

ARTICLE I. AUTHORITY

The Hanover Planning Board hereby adopts Site Plan Review Regulations as authorized and required by New Hampshire Revised Statutes Annotated, Chapter 674:43 & 674:44 and pursuant to authorization from the Town of Hanover by Town Meeting action on March 4, 1975, (Article XII, Non-Residential Use) and March 10, 1981, (Article XIX, Multi-Family Use). One-family and two-family dwellings are specifically excluded from these Regulations.

ARTICLE II. PURPOSE

The purpose of Site Plan Review is to protect the safety and welfare of the community through a review and analysis of the location on the site of buildings, roads, and sidewalks and of the interaction of the site with neighboring lots, town highways, and sidewalks.

ARTICLE III. COMPLIANCE

The Site Plan Review procedure shall in no way relieve an applicant from compliance with the Hanover Zoning Ordinance, the Hanover Subdivision Regulations, or any other regulation or by-law which pertains to the proposed development. No site plan shall be approved unless such plan complies with all applicable local ordinances and regulations.

A Certificate of Compliance shall be issued by the Town Manager or the Town Manager's designated agent to the Code Office under the Site Plan Review Regulations when the applicant has complied with all requirements of the Notice of Action. The applicant shall not use or occupy the site until the Certificate of Compliance has been issued. The Code Office shall not issue a Certificate of Occupancy under the Town Building Code, as provided in RSA 676:13, for any building, on a site plan which does not comply with the Notice of Action on the approved site plan. Any requirement of the Notice of Action to be performed in the future which has been bonded under Article XI will satisfy the condition for the issuance of the Certificate of Compliance.

In a multi-building development, no individual building or unit therein may be occupied unless the Certificate of Compliance has been issued to the Code Office and a Certificate of Occupancy has been issued. The Code Office shall seek injunctive relief under RSA Chapter 76 to enjoin any illegal occupancy.

No site plan shall be approved unless such plan complies with all applicable local ordinance and regulations.

ARTICLE IV. DEFINITIONS

For the purpose of these Site Plan Regulations, the meaning of terms used herein shall conform to the definitions found in Section 902 of the Hanover Zoning Ordinance and in Article 17 of the Hanover Subdivision Regulations. The word Board shall mean the Hanover Planning Board.

ARTICLE V. TYPES OF DEVELOPMENT REQUIRING SITE PLAN REVIEW

An applicant shall obtain Site Plan approval from the Board for the following types of building development:

- A. All new principal buildings and accessory buildings for multi-family and non-residential use.
- B. Additions of floor area to existing principal or accessory buildings, except that the Planning Board may waive the requirement of site plan review if the addition is less than 1,000 square feet and is determined by the Planning Board to have minimal impact.
- C. Expansions or changes of use of a site or an existing building, except that the Planning Board may waive the requirement of site plan review if the expansion or change involves less than 1,000 square feet and is determined by the Planning Board to have minimal impact.
- D. The construction of a parking facility which is a principal use of a lot under the Hanover Zoning Ordinance.
- E. Outdoor seating at eating and drinking establishments.

No Site Plan Approval shall be required for one-family and two-family dwelling units or associated accessory uses.

A concurrent hearing may be required when, in the opinion of the Board, two or more site plan proposals are interrelated.

ARTICLE VI. PROCEDURE FOR SITE PLAN REVIEW

- A. Application:
The following information is required to submit an application to the Planning Office:
 - 1. Applications for Site Plan Review shall be filed with the Town planning staff on a form to be prescribed by the Town.
 - 2. A signed application with submission requirements checklist.
 - 3. Three sets of plans, 24"x 36", and seven sets of plans, 11"x 17", and any supporting letters or materials.
 - 4. A list of abutting property owners taken from the Town tax maps and verified in the Assessing Office.
 - 5. Filing fee:
In addition to the normal filing fees set by the Selectmen, there may be additional fees imposed by the Planning Board to cover its administrative expenses and costs of special investigative studies, legal review, review of documents, and other matters which may be required by particular applications.
- B. Public Hearing and Notice:
Within 30 days following the determination that the application meets the submission requirements contained herein, the Planning Board shall hold a public hearing on the proposed site plan before taking any action thereon. Notice of the hearing containing information as to time

and place, together with a brief description of the proposed development, shall be given to the applicant and the abutters not less than 10 days before the date fixed for the hearing. In addition, notice of the public hearing containing the same information shall be advertised in a newspaper of general circulation in the Town of Hanover, with publication not less than 10 days before the date fixed for the hearing. The cost of these notices, including postage and publication expense, shall be paid by the applicant at the time of application.

C. Additional Notice Requirements for Developments of Regional Impact:

Upon receipt of an application for site plan review, the Planning Board shall review it promptly and determine whether or not the development, if approved, reasonably could be construed as having the potential to impact on a neighboring municipality. Regional impact could result from a number of factors, such as, but not limited to, the following:

1. Relative size or number of units as compared with existing stock.
2. Proximity to the borders of a neighboring community.
3. Transportation networks.
4. Anticipated emissions such as light, noise, smoke, odors, or particles.
5. Proximity to aquifers or surface waters which transcend municipal boundaries.
6. Shared facilities such as schools and solid waste disposal facilities.

Doubt concerning regional impact shall be resolved in a determination that the development has a potential regional impact.

Upon determination that a proposed development has a potential regional impact, the Planning Board shall afford the state regional planning commission and the affected municipalities the status of abutters for the limited purpose of providing notice and giving testimony.

Within 72 hours of reaching a decision regarding a development of regional impact, the Planning Board shall by certified mail, furnish the state Regional Planning Commission and the affected municipalities with copies of the minutes of the meeting at which the decision was made. At least 14 days prior to public hearing, the Planning Board shall notify, by certified mail, all affected municipalities and the Regional Planning Commission of the date, time, and place of the hearing and their right to testify concerning the development.

D. Action of the Board:

The Board shall act to approve, approve with modifications, or disapprove the proposed site plan within 60 days following the public hearing, except that the Board may apply to the Selectmen for an additional 60 days within which to act upon the application. The Board shall notify the applicant, in writing, by means of an official Notice of Action, signed by the Chairman, of its action on the final site plan.

In case of disapproval, the Board shall clearly set forth in the Notice to the applicant the reasons for its action, with specific reference to standards contained in these Regulations.

- E. Acknowledgment of Receipt of Notice of Action:
The applicant shall acknowledge receipt of the Notice and acceptance of all provisions set forth therein and shall return a signed copy of the same to the Board for its records. Until such acknowledgment and acceptance has been filed with the Board, no further action shall be taken with regard to final site plan. Within 60 days following the date of notice, the applicant shall deliver 5 paper copies of the site plan as approved for signature by the Chairman or such person as may be designated by the Board. Failure to acknowledge receipt of Notice of Action and acceptance within 60 days of the date of the Notice of Action will cause approval to lapse.
- F. Failure to Act:
If the Board fails to act within the time limits set forth above, the proposed site plan shall be deemed to have been approved. A certificate of the Town stating the date of submission of the site plan and the failure to take action thereon within such time shall be issued by the Town Manager on demand, which shall be sufficient in lieu of written endorsement or other evidence of approval required herein. The applicant may waive these time requirements.

ARTICLE VII. PROCEDURE WHEN SPECIAL EXCEPTION OR VARIANCE APPROVAL BY THE ZONING BOARD OF ADJUSTMENT IS REQUIRED

When a Special Exception or Variance is required, the required separate applications for the Zoning Board of Adjustment and the Planning Board may be filed concurrently. Planning Board approval will not be granted prior to receiving a Special Exception or Variance. Any conditions imposed by the Zoning Board of Adjustment shall not be diminished by the requirements contained in these Regulations. The condition which imposes the greater restriction or higher standard shall be controlling.

ARTICLE VIII. PROCEDURE WHEN SUBDIVISION APPROVAL IS REQUIRED

When both Subdivision and Site Plan approval are required on a proposed development, the Board may hold the Site Plan Review hearing at the same time as the hearing required by the Subdivision Regulations.

ARTICLE IX. SUBMISSION REQUIREMENTS

Application for Site Plan approval shall be accompanied by three 24" x 36", and seven 11" x 17" paper copies of the proposed Site Plan, including the following information:

- A. A vicinity sketch showing the location of the site in relation to the surrounding public street system.
- B. The names and addresses of owners of record of the site and of the abutting properties.
- C. The name and address of the preparer of the plan.
- D. Certification, dated within 6 months, of a currently valid boundary survey by a land surveyor licensed to practice in New Hampshire.
- E. The scale of one (1) inch equals 40 feet is required for projects of larger land area and a scale of one (1) inch equals 20 feet is suggested for projects of smaller (urban) area. Plans shall be

submitted on sheets no larger than 24" x 36". Plan sets with multiple sheets shall include sheets of uniform size, a cover sheet with a table of contents, and be bound on the left edge.

- F. The perimeter boundaries of the lot or lots of the proposed site, including compass bearings, distances, and lot areas.
- G. Existing and proposed grades, including topographic contours at intervals not exceeding 5 feet.
- H. The shape, size, height, and location of all existing and proposed structures, including typical elevations.
- I. The location of wetlands and water bodies. Also, the location of man-made features such as existing roads and structures. The plan shall indicate those natural and manmade features which are to be removed, retained or altered.
- J. The use of abutting properties within 100 feet of the site boundary; roads, streets, and driveways within 200 feet of the site boundary, and trail easements of abutting properties within 500 feet of the site boundary.
- K. Proposed streets, driveways, parking spaces, and sidewalks, with indication of direction of travel and the inside radii of all curves. The width of the traveled way of all streets, driveways and sidewalks, and the total number of parking spaces shall be shown. A circulation plan of the interior of the lot showing provisions for both auto and pedestrian circulation. Loading spaces and facilities used in connection with any structures on the site shall be shown.
- L. The size and location of all existing and proposed public and private utilities.
- M. A plan for exterior lighting and signs.
- N. The 100-year flood elevation, floodway and floodplain limit shall be included where applicable.
- O. A proposed landscaping plan indicating plantings to be installed and natural cover to be retained. The plan shall specify in detail the size and types of shrubs, plants, caliber of trees, etc. Such plan shall also show the proposed landscaping and natural cover of the perimeter of the site including all sizes and types of trees, screens, fences, and walls and natural cover to be retained. (See Article X-D).
- P. The zoning designation and dimensional requirements applicable to the site under the Hanover Zoning Ordinance.
- Q. The following zoning information indicating the zone designation, tax map and lot number and the following:
 - 1. Area of lot;
 - 2. Location and gross area of existing and proposed buildings;
 - 3. Off-street parking spaces;
 - 4. Handicap/Accessible spaces;

5. Loading spaces;
 6. Height and number of stories of existing and proposed buildings;
 7. Proposed use;
 8. Front, side and rear setbacks.
- R. Plans for snow removal and storage.
- S. Paving, grading and drainage plans including but not limited to walks, steps, curbing and drainage structures.
- T. All surface and subsurface storm drainage facilities, including Town storm drainage facilities located immediately adjacent to the site.
- U. An estimated timetable for construction and completion of buildings, parking facilities, and landscaping.

The Board may require such additional information as may be reasonably necessary for the purposes of these Regulations. In the event additional information is so required, and if the Board's request is not made to the applicant prior to the public hearing, the Board shall adjourn the public hearing to a specified date.

ARTICLE X. STANDARDS AND REQUIREMENTS FOR PROPOSED DEVELOPMENTS

The Planning Board shall approve the proposed Site Plan only upon determination that the following requirements have been met:

- A. Site Characteristics and General Requirements:
1. Site Characteristics:
The development shall conform to the extent appropriate to the natural topography of the site. Site clearing shall be kept to the minimum required for the construction of buildings and improvements, taking into consideration the need for pedestrian and vehicular safety and the need for light and air. Natural cover shall be retained to supplement required landscaping to the extent possible and reasonable. Landscaping shall be provided in all projects and should be in keeping with the character of the area where the site is located, the purpose of the development, and the location of buildings and improvements.
 2. General Requirements:
 - a. The site shall be of such a character that it can be used safely for the construction and installation of the improvements proposed by the applicant without excessive grades, inadequate drainage, and other hazardous conditions. If the applicant has obtained a Special Exception from the Zoning Board of Adjustment, and that Board has specifically considered, made findings and included in its decision the character of the site and a review of excessive grades, inadequate drainage and/or hazardous conditions, the Planning Board shall take such decision into consideration in applying the within standard.
 - b. The plan shall provide for the safe and attractive development of the site and guard against such conditions as would involve danger or injury to health, safety, and welfare.

- i. Smoke, soot, particulates or other discharge into the air shall not exceed the levels established under the State Ambient Air Quality Standards.
- ii. Noise at property boundaries shall not exceed ambient levels except for short periods of time.

B. Requirements for Trash Container Rooms or Enclosures:

All new buildings and expansions or changes of use of existing buildings that require Site Plan Review, shall provide for a trash container room within the building or a trash container enclosure outside the building. The trash container room or enclosure shall be constructed according to the following provisions:

1. Buildings located less than ten feet from the side lot line shall include a trash container room for the purpose of housing trash containers.
 - a. The trash container room shall be located only in the rear or side of the building and shall be easily accessible for servicing.
 - b. The trash container room shall be fully enclosed and include lockable doors.
2. Buildings located ten feet or more from the side lot line shall include a trash container room as required above, or a trash container enclosure according to the following:
 - a. The trash container enclosure may not be located in the front yard.
 - b. The trash container enclosure shall be placed at least five feet from any property line.
 - c. The trash container enclosure shall contain:
 - i. A prepared surface such as hardpack, concrete, asphalt or pavers.
 - ii. Enclosure walls as appropriate.
 - d. A paved surface shall be provided between the trash container enclosure and the street from which the container will be serviced.
 - e. Containers and enclosures shall be located so as to allow ease of access for collection trucks. No parking or other obstruction shall be permitted in the access area for enclosures. Trash collection trucks shall not block streets while servicing containers.
 - e. Containers and enclosures shall be situated so that they do not cause nuisance or offense to abutters.
3. Businesses producing special waste, such as organic matter, shall provide:
 - a. sealed containers within the enclosures, or
 - b. containers as required by applicable regulations.
4. Hazardous or noxious wastes must be contained and disposed in a safe and sanitary manner, in accordance with applicable regulations.
5. For storage of recyclable materials, the enclosure area shall be large enough to accommodate the materials and their containers. Plans for disposing of recyclable materials shall be reviewed by the Town Offices.
6. Trash container enclosures may be shared upon evidence of the abutters agreement to do so. The enclosures shall comply with the requirements above.

7. The Planning Board may, at its discretion, approve an alternative design that accomplishes the objectives set forth in this section.

C. Requirements for Exterior Lighting and Signs:

1. Lighting under this section includes street and driveway lighting, sidewalk and walkway lighting, parking area lighting, floodlighting, sports lighting, and all lighting in which the light source is located either externally to a structure or a building, or which lights an area or object that is not within the same structure or building as the light source. All light sources including poles, standards, hangers, light fixtures, reflectors, shields and lamps (including their wattage, color, and initial lumen output), shall be listed and located on a plan which shall be submitted to the Board for approval. The Board will require additions, deletions or changes to the submitted plans if appropriate for safety or aesthetic reasons.
 - a. Lighting will be provided as appropriate at street intersections, along walkways, at entrances, between buildings, and in parking areas.
 - b. The maximum height of standards, poles, or fixtures shall not exceed 15 ft. unless expressly approved by the Board.
 - c. To the extent possible, the design of standards, poles, hangers, fixtures, and lamps (including their wattage, color and initial lumen output) shall be compatible with similar units in the vicinity of a new installation, unless expressly approved by the Board.
 - d. All street light fixtures and parking light fixtures shall be of the sharp cut-off type so as to direct downward all of the light from the fixture.
 - e. All lighting, including sign lighting shall be designed, placed, shielded or arranged so as to direct light only at the building or ground of the property and shall minimize glare, light, or reflection of light upon adjacent areas, sky, buildings or streets. Light spill on adjacent areas is not permitted. Special attention shall be paid to assure that glare does not interfere with the vision of motorists.
 - f. Floodlighting equipment should be shielded from view by trees, rocks, buildings, structures, shrubbery, etc.
 - f. Except for holiday lighting, the use of “flashing” lights is not allowed. “Flashing” lighting is any lighting in which the artificial light is not maintained stationary or constant in position, intensity, and/or color at all times. Any moving and/or turning illuminated sign shall be considered a “flashing” light.
 - g. All permanent outdoor sports lighting, including scoreboards, must be approved by the Board.
 - h. Exterior lighting shall be installed and operated in such a way that adjacent residential uses are suitably protected and shall conform to Section 320 of the Hanover Zoning Ordinance.
 - j. Signs shall be illuminated only by continuous indirect white light, with light sources so placed that they will not constitute a hazard to street or highway driving from the glare. (See also Sections 317.1-D and E of the Zoning Ordinance)

D. Landscaping and Screening Requirements:**1. Objectives:**

The goals of these landscaping and screening requirements are: To enhance the visual appearance of the Town; to maintain and protect property values; to provide a better transition between and improve the compatibility of abutting and nearby land uses, particularly as concerns residential neighborhoods and adjacent to or in the vicinity of commercial or business districts; to provide, within and on the perimeter of parking areas, landscaping that facilitates safe movement of pedestrians and vehicles, breaks up large areas of impervious surfaces, and provides shade; to assure throughout the town, appropriate barriers to and relief from traffic, noise, heat, glare, and odor; to improve air quality; and to promote energy efficiency and conservation in site design, building construction, and landscaping.

2. General Requirements for Landscaping:**a. Energy Conservation and Efficiency:**

Earth berms and plant materials should be used where practical to assist in energy conservation and efficiency. Suggested alternatives are as follows: Use earth berms and dense evergreens to protect buildings and exterior use spaces against winter winds; use deciduous trees to provide summer shade and allow winter sun; and use deciduous vines on fences, trellises and arbors to provide summer shade. All plant material shall be hardy for Zone 4 or less.

b. Maintenance:

The property owner shall be responsible for maintaining all landscaping within the boundaries of the property in good condition so as to present a healthy, neat, and orderly appearance. The property owner shall replace any unhealthy or dead plant materials required by the approved landscaping and screening plan. Such plant materials shall be replaced within the ensuing year by the property owner. Non-living durable material shall likewise be maintained in attractive condition.

c. Erosion Control:

i. Graded areas shall be re-vegetated to ensure erosion control by seeding, mulching and fertilizing. Disturbed areas shall be planted with suitable plant materials.

ii. Netting shall be provided on slopes exceeding 2 :1 while ground cover is being established.

d. Existing Plant Material Credit:

Where healthy plant material exists on the site prior to development and provision is made to preserve that plant material on a permanent basis, credit may be given for such preserved natural plant materials against these landscaping requirements when such planting meet the intent and purpose of said requirements.

e. Sight Obscuring Plantings Prohibited:

All planting, fences, and/or walks necessitated by these landscaping and screening requirements must conform with the street intersection sight obstruction requirements provided in Section 313 of the Hanover Zoning Ordinance. All plant materials must be pruned as necessary to comply with Section 313 of the Hanover Zoning Ordinance.

- f. Encroachment on Landscaped Areas:
The storage, display or parking of vehicles, boats, manufactured housing, travel trailers, or construction equipment within landscaped areas shown as such on the approved landscape or site plan is expressly prohibited, except during construction.
 - g. Protection of Landscaping:
Landscaped areas provided within and adjacent to all parking and maneuvering areas shall be protected through the installation of either curbing or wheel stops. In the Business Zoning District (B), Service Business and Limited Manufacturing (BM), Institutional (I), and the Office and Laboratory (OL), granite curbing shall be required in all landscaping projects.
 - h. Adjustments to Landscaping and Screening Requirements:
Minor revisions to planting plans shall be approved by the appropriate town staff if there is no reduction in the quality of plant material or no significant change in size or location of plant materials, and if the new plants are of the same general category (i.e., shade, ornamental, or evergreen trees) and have the same general design characteristics (mature height, crown spread) as the materials being replaced. Proposed materials must also be compatible with the area to ensure healthy tree growth. If these criteria are not fulfilled, changes to approved plans must be resubmitted to the Planning Board for review.
3. Landscaping of Parking Areas:
Minimum size: The minimum size of a parking area that requires landscaping is six spaces.
- a. Landscaping Requirements for the Perimeter of Parking Areas Containing Six or More Spaces:
 - i. A landscaped strip at least five feet wide shall be provided on the perimeter adjacent to abutting properties. In the B, BM, I and OL Zoning Districts where curbing is indicated on the interior boundary of the landscaped strip, curbs shall be granite.
 - ii. A landscaped strip at least ten feet wide shall be provided on the perimeter of the parking area adjacent to abutting streets. In the B, BM, I, and OL Zoning Districts where curbing is indicated on the interior boundary of the landscaped strip, curbs shall be granite.
 - iii. Where the perimeter of a parking area containing six or more parking spaces adjoins or is within a residential zoning district such perimeter shall have a minimum landscaped width of fifteen feet.
 - iv. One tree of at least 2-½ inch caliper at six inches above ground shall be provided for at most every thirty-five feet of perimeter.
 - v. One or more shrubs at least three feet high at maturity shall be planted singly or in groups, at regular or irregular intervals, so that the average distance between plants is at most fifteen feet. On public rights-of-way or driveway boundaries, the planting shall not exceed forty-two inches in height. When earth berms are used their total height, including plantings, shall be in accordance with these two limits.
 - vi. In addition to landscaping, the Planning Board may require screening

(see H. 4, below) for parking areas containing six or more parking spaces.

- vii. The Planning Board may at its discretion approve an alternative landscaping design that accomplishes the objectives set forth in this Section.

b. Landscaping Requirements for the Interior of Parking Areas:

- i. A minimum of five percent (5%) of the interior parking and maneuvering area, that area bounded by all perimeter curbing, shall be landscaped for all parking areas containing six or more spaces.
- ii. One tree of a least 2 1/2 inch caliper at six inches above ground shall be provided for each three hundred square feet of landscaped area required in i. above, or one per each landscaped area that is less than three hundred square feet in size. Additional shrubbery within landscaped areas is recommended.
- iii. Each landscaped area or island required above shall be a minimum of twenty five square feet in size with no linear dimension less than five feet including curbs.
- iv. The landscaped areas or islands required above shall be dispersed within the parking lot to provide maximum shading, shall divide parking areas and shall be located so as to guide traffic flow and direction.
- v. Graduated requirements for interior landscaping as a percentage of total size of the parking and maneuvering area measured in square feet:

Column I: Size of area available for <u>Parking and landscaping:</u>	Column II: Percent of area in Column I that must be designated <u>in the plan as landscaped:</u>
Up to 35,000 square feet	5%
35,000 - 135~000 square feet	8%
Over 135,000 square feet	10%

4. Screening and Buffering Requirements and Methods.

- a. Screening Requirements. In all districts, in addition to landscaping, (see Section H.3 above) screening may be required to eliminate or reduce visual impacts, noise, odor, dust, and air pollution. Special consideration will be given to the buffering and screening between residential uses and commercial or industrial uses, and in visually sensitive areas. Among the areas and uses that will require screening are the following:
 - i. Service areas and facilities, including garbage and waste disposal containers, recycling bins, and loading areas (see Section X.B.).
 - ii. Outside storage areas.
 - iii. On-grade and above-grade electrical and mechanical equipment such as transformers, heat pumps, air conditioners, and fuel tanks.
 - iv. Commercial or industrial uses abutting other land uses in a residential district.
 - v. The Planning Board may at its discretion require screening for parking

lots containing six (6) or more contiguous parking spaces.

- b. Screening Methods and Materials:
Screening may be accomplished by the use of suitable sight-obscuring plant materials, earth berms, walls, fences, building parapets, proper siting of disruptive elements, building placement or other design techniques. The decision by the Planning Board on which screening technique is appropriate shall be governed by the screening height and density required in each situation. Example of alternatives for adequate screening include:
 - i. Berms:
Lawn and low-growing evergreen and/or deciduous shrubs covering the top and sides of the berm may be provided.
 - ii. Walls and Fences:
 - (a) Walls and fences shall be erected where required for privacy, screening, separation, security, erosion control, or to serve other necessary and reasonable functions.
 - (b) The design and materials used shall be functional and compatible with existing and proposed site architecture.
 - (c) No fence or wall shall be so constructed or installed as to constitute a hazard to traffic or safety.
 - iii. The Planning Board may at its discretion approve an alternative screening design that accomplishes the screening and landscape objectives set forth in this section.
5. Submittal Requirements: A separate landscaping and screening plan shall be submitted including but not limited to the following:
 - a. Location, general type, size, and quality of existing vegetation;
 - b. Existing vegetation to be saved;
 - c. Methods and details for protecting existing vegetation during construction and an erosion control plan;
 - d. Locations and labels for all proposed plants;
 - e. Plant lists or schedules with the botanical and common name showing the required and proposed quantities, spacing, and size of all proposed landscape material at the time of planting;
 - f. Location and description of other landscape improvements, such as earth berms, walls, fences, screens, sculptures, fountains, street furniture, lights, and courtyards, or paved areas, and;
 - g. Planting and installation details as necessary to ensure conformance with all required standards.
 6. Screening and Landscaping Definitions:
 - a. Berm:
An earthen mound designed to provide visual interest, screen undesirable views, and/or decrease noise.
 - b. Buffer:
A combination of physical space and vertical elements, such as plants, berms,

fences, or walls, the purpose of which is to separate and screen incompatible land uses from each other.

c. Landscaping:

Landscaping shall consist of any of the following or combination thereof: Living material such as, but not limited to, grass, ground covers, shrubs, vines, hedges, trees; and non-living durable material commonly used in landscaping, such as but not limited to rocks, pebbles, sand, walls or fences but excluding paving.

d. Screen:

A method of reducing the impact of noise, air pollution and unsightly visual intrusions, using less offensive or more harmonious elements, such as plants, berms, fences, walls, or any appropriate combination thereof.

E. Coordination of Streets, Parking, Loading, and Safety:

1. The public highways providing access to the site shall be sufficient and adequate for the safety of vehicles, pedestrians and bicycles. This will include not only the public highways on which the site fronts, but also public highways which constitute the main traffic arteries which must be used by traffic to and from the site.
2. The traffic patterns on and at the site shall be coordinated so as to compose a convenient system.
3. There shall be proper arrangement of streets within the site and in relation to other existing and planned streets (or with the features of the official map of Town) such that the proposed development of the site shall not endanger public safety or welfare and shall promote public convenience and prosperity.
4. There shall be adequate traffic access to and from Town streets to ensure the safety of vehicles, pedestrians and bicycles.
5. Site plans for multi-family structures shall make adequate provision for the on-site recreational needs of the residents of the proposed development. The plan shall be designed to minimize the likelihood that public safety will be endangered by the extensive use of internal roads and parking areas for recreation.
6. There shall be adequate access from suitably located existing public streets of sufficient width to afford adequate light, air, and access to each structure for fire, police, and medical emergency vehicles and personnel. Adequacy shall be established by approval in writing from the Town fire and police departments or as indicated in the report of the Planning Staff.
7. The Board at its discretion may require that parking areas and areas for internal circulation on the site shall be physically delineated (for instance, by curbing) so as to protect adjacent grass and plantings.
8. Parking spaces shall be a minimum of 8x18 feet. Aisles between parallel rows of spaces shall be a minimum of 24 feet apart with 26 feet preferred. Parking spaces for disabled

people require an adjacent access aisle with a minimum width of 5 feet.

9. All loading areas shall be designed so as not to interfere with other planned circulation on the site and so as to provide adequate space and facilities.
- F. **Water Drainage:**
Provision shall be made for handling water drainage on the site to prevent the flooding of the site or that of another abutting property.
- G. **Groundwater Protection:**
The quality of ground water [reference RSA 485] shall not be adversely affected by the proposed development. This shall be established by the applicant showing that the proposed development will not violate the rules and regulations of the Water Supply and Pollution Control Commission with regard to ground water.
- H. Provisions shall be made for snow storage or removal.
- I. **Upgrading Off-Site Public Facilities;**
The Board may require as a condition precedent to the approval of a site plan, the extent to which, and the manner in which existing public streets providing access to the Site shall be upgraded and improved as a result of the additional burdens placed on such streets and sidewalks by the proposed use of the Site, including water, sewer and other utility mains, piping, connections or other facilities. The applicant's share of such costs for off-site improvements shall be allocated in a manner consistent with applicable New Hampshire law.
- J. **Exterior Seating at Eating and Drinking Establishments.** The intent is to permit accessory outdoor seating for eating and/or drinking for up to 50% of the establishment's allowed indoor seating consisting only of chairs, tables and umbrellas without any additional parking requirement. The following requirements must be met:
1. The seating must be entirely on privately owned or leased property and outside the public right of way. The seating shall not require or be dependent upon any new structures not otherwise permitted in the Zoning Ordinance. No outdoor electrical lighting, space heating or food preparation shall be allowed in the accessory outdoor seating area.
 2. The additional outdoor seating shall be arranged in such a way as to be safe under all conditions for pedestrian and vehicular travel. It shall not inhibit the free circulation on public sidewalks or safe egress from buildings.
 3. The property owner shall be responsible for maintaining the outdoor seating area in a clean, sanitary and orderly manner.

ARTICLE XI. COMPLIANCE WITH THE NOTICE OF ACTION

- A. **Period for Construction and Completion of the Work:**
The applicant shall construct and complete all structures and landscaping required in the Notice of Action (hereinafter referred to as the "Work") prior to the issuance of the Certificate of

Compliance, and within the time limits specified in the Notice of Action. Where no time limits are specified, the period shall be within three years from the date of acknowledgment and acceptance of the Notice of Action. Upon written request of the applicant and after a public hearing, when the Board finds that conditions beyond control of the applicant prevent compliance within the three year period or the time limit specified in the Notice of Action, the Board may grant additional time for compliance with the Notice of Action.

B. Bonding and Security:

1. Protection of Abutting Properties and Town Facilities:

The Board may require the applicant to post a bond to protect abutting properties and Town facilities from damage that may be caused directly or indirectly from the Work to be performed on the Site, for example, trees and shrubs on abutting properties, Town streets, sidewalks and storm drainage. In addition, the purpose of this bonding will be to provide security to pay for the completion of any work which if left incomplete would cause the above described damage.

2. Work Which Cannot Be Completed Because of the Season of the Year:

The Board shall require the applicant to post a bond as a condition of the issuance of a Certificate of Compliance, for Work which cannot be completed because of the time of the year, for example, landscaping and paving due to cold weather.

3. Amount of Bond:

The Board shall determine the amount of the bond based on the estimated cost of completing the work or of constructing, repairing or replacing landscaping, structures or Town facilities.

4. Form of Bond and Security:

The applicant shall sign and deliver a bond in the form approved by the Town Manager and Town Counsel. The security shall be in the form of a letter of credit or escrow account, or similar security, but shall not be in the form of a mortgage on real estate or a security interest in equipment or inventory. It is intended that all such security shall be as close to cash as possible. A bond issued by a surety company registered to do business in the State of New Hampshire shall satisfy any requirement.

5. Reduction of Bond and Security:

The bond and security may be reduced during the course of construction of the work by the Town Manager in such amount as the Town Manager deems to be in the best interest of the Town, but on the condition that the remaining security shall be sufficient to complete all remaining work.

6. Release of Bond and Security:

The bond and security shall be released when the Town Manager is satisfied that the applicant has complied with all requirements set forth in the Notice of Action. The Town Manager prior to the release of the bond and security shall notify the Board that all conditions of the Notice of Action have been performed and shall have the authority to release the bond and security unless after notification the Board directs otherwise.

7. Default:
If the applicant has not complied within the period of time specified in the bond with the requirements of the Notice of Action, the Town shall enforce its rights under the bond and the security. In the event that the Town is required to take any legal action to enforce the bond and security, the Town shall be entitled to have reasonable attorney's fees paid by the applicant and awarded by the Court.
- C. Changes and Alterations in an Approved Site Plan:
If at any time before or during the construction of the site plan unforeseen conditions make it necessary or desirable for the applicant to modify the location or design of any of the required work the Board may, after a duly noticed hearing, authorize such modifications which shall be set forth in writing and signed by the Chairman of the Board.
- D. Certification of Compliance:
The Town shall be notified when the applicant believes all requirements of the Notice of Action have been met. Upon confirmation by the appropriate Town department the Town Manager shall issue the Certificate of Compliance.
- E. Correction of Deficiencies:
If the Manager determines that any of the required work has not been completed in accordance with the plans and specifications as filed by the applicant and as required by the Town, the Manager shall notify the applicant in writing of any such deficiencies. The applicant shall rectify all deficiencies at the expense of the applicant. If the applicant does not substantially rectify all deficiencies within a reasonable time as determined by the Town, the Town shall take all necessary action to protect and preserve the Town's rights and interests including suspension or revocation of Final Plan approval. In the event of legal action, the Town shall be entitled to have reasonable attorney's fees paid by the applicant and awarded by the court.
- F. Guarantee of Installation of Improvements:
For a period of 2 years after completion of all work or 2 years after the correction of all deficiencies as described above, whichever occurs last, if the Manager determines that the work has failed for any reason or does not meet the specifications as filed by the applicant and as required by the Town, the Manager shall notify the applicant in writing of such failure and the applicant shall rectify all failures at the expense of the applicant. If the applicant does not substantially rectify all deficiencies within a reasonable time as determined by the Town, the Manager shall take all necessary action to protect and preserve the Town's rights and interests. In the event of legal action, the Town shall be entitled to have reasonable attorney's fees paid by the applicant and awarded by the Court.

ARTICLE XII. RELAXATION OF REQUIREMENTS

Upon written request of the applicant, the Board may waive any of the requirements contained herein in such cases where in the opinion of the Board strict conformity would pose an unnecessary hardship to the applicant and waiver would not be contrary to the spirit and intent of these Regulations. In determining what constitutes an unnecessary hardship, the Board shall be guided by court determinations in zoning variance cases.

ARTICLE XIII. SEPARABILITY

If any provision of these Regulations shall be held to be invalid for any reason by any court, such holding shall not invalidate in any manner any other provisions contained herein.

ARTICLE XIV. FINES AND PENALTIES

Any violation of these Regulations may be made punishable as provided in New Hampshire Revised Statutes Annotated Chapter 676 which includes a possible civil fine of not more than \$100 for each day that such violation is found to continue or in the alternative, a criminal penalty of a misdemeanor if the violation is committed by a natural person or a felony if the violation is committed by any other person. In addition enforcement may include the institution of injunction, mandamus, abatement, or other appropriate action or proceeding to prevent or enjoin or abate or remove any unlawful erection, construction, alteration or reconstruction.