. PURPOSES**

1. To promote the health, safety and general welfare of the community.
2. To guide sound development.
3. To conserve the value of land and buildings.
4. To encourage the most appropriate use of the land.
5. To minimize the adverse aesthetic impact of wireless communication facilities.
6. To minimize the number of wireless communication facility (WCF) sites.
7. To encourage co-location by wireless communication companies on wireless communication facilities.
8. To ensure that WCF are cited, designed and screened in a manner that is sensitive to the surrounding neighborhood.
9. To avoid damage to adjacent properties.

**B. DEFINITIONS**

1. Wireless Communication Facilities ("WCF") -- Any and all materials, equipment, storage structures, towers, dishes and antennas, other than customer premises equipment, used by a commercial telecommunications carrier to provide telecommunications services. This definition does not include facilities used by a federally-licensed amateur radio operator, or facilities which are accessory to the use of a business or building and are for the exclusive use of the owner of the building or the tenant.
2. Tower -- Any equipment mounting structure that is used primarily to support reception or transmission equipment and that measures twelve (12') feet or more in its longest vertical dimension. The term "Tower" includes, but is not limited to, monopole and lattice towers.
3. Communications Device -- Any antennae, dish or panel mounted out of doors on an already existing building or structure used by a commercial telecommunications carrier to provide telecommunications services. Interior-mounted antennas, dishes or panels are not subject to the provisions of this Section, except for the provisions of subsection F.,10. of this Section. The term "communications device" does not include a Tower.

### **C. APPLICATION AND JURISDICTION**

1. WCF which include a Tower shall be erected and installed in all portions of the City only in compliance with the provisions of this Section and upon the grant of a Special Permit by the City Council.
2. Communications Devices shall be erected and installed only on an existing building or structure in all portions of the City, all in compliance with the provisions of this Section and upon the grant of a Special Permit by the City Council.
3. Notwithstanding anything to the contrary contained in the Zoning Ordinance, the City Council shall be authorized to grant a Special Permit for the erection or installation of WCF which includes a Tower in all portions of the City.
4. Notwithstanding anything to the contrary contained in the Zoning Ordinance, the City Council shall be authorized to grant a Special Permit for a WCF which consists of a Communications Device on an already existing building or structure in all portions of the City.
5. No WCF shall be erected or installed out of doors except in compliance with the provisions of this Section. The provisions of this Section apply to all WCF whether as a principal use or an accessory use and to any and all extensions or additions to, or replacement of, existing WCF.

### **D. REVIEW STANDARDS**

In addition to the Special Permit Review Criteria under Section 200-29A of this Ordinance and §9 of c.40A of the General Laws, the City Council shall also review the Special Permit application in conformance with the following objectives:

1. When considering an application for a WCF which includes a Tower, the City Council shall take into consideration the proximity of the facility to residential dwellings.
2. New WCF which include a Tower shall be considered only after a finding that existing or previously approved Towers cannot accommodate the proposed users.
3. When considering an application for a Communications Device proposed to be placed on an already existing building or structure, the City Council shall take into consideration the visual impact of the unit from the abutting neighborhood and streets and the proximity of the unit to residential dwellings.
4. The City Council shall act on a request for the placement of a WCF within a reasonable period of time and any denial shall be in writing and supported by substantial evidence contained in the record.

### **E. DEVELOPMENT REQUIREMENTS.**

1. Any proposed Tower must be of the minimum height necessary to accommodate the use and in any event shall not be more than one hundred ninety (190') feet in height, notwithstanding any other provisions to the contrary of this Chapter.

2. The applicant shall arrange to fly a balloon of at least three (3') feet in diameter at the maximum height of the proposed Tower at least once before the first public hearing. The date, time and location of the flight shall be advertised by the Applicant at least fourteen (14) days, but not more than twenty-one (21) days, before the flight in a newspaper of general circulation in the City.
3. Visual impacts of Towers and Communications Devices must be minimized by use of appropriate paint and/or screening.
4. Applicants must, as part of its application for a Special Permit for a Tower, submit evidence from the Federal Aviation Administration (FAA) demonstrating that said FAA has studied and approved the proposed Tower and its location. If lighting is required by the FAA, the provisions of subsection E.12 of this Section shall prevail.
5. The siting of Towers shall be such that the view of the Tower from other areas of the City shall be as minimal as possible and shall be screened from abutters and residential neighbors to the extent feasible.
6. Shared use of Towers by commercial telecommunications carriers is required unless such shared use is shown by substantial evidence to be not feasible.
7. All Towers shall be designed to accommodate the maximum number of presently interested users which is technologically practical. If the number of interested users is less than five, the Applicant shall submit substantial evidence to support such an assertion. All Towers shall be designed so that, if additional users require said location, the existing tower can be expanded or replaced with the minimum of technical difficulty and disturbance to neighbors, and shall be subject to the obligation of the Applicant to cause or allow such expansion or replacement on terms that are commercially reasonable to the additional users at any time following the granting of the initial Special Permit.
8. Every Tower must be set back from the property line of the lot on which it is located, or from a point beyond said lot line but extending only over land for which written permission has been received, for a distance at least equal to the height of the Tower. For any land held by any person or entity other than the United States, the Commonwealth of Massachusetts, or an agency or political subdivision thereof, said written permission shall be evidenced by an easement covering the area in question and recorded in the South Middlesex Registry of Deeds or South Middlesex Land Registration Office.
9. No portion of Communications Devices located on a building shall exceed fifteen (15') in height above the roof line of the building.
10. Communications Devices shall be situated on or attached to a building or structure in such a manner that they are screened whenever possible, shall be painted or otherwise colored to minimize their visibility, and shall be integrated into such structures or buildings in a manner that blends with the structure or building. Free standing antennas or dishes shall be landscaped, screened and painted in a manner so as to minimize visibility from abutting streets and residents.
11. Fencing shall be provided to control access to all WCF which include Towers.
12. All Towers must comply with all Federal Aviation Administration Rules and Regulations. Notwithstanding the requirement to comply with Rules and Regulations, any Tower that would be required to install flashing lights or strobe lighting shall not be permitted.

13. All Towers shall be at least one hundred fifty (150') feet from existing residential buildings.
14. Accessory buildings and or storage sheds shall not exceed two (2) stories in height; no more than three hundred (300) square feet in floor area shall be available for each user; any buildings or storage sheds added to a site must be attached to and abut the original building or storage shed and must be compatible in appearance.
15. The maximum amount of vegetation shall be preserved.

**F. CONDITIONS.**

The following conditions shall apply to all grants of Special Permits pursuant to this Section:

1. For all WCF, annual certification of compliance with Federal Communications Commission, Federal Aviation Administration and federal, state and local laws, rules and regulations must be provided to the City Council.
2. All Towers must comply with all applicable Federal Communications Commission Rules and Regulations. Annual certification of compliance must be provided to the City Council.
3. For all Towers located on municipal property, a Certificate of Insurance for liability coverage in amounts determined by the City Solicitor must be provided naming the City as an additional insured.
4. For all Towers located on municipal property, an agreement must be executed whereby the user indemnifies and holds the City harmless against all claims for injury or damage resulting from or arising out of the use of occupancy of the City owned property by the user.
5. For all Towers, the execution of an agreement must be executed with the property owner whereby the user shall, at its own expense, and within thirty (30) days upon termination of the lease or thirty (30) days of nonuse of the Tower, restore the premises to the condition it was in at the onset of the lease and shall remove any and all WCF thereon.
6. For all Towers, a bond must be issued to the City from a surety authorized to do business in Massachusetts and satisfactory to the City, in an amount equal to the cost of removal of any and all WCF from the premises and for the repair of such premises and restoration to the condition that the premises were in at the onset of the lease, said amount to be determined by the City. The amount of the bond shall be the total of the estimate by the City plus an annual increase of three (3) percent for the term of the lease. The term of the bond shall be for the full term of any lease plus twelve (12) months. The City must be notified of any cancellation or change in the terms or conditions in the bond. The amount of the bond is to be payable to the City in the event that the user breaches the agreement in paragraph 4 herein.
7. For all Towers located on non-municipal property, a clause must be inserted in any lease that unconditionally permits the City or contractors hired by the City to enter the premises, at any time, on which Towers are located if any City-owned or controlled telecommunications are located thereon.

8. For all Towers located on non-municipal property, a clause must be inserted in any lease that unconditionally permits the City or contractors hired by the City to enter the premises on which Towers are located in the event the user breaches the agreement in paragraph 4 herein.
9. For all Towers, an Agreement must be executed whereby the user will allow the installation of municipal Communications Devices at no cost to the City of Marlborough, and which will allow other carriers to lease space on the Tower so long as such use does not interfere with the user's use of the Tower, or with any City controlled telecommunications equipment. There will be a presumption that a Tower can accommodate more than one user, and if the applicant alleges that another carrier or carriers would interfere with its use of the Tower, it must support the allegation by substantial evidence.
10. All permittees shall be required to file annually on or before February 1st with the City Clerk a complete list of all WCF locations in the City then used by the permittee, including communications devices mounted on the interior of a building or structure.

FURTHER:

**By adding to Chapter 200, Article V, Section 200-10,C.,** after the words "public hearing", the words: ",provided that approval of wireless communications facilities shall be subject to the provisions of Section 20 of this Chapter."

FURTHER:

**By deleting Chapter 200, Article V, Section 200-10, K., in its entirety and substituting in place thereof the following:**

§200-10        Uses applicable in all districts

- K. Commercial radio towers, television towers, receivers, transmitters and Wireless Communications Facilities only when authorized by a Special Permit of the City Council and pursuant to all the applicable provisions of Section 20 of this Chapter.

FURTHER:

**By adding to Chapter 200, Article V, Section 200-16,B.,(12),** after the words "broadcasting studios" the words "but not including Towers as defined in Section 200-20 of this Chapter."

FURTHER:

**By adding to Chapter 200, Article II, Section 200-4, Definitions, the following:**

WIRELESS COMMUNICATION FACILITIES ("WCF") - Any and all materials, equipment, storage structures, towers, dishes and antennas, other than customer premises equipment, used by a commercial telecommunications carrier to provide telecommunications services. This definition does not include facilities used by a federally-licensed amateur radio operator, or facilities which are accessory to the use of a business or building and are for the exclusive use of the owner of the building or the tenant.

TOWER - Any equipment mounting structure that is used primarily to support reception or transmission equipment and that measures twelve (12') feet or more in its longest vertical dimension. The term "Tower" includes, but is not limited to, monopole and lattice towers.

COMMUNICATIONS DEVICE - Any antennae, dish or panel mounted out of doors on an already existing building or structure used by a commercial telecommunications carrier to provide telecommunications services. Interior-mounted antennas, dishes or panels are not subject to the provisions of this Section. The term "communications device" does not include a Tower.

First reading, suspended; second reading, adopted; passage to enroll, adopted; passage to ordain, adopted.

ADOPTED: Yea: 10 - Nay: 0 - Absent: 1

Yea: Lashmit, Peltekis, Emond, Evangelous, Oram, Zomar, Agoritsas, Hunt, LeDuc, Vigeant

Absent: Jusseaume

ADOPTED

In City Council

Order No. 97-6984F

Adopted August 18, 1997

Approved by Mayor

J. Michael McGorty

Date:

A TRUE COPY

ATTEST:

City Clerk

**CITY OF MARLBOROUGH  
OFFICE OF THE CITY CLERK**

**APPLICATION TO CITY COUNCIL FOR ISSUANCE OF SPECIAL PERMIT**

1. Name and address of Petitioner or Applicant:

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2. Specific Location of property including Assessor's Plate and Parcel Number.

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3. Name and address of owner of land if other than Petitioner or Applicant:

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4. Legal interest of Petitioner or Applicant (owner, lessee, prospective owner, etc.)

5. Specific Zoning Ordinance under which the Special Permit is sought:

Article\_\_\_\_\_Section\_\_\_\_\_Paragraph\_\_\_\_\_Sub-paragraph\_\_\_\_\_

6. Zoning District in which property in question is located:

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7. Specific reason(s) for seeking Special Permit

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8. List of names and addresses of abutter. SEPARATE SHEET ATTACHED

PETITION IS HEREBY MADE FOR THE ISSUANCE OF A SPECIAL PERMIT BY THE CITY COUNCIL OF THE CITY OF MARLBOROUGH AND IS BASED ON THE WITHIN PETITION OR APPLICATION AS FILED HEREWITH AND MADE PART OF SAID PETITION.

\_\_\_\_\_  
Signature of Petitioner or Applicant

Address:\_\_\_\_\_

\_\_\_\_\_

Telephone No.\_\_\_\_\_

Date:\_\_\_\_\_

LIST OF NAMES AND ADDRESS OF ABUTTERS  
AS REQUESTED ON THE APPLICATION FOR SPECIAL PERMIT OF:

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(Name of Petitioner)

FOR THE ISSUANCE OF SPECIAL PERMIT BY THE CITY COUNCIL OF THE CITY OF MARLBOROUGH UNDER CHAPTER 200, ZONING, OF THE CODE OF THE CITY OF MARLBOROUGH.

(Abutters as defined in Section 3.H of the Rules and Regulations of Application/petition for Special Permit by the City Council under the Marlborough Zoning Ordinance.)

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARLBOROUGH, THAT THE CODE of the City of Marlborough, as amended, Zoning Ordinance Chapter 200, Sec VII-200-59 "C" RULES, be further amended as follows:

RULES AND REGULATIONS OF APPLICATION/PETITION FOR SPECAIL PERMIT BY THE CITY COUNCIL UNDER THE MARLBOROUGH ZONING ORDINANCE.

1. Submission of Application:

- A. Informal Pre-Application Review: The applicant may request the Planning Board to schedule an informal pre-application review, for the purpose of reviewing proposals and alternatives. By this means. The City may have the opportunity to have input into the planning and design process at its earliest level, and submission materials can be established.
- B. The application shall be filed with the City Clerk in accordance with Paragraph C below, on the form provided by the City Clerk. (See Section 4).
- C. Application Materials: The Application or Petition for Special Permit shall be made in writing by the applicant or his duly authorized agent, who shall file the following number of sets of application material to be **hand-delivered** at the Offices set forth below: (amended 10-7-02)

**Please see page 12 for City Clerk's instructions for distribution to Departments.**

- 3 SETS           OFFICE OF THE CITY CLERK \_\_\_\_\_
- 1 SET            POLICE CHIEF \_\_\_\_\_
- 1 SET            FIRE CHIEF \_\_\_\_\_
- 1 SET            CITY ENGINEER \_\_\_\_\_
- 1 SET            CITY PLANNER \_\_\_\_\_
- 1 SET            CONSERVATION OFFICER (IF WETLANDS AFFECTED) \_\_\_\_\_
- 1 SET            BUILDING INSPECTOR \_\_\_\_\_
- 12 SETS         OFFICE OF THE CITY COUNCIL \_\_\_\_\_

2. Fees:

At the time of application the applicant shall pay a filing fee at the Office of the City Clerk in the amount set forth below:

A. Residential Construction and Use Only:

- (1) For plans proposing more than three (3) housing units, \$300.00 (three hundred) dollars;
- (2) For plans proposing more than three (3) housing units, a base fee of \$300.00 (three hundred) dollars plus an additional fee of \$25.00 (twenty-five) dollars for each housing unit in excess of three (3).

B. Non-Residential Construction and Use Only

- (1) For plans proposing construction containing not more than 34,999 square feet of floor area, \$500.00 (five-hundred) dollars;
- (2) For plans proposing construction containing from 35,000 square feet of floor area up to and including 49,000 square feet of floor area, \$1000.00 (one-thousand) dollars.

- (3) For plans proposing construction containing from 50,000 square feet of floor area up to and including 99,000 square feet of floor area, \$1500.00 (one-thousand five-hundred) dollars.
  - (4) For plans proposing construction containing 100,000 square feet of floor area, or any greater amount, \$2,000.00 (two-thousand) dollars.
- C. Residential and Non-Residential Use only **without new construction:**  
Fifty percent (50%) of the fees specified in above paragraphs A and B, as appropriate.
  - D. Mixed or Miscellaneous:  
Filing fee for the above shall be the highest fee that may be charged pursuant to either of the above classifications, with a minimum filing fee \$500.00 (five-hundred) dollars.
  - E. Hotels and Motels (only applicable where Special Permit is required):  
Hotels and ancillary commercial uses shall be treated as a "Non-Residential" use under Paragraph B.
  - F. Fees for amendments to Special Permits and Resubmittal of Application:  
(See Sections 10 & 19)
    - (1) Substantial amendments: 75% of the above fees.
    - (2) Minor amendments: 50% of the above fees.
    - (3) No amendments: 0% of the above fees.

**The determination as to whether an amendment is substantial or minor shall be made at the time of certification of the application by the City Planner as required in Section 6 of these Rules, prior to the submission to the City Clerk, in accordance with the criteria in Section 19 herein.**

- 3. Application Content: Application or Petition must contain the following information on the form provided by the City Clerk:
  - A. The name and address of the Petitioner or Applicant;
  - B. Name and address of owner of land, if other than Petitioner or Applicant;
  - C. The location of the Property for which a Special Permit is sought (street address and **plate and parcel number**);
  - D. The zoning district in which the property lies;
  - E. The legal interest of the applicant or petitioner (owner, prospective owner etc.);
  - F. The specific Article, Section and Paragraph of the Zoning Ordinance under which a Special Permit can be granted;
  - G. The specific reason for seeking the permit;
  - H. List of names of abutters, including:
    - (1) Names and addresses of all abutters within 400 (four hundred) feet of each sideline and rear line of said property in question;
    - (2) Name and address of the owner of the property directly across the street;
    - (3) Names and addresses of the owners of property adjoining the land across the street and lying within 400 (four hundred feet) of the extended sidelines of the land in question;
    - (4) Name of the property owner other than above which abuts in any way upon the land described in the petition or application.

Said list of abutters must be certified by the Office of the Board of Assessor's of Marlborough prior to submission; said certification shall be the evidence of compliance with this paragraph.

4. Preliminary Site Plan: Where the application involves new construction, each application must be accompanied by a preliminary site plan as outlined below. When the application is for new use not involving new construction, the application must be accompanied by the approved existing site plan for the existing building or use.

The preliminary site plan shall contain among other things the following information; (Note; additional information is required for Final Site Plan Review and Approval;-See Chapter 63; Building and Site Development Code).

A. Title Block:

- (1) Proper heading, containing project title (if any).
- (2) Name and address of owner, and engineer, architect or surveyor.
- (3) Street number (as assigned by City Engineer).
- (4) Assessor's Plate and parcel number.
- (5) Scale of drawing.
- (6) Date and revision date.

B. General Information on Lot:

- (1) Locus Map – showing location of lot and names of all surrounding streets within 1,000 (one thousand) feet of boundaries of lot. (See item D (1) below concerning location of buildings on surrounding lots). Identify on Locus Map all other parcels within 1,000 (one thousand) feet in which applicant has any financial interest.
- (2) North arrow.
- (3) Zoning district in which the property lies and any zoning district boundary lines which may cross the locus, including Floodplain and Wetland Protection Districts. Show zoning lines on Locus Map and on other plans if appropriate.
- (4) The lot – completely dimensioned.
- (5) Lot area – in acres and is square feet.

C. Existing Conditions: Buildings and structures, setback dimensions, parking, driveways, landscaped area, boundaries of wooded areas and wetlands, topography and easements. (Show on separate sheet if appropriate so as to distinguish from proposed uses).

D. Proposed Buildings and Structures:

- (1) Location of all proposed structures on the lot, and those to remain. Show all building and yard dimensions.
- (2) For proposed non-residential and multi-family developments, show approximate location of all existing buildings on all abutting lots. (Information may be shown on Locus Map if appropriate).
- (3) Stores and elevations – Number of stories.
- (4) Floor areas – Building floor areas for each floor and in total.

E. Parking,, Driveways and Exterior Features:

- (1) Location of all driveways, walkways, parking spaces, pick-up, delivery, loading storage and rubbish disposal areas, outdoor lighting and similar exterior site features.
- (2) Identification of all proposed uses on site.
- (3) Calculation of parking spaces required according to Zoning requirements.

- F. Lot Coverage and Landscaping:
  - (1) Lot coverage – Identification of all areas included within "lot coverage" and "landscape areas", and calculation of percentage of lot coverage. (See definitions in Zoning Ordinance).
  - (2) Location of Areas to be landscaped (planted).
- G. Topography – Existing and proposed topography at two contour intervals (N.G.V.D. datum preferred).
- H. Easements – Location and type of any easements and any existing and proposed drainage system (natural or otherwise) within the site.
- I. Utilities – Location of all existing utilities within 100 (one hundred) feet in any direction of the proposed work, unless waived by the City Engineer. Also show the location and pertinent data relating to the proposed services.
- J. Wetland – Boundaries of wetland and floodplain areas as defined under GL C. 131 §40, Mass Wetlands protection Act, and GL C. 131 §40A, Mass Inland Wetlands Restriction Act.

**Note:** Applicants proposing new buildings should refer to City Code Ch. 63 Building and Site Development Code, for additional information which will be required later at Final Site Plan Review and Approval.

5. Special Studies:

- A. All Projects: All applications for all projects requiring Special Permits shall include a completed Summary Impact Statement on page 10.
- B. Projects of Large Size or Impact:
  - (1) For projects as specified in Paragraph 2 below, which have not been required to file an Environmental Impact Report in connection with obtaining any State or Federal approvals, the applicant shall submit with the application the following studies which shall include appropriate measures to mitigate any impacts and which shall be prepared by qualified consultants according to a scope as determined by the City Engineer and City Planner.
    - a. A Traffic impact study of the area in which the project is to be located, and
    - b. A study of ability of public utilities and service to accommodate the development.
  - (2) This requirement shall apply to:
    - a. All projects over fifty housing units, or 25,000 (twenty-five thousand) sq. ft. non-residential floor area, or fifty hotel rooms, where a Special Permit is required, except where not appropriate in the opinion of the City Engineer and Planner, and
    - b. Other projects if required by the City Engineer and Planner as being necessary due to existing or projects problems in the vicinity of the project.
  - (3) The applicant may request a waiver from paragraph (2) (a) and (b) by submitting a written request to City Council to waive the above requirements prior to submission.

6. Certification of a Completeness of Application: The applicant shall submit, with the application, the form on page 11 signed by the City Planner certifying that:
  - A. The preliminary site plan being filed with the application meets all prior referenced information requirements.
  - B. The plan(s) conform in all respect to City Code and that any unnecessary zoning variances have been already granted by the Marlborough Zoning Board of Appeals, and any applicable appeal periods concerning said variances have ended.
  - C. The application is complete and conforms to these Rules and Regulations.

**Note: Said certification shall not imply that the application will be approved by the City Council, nor limit the conditions or the changes that may be required by the City Council or subsequently at Site Plan Review and Approval.**

7. Date for Public Hearings: The President of the City Council shall, upon receipt of applications or petitions, set a date for a public hearing and direct the City Clerk to advertise notice of said hearing, at the expense of the Applicant, and give notice to all abutters in conformance with Chapter 40A of the Massachusetts General Laws, as amended.
8. Public Hearing: The City Council shall hold a public hearing on the properly completed application, as provided in Chapter 40A, within sixty-five days after the filing of an application, and, except as hereinafter provided, the City Council shall take final action on an application within ninety days after the hearing. The hearing may be recessed and continued at a specified date as mutually agreed upon by the City Council and applicant.
9. City Department Reports: The City Planner, City Engineer, Conservation Officer, Police Chief and Fire Chief, Board of Health and any other Board, Department or Commission if appropriate, shall review and make written recommendations on the proposal, either at the Public Hearing held before the City Council, or at any subsequent City Council Committee meetings, as appropriate. The City Council shall not make a final decision on an application for a Special Permit until the appropriate departments have submitted reports or recommendations thereon or, if no such reports have been received within sixty days since the filing of an application which has been certified to be complete in accordance with these regulations.

The reports shall be pertinent to each department and may include, if appropriate, a review of (1) the adequacy of on-site facilities and design, (2) the adequacy of the data and the methodology used by the applicant to determine off-site impacts of the proposed development, (3) the effects of the projected impacts of the proposed development, and (4) the adequacy of the off-site mitigation proposed, if any is needed. Said departments may recommend conditions or remedial measures to accommodate or mitigate the expected impacts of the proposed development.

10. Extension of Time for Action, Leave to Withdraw:
  - A. The period within which final action shall be taken may be extended for a definite period by mutual written agreement of the City Council and the applicant, pursuant to M.G.L. C. 40A §9, as amended.
  - B. The City Council may, in its sole discretion, grant leave to withdraw without prejudice so that the applicant may submit a revised application which shall not be considered as a repetitive petition. Such revised application shall be treated as a new application but shall be subject to the fee schedule under Section 2F.

11. Findings and Conditions by City Council:

A. In acting on applications for Special Permits, the City Council may make such findings as provided herein or called for by the subject matter and may impose such conditions, safeguards, or limitations on matters relating to the proposal as may affect the public health, safety, welfare and convenience, including conditions on time and use. No Special Permit shall issue, except upon a general finding that the use sought and its impact and characteristics shall not be in conflict with public health, safety, convenience and welfare and shall nor be detrimental or offensive, provided the conditions, safeguards or limitations, if any, are met.

B. No Right to Special Permit: An applicant is not entitled by right to a Special Permit and the City Council, in its discretion, may decline to grant Special Permit.

12. Draft Finding Required by Applicant: Within twenty-one days following the Public Hearing the Applicant or Petitioner shall submit a draft of the proposed findings and reasons for the approval of the Special Permit to the applicable City Council committee and to all City Departments listed under Item 9 for their review and comment as appropriate. Said findings shall have been certified by the City Solicitor as being in proper legal form prior to vote by the City Council.

13. Vote: In conformance with the General Laws of the Commonwealth of Massachusetts, a two thirds vote of the entire City Council shall be required to grant a Special permit.

14. Notice of Decision: Notice of decision shall be rendered pursuant to the provisions of Chapter 40A of the Massachusetts General Laws, as amended.

15. Recoding of Decision Granting Permit: The applicant shall be responsible for filing in the Registry of Deed or, where applicable, in the Land Court of the Commonwealth, a copy of the decision granting a Special Permit. Prior to the issuance of a building permit, the applicant shall present to the Building Inspector evidence of such recording.

16. Lapse and Abandonment: A Special Permit shall lapse in accordance with the provisions of Massachusetts General Laws Chapter 40A.

17. Permits for Use and Construction: No permit for the construction or alteration of any structure or for any use of the site of a structure on the site shall be granted by the Inspector of the Buildings if the Special Permit has lapsed or the project has been abandoned in accordance with the previous paragraph and Chapter 200 Zoning Ordinance, or if evidence of recording of a copy of the decision of the City Council granting the Special Permit has not been given to the Building Inspector.

18. Construction in Conformity with Application: In the event that the City Council approves a Special Permit, any use, construction, subsequent reconstruction, or substantial exterior alterations shall be carried out only in conformity with all conditions and limitations included in the decision of the City Council and only in essential conformity with the application on the basis of which the finding and determination was made.

19. Revision of Special Permit: After the grant of a Special Permit by the City Council, minor revisions in the approved preliminary site plan may be made from time to time in accordance with applicable law, ordinances and regulations, but the use or development approved under such Special Permit shall otherwise be in accordance with the plans referred to, and such conditions as may be included in the decision of the City Council.

The determination as to whether a change is a "minor" modification shall be made by the City Planner at Final Site Plan Review and Approval, and by the City Building Commissioner at issuance of building permit. In general a minor modification shall not produce more than a material increase in the scale of a project nor produce more than a material increase in impact on City services, the environment or the neighborhood. If it is determined that such revisions are not minor, an application for a revised Special Permit shall be filed, and a Public Hearing shall be held in the same manner as required for a new application, subject to the fee schedule under Section 2-F.

20. Subsequent Site Plan Review:

- A. Where applicable, Special Permits for use or construction shall also be subject to later approval by applicable City Departments, as provided under Ch. 200 Zoning or Ch. 63 Building and Site Development Code. However, nothing herein shall preclude an applicant from applying for Site Plan Review and approval prior to approval of a Special Permit. The preliminary site plan submitted with the Special Permit application may be subject to modification by said City Departments through subsequent Site Plan Review and Approval to the extent allowed under Section 19 above. In addition, other conditions and limitations may be imposed at the time of the Final Site Plan Approval by said City Departments, which are not inconsistent with any term or condition attached to said Special Permit by the City Council.
- B. Should the City Council impose conditions in the Special Permit requiring a modification to the preliminary site plan submitted with the application, the plan shall be revised to comply with the conditions prior to receiving Final Site Plan Approval.

21. Holder of Special Permit: Applicant or Petitioner shall provide status reports to the Office of the Building Commissioner during construction of a project and after completion of a project. The status reports shall identify the level of compliance achieved for each Special Permit condition and must be submitted at intervals determined by the City Council. On completion of the project, reports shall be submitted six (6) months after completion and then annually, due on January first of each year, unless waived by the City Council.

The Building Commissioner shall report annually to the City Council, due on March 1 of each year, the status of Special Permits granted by the City Council.

ADOPTED

In City Council

Order No. 89-90/3111

Adopted April 30, 1990

Amended: October 7, 2002

Order No. 02-9687B

Approved by Mayor

Michael P. Hogan

Date: May 3, 1990

A TRUE COPY

ATTEST:

City Clerk

## SPECIAL PERMIT-SUMMARY IMPACT STATEMENT

Applicant's Name: \_\_\_\_\_ Address: \_\_\_\_\_

Project Name: \_\_\_\_\_ Address: \_\_\_\_\_

1. PROPOSED USE: (describe) \_\_\_\_\_  
\_\_\_\_\_

2. EXPANSION OR NEW: \_\_\_\_\_

3. SIZE: floor area sq. ft. \_\_\_\_\_ 1<sup>st</sup> floor \_\_\_\_\_ all floors \_\_\_\_\_

# buildings \_\_\_\_\_ # stories \_\_\_\_\_ lot area (s.f.) \_\_\_\_\_

4. LOT COVERAGE: \_\_\_\_\_ % Landscaped area: \_\_\_\_\_ %

5. POPULATION ON SITE: Number of people expected on site at anytime:

Normal: \_\_\_\_\_ Peak period: \_\_\_\_\_

6. TRAFFIC:

(A) Number of vehicles parked on site:

During regular hours: \_\_\_\_\_ Peak period: \_\_\_\_\_

(B) How many service vehicles will service the development and on what schedule?  
\_\_\_\_\_

7. LIGHT: How will the development be lit at the exterior? How much light will leave the property and enter the abutting property? \_\_\_\_\_  
\_\_\_\_\_

8. NOISE:

(A) Compare the noise levels of the proposed development to those that exist in the area now.  
\_\_\_\_\_

(B) Described any major sources of noise generation in the proposed development and include their usual times of operation. \_\_\_\_\_  
\_\_\_\_\_

9. AIR: What sources of potential air pollution will exist at the development? \_\_\_\_\_  
\_\_\_\_\_

10. WATER AND SEWER: Describe any unusual generation of waste. \_\_\_\_\_  
\_\_\_\_\_

11. HAZARDOUS MATERIAL: List any types of Hazardous Waste that will be on-site. How will this waste be stored? Where? How much will be in storage on a daily basis? How will it be disposed? \_\_\_\_\_  
\_\_\_\_\_

**\*Attach additional sheets if necessary**



**CITY OF MARLBOROUGH  
MARLBOROUGH, MASSACHUSETTS 01752**

City Hall  
140 Main St.

Marlborough, Massachusetts 01752

Voice (508) 460-3775 Facsimile (508) 624-7504 TTD (508) 460-3610

President and Members City Council

Date: \_\_\_\_\_

**SPECIAL PERMIT APPLICATION  
CERTIFICATION BY PLANNING DEPARTMENT**

Project Name: \_\_\_\_\_

Project Use Summary: \_\_\_\_\_

Project Street Address: \_\_\_\_\_

Plate: \_\_\_\_\_ Parcel: \_\_\_\_\_

Applicant/Developer Name: \_\_\_\_\_

Plan Date: \_\_\_\_\_ Revision Date: \_\_\_\_\_

Dear President and Members:

In accordance with the City Council's Rules for Special Permit Applications, I hereby certify that the Site Plan filed with the City Clerk has been reviewed by the Building Department within the limits of work shown on the plan, and that said plan meets all prior referenced informational requirements of Rule 6; that the plan conforms in all aspects to City Code and to these Rules and Regulations, and that any necessary zoning variances have been already granted by the Marlborough Zoning Board of Appeals, and any applicable appeal period concerning said variances have run.

Very truly yours,

**Application Fee to submit to  
City Clerk's office**

Steve Reid  
Building Commissioner

\_\_\_\_\_

**City of Marlborough, Massachusetts  
CITY CLERK DEPARTMENT**



**Lisa M. Thomas  
City Clerk**

Dear Applicant,

To ensure that each department listed below receives a copy of your completed Special Permit application, please hand-deliver to each department as instructions indicate below.

**PLACE A CHECK-MARK AFTER HAND-DELIVERING THE APPLICATION TO THE FOLLOWING DEPARTMENTS AND SIGN YOUR NAME & DATE IT ACCORDINGLY. MAKE SURE THIS PAGE IS SIGNED AND RETURNED TO THE CITY CLERK'S OFFICE WITH THE COMPLETED APPLICATION. THE CITY CLERK'S OFFICE WILL NOT ACCEPT THE APPLICATION WITHOUT THE SIGNATURE OF THE APPLICANT OR PETITIONER AS INDICATED BELOW.**

- 3 SETS      OFFICE OF THE CITY CLERK \_\_\_\_\_
- 1 SET      POLICE CHIEF \_\_\_\_\_
- 1 SET      FIRE CHIEF \_\_\_\_\_
- 1 SET      CITY ENGINEER \_\_\_\_\_
- 1 SET      CITY PLANNER \_\_\_\_\_
- 1 SET      CONSERVATION OFFICER (IF WETLANDS AFFECTED) \_\_\_\_\_
- 1 SET      BUILDING INSPECTOR \_\_\_\_\_
- 12 SETS    OFFICE OF THE CITY COUNCIL \_\_\_\_\_

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**Date**

Thank you for your cooperation in this matter.

Sincerely,

*Lisa M. Thomas*

*City Clerk*



**City of Marlborough, Massachusetts  
CITY CLERK DEPARTMENT**

**Lisa M. Thomas  
City Clerk**

I certify under the penalties of perjury that I, to my best knowledge and belief, have filed all Municipal tax returns and paid all Municipal taxes required under law.

---

**Signature of Applicant**

---

**Attorney on behalf of Applicant, if applicable**

The Special Permit Package will not be accepted unless this certification clause is signed by the applicant and the Tax Collector.

---

**Tax Collector**