

TOWN OF NEW BOSTON, NEW HAMPSHIRE

NON-RESIDENTIAL SITE PLAN REVIEW REGULATIONS

As Adopted January 22, 1985

and

Amended July 31, 1990

and

Amended June 25, 2002

and

Amended August 10, 2004

and

Amended March 14, 2006

and

Amended March 23, 2010

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SECTION 1 PURPOSE AND AUTHORITY

The purpose of the "Non-Residential Site Plan Review Regulations" is to promote a balanced, responsible, and desirable growth while considering the public health, safety, welfare and convenience; to insure that sound site utilization principles are followed and that appropriate support services and facilities are provided; to avoid development that may have a negative environmental impact; to avoid undesirable and preventable elements of pollution such as noise, smoke, soot, particulates, or any other discharge into the environment which might prove harmful to persons, structures, or adjacent properties; and to guide the character of the development so as to be consistent with the desired character of the Town. (Amended 6/25/02.)

Pursuant to the authority vested in the New Boston Planning Board by the voters of the Town of New Boston in accordance with the provisions of Chapter 674: Section 43 - 44 New Hampshire Revised Statutes Annotated, 1983, as amended, the New Boston Planning Board adopts the following rules governing the review of non-residential site plans in the Town of New Boston, New Hampshire. These rules shall be entitled "Non-Residential Site Plan Review Regulations, Town of New Boston, New Hampshire". (Amended 6/25/02.)

These regulations shall apply to any modification or construction included within the definition of "development" under RSA 674:43, including, but not limited to, new construction, enlargement, or change of use of industrial, commercial, condominium, cluster residential development, manufactured housing parks, residentially based businesses, and multi-family uses and sites. Specifically excluded from the provisions of these regulations are single-family and two-family detached residential dwelling structures, and their related accessory buildings, solely for the residential use thereof.

SECTION 2 SUBMISSION ITEMS: SITE DEVELOPMENT PLAN AND SUPPORTING DATA

The Board shall consider applications to qualify as either a minor or major site plan for review. All applications shall qualify as a major site plan, and be subject to all of the provisions of these regulations, unless all of the following can be answered in the affirmative, and therefore, will be considered a minor site plan:

- A. Property in question is located in the R-1 or R-A zones;
- B. Business being proposed is a "Permitted Use" within that zone;
- C. The business will not require more than two (2) business related parking spaces, in accordance with the Off-Street Parking provisions of the Zoning Ordinance;
- D. No more than one (1) non-family, on-site employee will be employed.
- E. Sections 2C and 2D above shall not apply if the business use is agricultural, farm or farming as defined in the New Boston Zoning Ordinance. (Amended 6/25/02.)

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On the formal submission of the site development plan, the owner or his agent shall submit the following in order to constitute a completed application:

1. A completed application form to be provided by the Planning Board.
2. Three (3) copies of the floor plan for new and existing buildings in which the business activity will take place, showing all important features, including, but not limited to, the use of areas, location of exits, and hazardous areas. (Amended 6/26/02.)
3. Four (4) sets of the site plan maps and supporting data. Said maps and supporting documentation shall include, but not necessarily be limited to the following: (Amended 6/26/02.)

2.1 Existing Data and Information

Minor and Major Site Plans

- A. Location of site (Locus Map) showing main traffic arteries and north arrow.
- B. Tax Map and Lot number, names and addresses of owners of record, abutting land owners as indicated in the New Boston town records not more than 5 days before the day of filing, and all holders of conservation, preservation or agricultural preservation restrictions as defined in RSA 477:45, and the nearest upstream dam owner and the NH Department of Environmental Services Dam Bureau, as necessary. (Amended 6/25/02 and 3/23/10.)
- C. The written scale of the map (i.e. 1" = 40'), north arrow and date of map preparation.
- D. The boundary lines of the area included in the site and the lot area (acres).
- E. The size, shape, height, and location of existing structures located on the site and within 200 feet of the site.
- F. Natural features such as steep slopes, streams, marshes, lakes or ponds. Manmade features such as, but not limited to, existing roads and structures. Such map shall indicate which of such features are to be retained and which are to be removed or altered. (Amended March 14, 2006.)
- G. Use of abutting properties shall be identified with approximate location of the structures thereon including access roads.
- H. The size and location of all existing public and private utilities (including septic systems and wells) and all existing landscaping.

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- I. One hundred year flood elevation line shall be included where applicable.
- J. Sign off block for Board approval. Endorsement statement shall read: "Site Plan approved by the New Boston Planning Board on _____. Certified by, _____, Chairman, and by _____, Secretary."

Major Site Plans

- C-1 Name and address of every engineer, architect, land surveyor or soil scientist, licensed in the State of New Hampshire whose professional seal appears on the graphic scale of the plan. (Amended 6/25/02.) New plan. The
- D-1 The angles or bearings of the boundary lines and dimensions.
- H-1 This shall include the location and size of existing public utilities that are located off-site, with which connection is planned, or located within 100 feet of the site.
- K. The existing grades, drainage systems, structures and topographic contours at intervals not exceeding 2 feet with spot elevations where grade is less than 5 percent, otherwise not exceeding 5 foot contour intervals.
- L. A vicinity sketch (suggested scale 1" = 500') showing the location of the site in relation to the surrounding public street system. The zoning districts and boundaries for the site and within 1,000 feet of the site shall be shown.

2.2 Proposed Plan and Information

Minor and Major Site Plans

- A. The size, shape, height, and location of the proposed structures including expansion of existing buildings.
- B. Proposed parking spaces, driveways, with indication of direction of travel for drives. The width and location of driveways and the total number of parking spaces shall be shown, along with the size of the parking spaces.
- C. The size and location of all proposed public and private utilities.
- D. Exterior lighting plan and proposed signs (location and appearance) to be located on the site. (Amended 3/23/10.)
- E. Plans for snow removal and storage.

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F. Sign off block for Board approval. Endorsement statement shall read: "Site Plan approved by the New Boston Planning Board on _____. Certified by, _____, Chairman, and by _____, Secretary."

G. Proposed hours of operation.

Major Site Plans

B-1 Proposed streets, sidewalks, with indication of direction of travel for one way streets and inside radii of all curves. The width of streets, driveways, and sidewalks. In addition, loading spaces and facilities associated with the structures on the site shall be shown.

E-1 A stormwater management plan as specified in section V-V of the subdivision regulations including plans for retention and slow release of storm water where necessary. (Amended March 14, 2006.)

H. The location, type, size of all proposed landscaping and screening.

I. A circulation plan of the interior of the lot showing provisions for both auto and pedestrian circulation. An access plan showing means of access to the site and proposed changes to existing public streets including any traffic control devices necessary in conjunction with the site development plan.

J. Construction drawings, including, but not limited to, pavements, walks, steps, curbing and drainage structures.

2.3 Preliminary, Design Review and Final Applications
(Added 6/25/02.)

2.3a Preliminary Conceptual Consultation Phase

Prior to the formal submission of the site development plan, the owner or his agent is encouraged to informally discuss the plan with the Planning Board. The applicant is encouraged, but not required, to participate in these meetings prior to any substantial investment in planning or engineering of a proposal.

A public hearing is not required for the Preliminary Conceptual Consultation Phase, which is focused on a review of the basic concepts of the proposal. The purpose of this consultation is for the Board to make suggestions which may be of assistance in meeting requirements for final review and approval of the site plan. This consultation does not bind either the applicant or the Board. The Board and the applicant may discuss proposals in conceptual form only and in general terms such as the desirability of types of development and proposals under the Town's Master Plan. This discussion may occur without the necessity of giving formal public notice, but such discussions may occur only at formal meetings of the Planning Board. This

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phase shall not be deemed a complete application for purposes of Design Review or Final Review.

Applicants are also encouraged to submit a preliminary site plan for review and comment, when modifications will not result in substantial engineering or development costs.

2.3b Design Review Phase

The applicant may engage in non-binding discussions with the Board beyond conceptual and general discussions which involve more specific design and engineering details by participating in the Design Review Phase. However, Design Review may proceed only after identification of, and notice by certified mail to, abutters, holders of conservation, preservation or agricultural preservation restrictions, the applicant, and every engineer, architect, land surveyor or soil scientist whose professional seal appears on any plan submitted to the Board, with the date upon which the Board will engage in the Design Review process. Notice of the Design Review process shall also be given to the general public as outlined in Section 7.4 of these regulations. Statements made by Planning Board members during the Design Review Phase shall not be the basis for disqualifying Board members or invalidating any action taken by the Board.

A duly noticed public hearing is required for the Design Review Phase. This hearing is intended for the submission of information which is beyond that of the Preliminary Conceptual Consultation Phase, and includes more specific design and engineering details of the proposal. The Planning Board shall place on its agenda for consideration the information submitted to it within 30 days of the hearing, indicating on the agenda the nature of the application, and the fact that the applicant will be appearing before the Planning Board for the Design Review Phase.

The Board may elect, when it deems appropriate, to require that the applicant submit its design to other Town departments and outside agencies, which shall be identified by the Board.

2.3c Final Review Phase

The Final Review Phase is commenced by the submission of a completed application to the Planning Board at a public meeting. Notification shall be in accordance with Section 7.4 of these regulations. The official submission date for scheduling a public hearing shall be the date that the application is submitted. The Planning Board shall be the sole authority to determine whether an application has met all the necessary requirements as set forth in these regulations and has submitted a complete application. The time table for the Final Review Phase will be as set forth in Section 7 of these regulations.

2.4 Additional Information

The Planning Board may require a Community Facilities Impact Study, an Environmental Impact Study, soils information in accordance with the Wetlands Conservation District regulations, groundwater information as it relates to the

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Groundwater Resource Conservation District, suitable building envelope demarcation (if already established) as it relates to the steep slopes conservation district, off-site road traffic impact analysis, and/or such additional information that it deems necessary in order to enforce the purposes of these regulations. Such studies shall be undertaken at the expense of the applicant for Non-Residential Site Plan Review and at no cost to the Town. The firm, individual, or agency selected by the applicant to prepare such study or studies shall have the prior approval of the Planning Board. (Amended March 14, 2006.)

2.5 No construction, building or improvements shall occur on any lands included in the preliminary or final plan submission until final or conditional approval of a completed application has been granted. (Added 6/25/02.)

SECTION 3 PERSONAL WIRELESS SERVICE FACILITIES (Section added 6/25/02.)

3.1 Authority

These regulations are enacted by the authority granted in New Hampshire Revised Statutes Annotated (674:43 and 674:44), and procedurally under the guidance of (675:6), and in the interest of the public health, safety and general welfare of the residents of the Town of New Boston.

3.2 Purpose

These regulations are enacted in order to establish general guidelines for the siting of personal wireless service facilities, to coordinate the needs of the telecommunications industry with the needs of the residents of the Town of New Boston, along with the aesthetics of the environment in the community. These regulations shall also reduce the impacts that personal wireless service facilities may have on migratory bird flight corridors, historically significant locations, and property values. Section 403 as contained in the Town of New Boston Zoning Ordinance, is hereby adopted and made a part of this section by reference.

3.3 Other Applicable Ordinances and Regulations

All applicants with a personal wireless service facility proposal shall refer to Section 403 of the New Boston Zoning Ordinance, Personal Wireless Service Facilities.

3.4 General Filing Requirements

1. A written statement signed by the landowner and carrier that the lease between the carrier and landowner of the subject property states that the land owner or carrier can enter into leases with other carriers for co-location.
2. A written statement signed by the landowner and applicant that he/she will allow the Town to enter the subject property to obtain RFR measurements, to ensure conformance with the FCC Guidelines, and to obtain noise measurements, all at the expense of the applicant, but not necessarily accompanied by the applicant and/or landowner.

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3. The number of sites for telecommunication facilities each provider will require.
4. Sites outside of New Boston for the particular coverage area that are being considered.
5. How the siting of a personal wireless service facility will affect the ability to allow the competitor's antennas on the same property.
6. Studies and/or locations of alternative sites in Town that have been considered for siting.
7. An agreement with the Town that allows for the maximum allowance of co-location upon the new structure. Such statement shall, at a minimum, require the applicant to supply available co-location for reasonable fees and costs to other wireless telecommunication providers. An opportunity for co-location is not to be considered a justification for excessive tower height.
8. Any copies of the federal license from the FCC providing that they, or their contracted client, are eligible to deploy their systems under the Federal Telecommunications Act of 1996.
9. Detailed maps showing all of the carrier's current externally visible tower and monopole locations in the state within a twenty mile radius, both active and inactive.
10. Site descriptions for each of the above locations showing the antenna height and diameter, and all externally visible structures.

3.5 Site Plan Requirements

- A. The following items shall be required on each site plan submitted for a personal wireless service facility, in addition to those listed in Section 2.1 and 2.2 of these regulations:
 1. Title block that shows the name of the applicant or project.
 2. North arrow, date of site plan, scale, name, address, and seal if appropriate of all persons preparing the site plan.
 3. Location of proposed facilities.
 4. Signature block for Planning Board endorsement.
 5. Vicinity sketch and zoning district(s).

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6. Total area of the parcels in acres and square feet.
7. Lot frontage.
8. Boundary lines and approximate dimensions and bearings.
9. Tax map and lot numbers.
10. Locations and descriptions of any existing or proposed easements, deed restrictions, or covenants.
11. Physical features on the site and within 300 feet of the site.
12. Soil information based on the local soil survey.
13. All natural features, including streams, ponds, wetlands, etc.
14. Existing and proposed grades and contours, and base flood elevations.
15. Shape, size, height, location and use of existing and proposed structures on the site.
16. Existing buildings and structures within five hundred feet of the site.
17. Access to the site, with location and width of existing and proposed driveways.
18. Locations, names, rights-of-way, and travel widths of existing and proposed roads on the property and within 200 feet of the site.
19. Final road profiles and cross sections for any new roads.
20. Locations and sizes of all electric, telephone, and other cable lines on the site.
21. Existing and proposed fire hydrants and/or fire ponds.
22. Existing and proposed methods of handling stormwater runoff, and the direction of the flow indicated by arrows.
23. Sizes and locations of all stormwater drain lines, catch basins, drywells, drainage ditches, retention basins and culverts.
24. Locations, types and sizes of all existing and proposed landscaping and screening.

25. Location of any proposed lighting.

3.6 Factors Considered in Granting Decisions by the Planning Board

The Planning Board shall consider the following factors during the site plan review. Other factors may also be considered by the Board.

1. Proposed location of towers, antennas, mounts and equipment shelters.
2. The proposed lease area for the personal wireless service facility.
3. Height of proposed tower or other associated structure.
4. Proximity of tower to all adjacent uses, including distances, at grade, from the facility to each structure shown on the site plan.
5. Natures of uses on properties within 300 feet of proposed site.
6. Surrounding topography.
7. Proposed fencing to screen the facility's use from adjacent areas.
8. Proposed security barrier, indicating type and extent as well as point of controlled entry.
9. Proposed changes to the existing property, including, but not limited to, grading, vegetation removal, and temporary roads or driveways.
10. Surrounding tree coverage and average tree canopy height within 150 feet, and other natural ground material.
11. Tower design, with reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness.
12. Proposed ingress and egress to the site, including new and existing roads and driveways, parking, type of surface and impermeable ground surfaces.
13. Method of mitigating stormwater drainage on the site.
14. Availability of suitable existing towers and other structures.

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15. Visual impacts on viewsheds, ridgelines and other impacts by means of tower location, tree and foliage clearing and placement of incidental structures.

16. Representations, dimensioned and to scale, of the proposed mount(s), antennas, and materials used to reduce visual impact, cable runs, and any other construction or development related to the personal wireless service facility.

17. Any proposed landscape easement that includes the bearings and distances of the easement and general conditions of the easement.

3.7 Design Submittal Standards

A. Brochures. Equipment brochures for the proposed personal wireless service facility such as the manufacturer's specifications or trade journal reprints for antennas, mounts, materials used to reduce visual impacts, equipment shelters, cables, as well as cable and security barrier, if any.

B. Materials. Materials of the proposed personal wireless service facility by generic type and specific treatment (e.g. anodized aluminum, painted fiberglass, stained wood, etc.). These shall be provided for the antennas, mounts, materials used to reduce visual impact, equipment shelters, cables and cable runs and security barrier, if any.

C. Colors. Colors of the proposed personal wireless service facility represented by a color board showing actual colors proposed for all equipment. Also include a picture of similar equipment.

D. Dimensions. Dimensions of the proposed personal wireless service facility specified for height, width and depth.

E. Photographs. Photographic superimpositions of the proposed personal wireless service facility within the subject property. A color copy shall be provided for each Board member on photo stock paper. Color copies on regular paper are unacceptable. (Amended 3/23/10.)

F. Lighting. If lighting is proposed on the site, the applicant shall submit a manufacturer's computer generated point-to-point printout, indicating the horizontal foot-candle levels at grade on the site and fifty (50) feet beyond the property lines. The printout shall indicate the locations and types of luminaries proposed.

G. Co-location. Carriers shall share personal wireless service facilities and sites where feasible and appropriate, thereby

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reducing the number of personal stand-alone facilities. wireless service facilities that are

1. All applicants shall show evidence of the effort to co-locate with other carriers. This effort shall include contact with all other carriers operating within the Town of New Boston and adjacent communities.
2. If the applicant intends to co-locate or to permit co-location, plans shall be submitted which show the appearance and operation of the proposal.
3. If the Planning Board approves co-location for a personal wireless service facility site, the site plan shall indicate the number and type of facilities proposed for the co-location. The addition of any facilities not specified in any approved site plans shall require a new site plan.

3.8 Noise Standards

A statement shall be provided listing the existing and maximum future potential measurements of noise from the proposed personal wireless service facility, measured in decibels Ldn (logarithmic scale, accounting for greater sensitivity at night). The statement shall be certified and signed by an acoustical engineer, stating that the stated noise measurements are accurate and meet the Noise Ordinance (if any) of the Town of New Boston.

The statement shall include the following:

- A. Existing or ambient: the measurements of existing noise.
- B. Existing plus the proposed personal wireless service facility: maximum estimate of noise from the proposed personal wireless service facility plus the existing noise environment.
- C. Existing plus the proposed personal wireless service facility plus cumulative: maximum estimate of noise from the proposed personal wireless service facility plus the maximum estimate of noise from the total addition of co-located facilities plus the existing noise environment.

3.9 Radio Frequency Radiation (RFR)

The applicant shall provide certification stating that the maximum radio frequency radiation of the proposed facility and the cumulative RFR of any existing facilities at the site will not exceed the FCC Guidelines. The FCC Guidelines shall be incorporated as part of this certification. (Amended 3/23/10.)

3.10 Federal Environmental Filing Requirements

- A. The National Environmental Policy Act (NEPA) must be used for all applications for personal wireless service

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facilities. NEPA is administered by the FCC via procedures adopted as Subpart 1, Section 1.1301 et seq. (47 CFR Ch.I). The FCC requires that an Environmental Assessment (EA) be filed with the FCC prior to beginning operations for any personal wireless service facility proposed in or involving any of the following:

1. Wilderness area.
2. Wildlife preserve.
3. Threatened or endangered species.
4. Historical site.
5. Native American religious site.
6. Floodplain.
7. Wetland.
8. High intensity white lights in residential neighborhoods.
9. Excessive radio frequency radiation exposure.

B. At the time of application, an EA that meets FCC requirements shall be submitted to the Town for each personal wireless service facility site that requires such an EA to be submitted to the FCC. In addition, a letter of concurrence substantiating the finding of the applicant for each of the NEPA checklist items shall be provided with the site plan application.

C. The applicant shall list the location, type, and amount (including trace elements) of any materials proposed for use within the personal wireless service facility that are considered hazardous by the federal, state or county government, or by the Town of New Boston.

3.11 Structural Standards for Ground Mounted Facilities

The applicant shall provide a report prepared by a licensed professional structural engineer describing the facility and specifying the maximum number and types of antennas the facility is designed to accommodate. The report shall bear the seal of the engineer who prepared the report.

3.12 Visibility Standards for Ground Mounted Facilities

A. Sight Lines. Lines representing the sight line showing the viewpoint (the point from which view is taken) and the visible point (the point being viewed) as described below:

1. Existing (before condition) photographs. Each sight line shall be illustrated by four inch by six inch or larger color photographs of what can be currently seen from any public road or residential building identified above.
2. Balloon or Crane Test. Within fourteen (14) days of acceptance of the site plan application by the Planning Board, the applicant shall arrange for a balloon or crane test at the proposed site to

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illustrate the height of the proposed facility. The date, time and location of this test shall be advertised in a newspaper of general circulation in the Town at least ten (10) days prior to the test, and the balloon or crane must be left in place for a minimum of two (2) days or forty-eight (48) hours. The balloon may be taken down for overnight hours but must be reblown promptly the next morning. The hours during which the balloon may be taken down shall be determined by the Planning Board. (Amended 3/23/10.)

3. Proposed (after condition) photographs. Each of the existing condition photographs shall have the proposed facility superimposed on it to show what will be seen from the public roads and residences when the facility is constructed.

4. Color copies of the photographs noted above shall be provided for each Board member on photo stock paper. Color copies on regular paper are unacceptable. (Added 3/23/10.)

B. Elevations. Siting elevations, or views at-grade from north, south, east and west for a one hundred (100) foot radius around the proposed facility, plus from all existing public and private roads that serve the subject property. Elevations shall be at one-quarter inch equals one foot (1/4" = 1') or one-eighth inch equals one foot (1/8" = 1') scale and show the following:

1. Antennas, mounts, materials used to reduce visual impact, and equipment shelter(s), with total elevation dimensions and AGL of the highest point.
2. Security barrier. If the security barrier will block views of the facility, the barrier drawing shall be cut away to show the view behind the barrier.
3. Any and all structures on the property.
4. Existing trees and shrubs at current height and proposed trees and shrubs at proposed height at time of installation, with approximate elevations dimensioned.
5. Grade changes, or cuts and fills, to be shown as original grade and new grade line, with two-foot contours above mean sea level.

3.13 Modification to Personal Wireless Service Facilities

A. Modification of a personal wireless service facility is considered equivalent to an application for a new personal wireless service facility and requires a site plan review when any of the following events apply:

1. Change in the number of facilities permitted on the site, or,
2. Change in technology used for the personal wireless service facility that will affect the visible elements of the facility, or that would alter the type(s) and amount(s) of hazardous materials used at the facility.

3. The applicant and/or co-applicant wants to add any exterior visible equipment or additional height not specified in the approved site plan.

3.14 Waivers

A. General: Where the Board finds that extraordinary hardships, practical difficulties, or unnecessary and unreasonable expense would result from strict compliance with the regulations in this chapter, or the purposes of these regulations may be served to a greater extent by an alternative proposal, it may approve waivers to these regulations. The purpose of granting waivers under the provisions of these regulations shall be to ensure that an applicant is not unduly burdened as opposed to merely inconvenienced by said regulations. The Board shall not approve any waiver(s) unless a majority of those members present and voting shall find that all of the following shall apply:

1. The granting of the waiver will not be detrimental to the public safety, health or welfare, or injurious to other property, and will promote the public interest;

2. The waiver(s) will not, in any manner, vary the provisions of the New Boston Zoning Ordinance or New Boston's Master Plan;

3. Such waiver(s) will substantially secure the objectives, standards and requirements of these regulations; and,

4. A particular and identifiable hardship exists or a specific circumstance warrants the granting of a waiver. Factors to be considered in determining the existence of a hardship shall include, but not be limited to:

- a. Topography and other site features;
- b. Availability of alternative site locations;
- c. Geographic location of property; and,
- d. Size/magnitude of project being evaluated and availability of co-

location.

B. Conditions: In approving waivers, the Board may impose such conditions as it deems appropriate to substantially secure the objectives of the standards or requirements of these regulations.

C. Procedures: A request for any such waiver shall be submitted in writing by the applicant with the application for Board review. The petition shall state fully the grounds for the waiver and all of the facts relied upon by the applicant. Failure to submit the petition in writing shall result in an automatic denial.

3.15 Bonding and Security and Insurance

Pursuant to the New Boston Zoning Ordinance, Article IV, Section 403.10, the applicant shall provide a bond to cover the costs of removal and disposal of abandoned personal wireless service facilities and proof of appropriate liability insurance.

SECTION 4 DESIGN AND CONSTRUCTION REQUIREMENTS

All design and construction standards shall refer to the items shown and presented on the Proposed Plan and Information.

4.1 Traffic access to the site from the town and state roads shall ensure the safety of vehicles and pedestrians.

4.2 Improvements to existing roads shall include signal devices if necessary because of increased traffic generated by the development.

4.3 Circulation, both vehicular and pedestrian, and parking including loading facilities shall be designed to ensure the safety of vehicles and pedestrians on the site.

4.4 Landscaping and screening shall be provided with regard to adjacent properties, the public highway and within the site including interior landscaping of parking areas.

4.5 Storm drainage of the site shall be designed for a 50 year flood and if an existing drainage system to which the site drainage system will be connected is inadequate, provisions shall be made for retention and gradual release of storm water in order to meet the 50 year flood demand.

4.6 Provisions shall be made for acceptable erosion and sedimentation control measures, per the Stormwater Management and Sediment and Erosion Control Regulations contained in the Town of New Boston Subdivision Regulations. (Amended 6/25/02 and 8/10/04.)

4.7 Provisions shall be made for snow storage during winter months.

4.8 Provisions shall be made for the site to be serviced by necessary utilities which may include water for fire and domestic use, sanitary sewer, electrical and gas.

4.9 Provisions shall be made for outdoor lighting.

4.10 Provisions shall be made for protection of natural features.

4.11 Provisions shall be made for acceptable protection for the quality of groundwater.

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4.12 Provisions shall be made for acceptable protection for fire safety, prevention and control.

4.13 Provisions shall be made for open spaces and green spaces.

4.14 All developments shall meet the standards and requirements included in the town Zoning Ordinance, Floodplain Development Ordinance, and Subdivision Regulations, including, but not limited to, parking, street loading, landscaping, signs, location of exterior lighting, off-driveways, and

4.15 Provisions shall be made to assure that the proposal is consistent with the need to minimize flood damage, that all public utilities and facilities, such as sewer, gas, electrical, and water systems are constructed and that adequate drainage is provided so as to reduce exposure to flood hazards. Design provisions shall also be made to minimize or eliminate infiltration of flood waters into new or replacement water supply systems and/or sanitary sewage systems and discharges from these systems into flood-waters. On-site waste disposal systems shall be located so as to avoid impairment of them or contamination from them during flooding.

- 4.16 A. The applicant shall provide the Planning Board with sufficient documentation to demonstrate that all necessary permits have been received from those governmental agencies from which approval is required by Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.
- B. The applicant shall include Base Flood Elevation (BFE) data for all proposals for development greater than 50 lots or 5 acres.
- C. The applicant shall submit sufficient evidence (construction drawings, grading and land treatment plans) so as to allow a determination that:
- a) all such proposals are consistent with the need to minimize flood damage;
 - b) all public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage; and,
 - c) adequate drainage is provided so as to reduce exposure to flood hazards. (Section added 8/10/04.)

4.17 Groundwater Protection (Added 3/23/10.)

- A. Any application for site plan review which involves the proposed receiving, handling, storing or processing of any regulated substance (as defined by RSA 339-A:2) shall disclose this information as part of the application submission. Copies of all appropriate state permits as

required by the NH Department of Environmental Services for the proposed use shall be submitted to the Town of New Boston Health Officer and New Boston Fire Department as part of the site plan application.

- B. Site plan applications which involve property contaminated by hazardous or toxic materials (as defined by RSA 339-A:2) shall disclose such information as part of the application. If the Planning Board finds that a potential health risk or an environmental threat exists from a previous use or existing use of the site, then the Planning Board shall require that any environmental assessment that has been completed and submitted to the NH Department of Environmental Services shall be submitted to and reviewed by the Town's Health Officer (or third party consultant of the Board's choice and at the applicant's expense) prior to any Planning Board action.

SECTION 5 OCCUPANCY AND BONDING

The Planning Board will require a performance bond before any work commences on a development for that portion of the development that, if not properly completed, will have an adverse effect on adjoining property or has a potential for erosion. The steps for issuing and releasing a performance bond shall be the same as required in the subdivision regulations, including, but not limited to, determining the amount, the sufficiency, term and form of the bond.

No development may be occupied or used unless a certificate of occupancy has been issued by the Building Inspector. The Building Inspector shall not issue such certificate of occupancy until these regulations have been complied with, the improvements made, the required inspections performed and the certificate of compliance has been received or a performance bond provided to the town for unfinished improvements. (Amended March 14, 2006.)

SECTION 6 PHASING (Amended 6/25/02.)

Some projects may impose sudden demands for services which the Town could not have been reasonably expected to plan for, based on its history of growth.

6.1 Phasing

The applicant should be prepared to describe how he intends to schedule his development plan so as to minimize its impact on the community. Depending upon the type and magnitude of the proposed development, a phasing schedule consisting of a written agreement may be required by the Planning Board.

In such cases, the preliminary plan should encompass the entire tract comprising the development, but final calculations, maps, etc., need be presented for approval one phase at a time. All phases should be so designed that all site requirements are met independently of phases yet to be approved and constructed. (Amended 6/25/02.)

SECTION 7 PROCEDURE FOR PLANNING BOARD REVIEW

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7.1 An application shall be filed with the Office of the Planning Board/Planning Department at least 15 days prior to a scheduled public meeting of the Board.
(Amended 6/25/02.)

7.2 The Planning Board shall at the next regular meeting, or within 30 days of its delivery to the Office of the Planning Board/Planning Dept., for which notice can be given in accordance with Section 7.4, determine if the submitted application is complete according to the Non-Residential Site Plan Review Regulations, and shall vote upon its acceptance. (Amended 6/25/02.)

The Planning Board shall act to approve, conditionally approve or disapprove the completed application within 65 days after the determination of the completeness of the application, subject to extension or waiver as provided for in accordance with RSA 676:4,1(f). If the Board determines that a submitted application is incomplete, it shall notify the applicant of the determination in accordance with RSA 676:3, which shall state what additional information is required. Upon failure of the Planning Board to approve, conditionally approve, or disapprove the application within 65 days of accepting the completed application, the applicant may obtain from the Board of Selectmen an order directing the Planning Board to act within 30 days. If the Planning Board does not act upon such order of the Selectmen within 30 days, then within 40 days of the issuance of the order from the Selectmen they shall certify on the application that the plat is approved pursuant to this paragraph, unless within those 40 days the Selectmen have identified in writing some specific site plan regulation, subdivision regulation, state law, federal law, or zoning or other ordinance provision with which the application is not in compliance. Such certification, citing this paragraph, shall constitute final approval for all purposes including filing and recording. Failure of the Selectmen to issue an order to the Planning Board as described above, or to certify approval of the plan upon the Planning Board's failure to comply with the order, shall constitute grounds for the superior court, upon petition of the applicant, to issue an order approving the application, if the court determines that the proposal complies with existing site plan review regulations, subdivision regulations, and zoning and other applicable ordinances. (Amended 6/25/02.)

7.3 The Planning Board may apply to the Board of Selectmen for an extension not to exceed an additional 90 days before acting to approve or disapprove an application. The applicant may, in writing, waive the requirement for Planning Board action within the time periods specified in part 7.2 hereof and consent to such extension as may be mutually agreeable.

7.4 Notice and Public Hearing

- a) Notice of Submission of Application
The Planning Board shall notify the applicant, abutters, holders of conservation, preservation or agricultural preservation

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restrictions, the nearest upstream dam owner, the NH Department of Environmental Services Dam Bureau, as necessary, and every engineer, architect, and surveyor or soils scientist whose professional seal appears on any plat submitted to the Board, by certified mail, of the date upon which the application will be formally submitted to the Board. Notice shall be mailed at least 10 days prior to the submission. (Amended 6/25/02 and 3/23/10.)

Notice to the general public shall also be given at the same time by posting in at least 2 public places in the Town, or by publication in a newspaper of general circulation in the Town. The notice shall include a general description of the proposal which is the subject of the application and shall identify the applicant and the location of the proposal.

b) Public Hearing

Before taking any action on a non-residential site plan, the Planning Board shall hold a public hearing thereon. The same notice of submission of the application, as specified in part 7.4a) shall be given. If notice of the public hearing has been included in the notice of submission or any prior notice, additional notice of the public hearing is not required nor shall additional notice be required of an adjourned session of a hearing with proper notice if the date, time and place of the adjourned session was made known at the prior hearing. All costs of notice, whether mailed, posted or published, shall be paid in advance by the applicant. Failure to pay such costs shall constitute valid grounds for the Planning Board to terminate further consideration and to disapprove the plat without a public hearing.

c) Except as provided in part 7.4b), no application may be denied or approved without a public hearing on the application. At the hearing, the applicant, any abutter, holder of conservation, preservation, or agricultural preservation restriction, or any person with a direct interest in the matter may testify in person or in writing. Other persons may testify as permitted by the Planning Board at each hearing. (Amended 6/25/02.)

7.5 Pursuant to RSA 676:3, the Planning Board shall issue a final written decision which either approves or disapproves an application for a local permit. In the case of disapproval of any proposed site plan submitted, the grounds for such disapproval shall be adequately stated on the records of the Planning Board and the applicant shall be so notified by certified mail. If the Planning Board votes to approve or

disapprove an application, or deny a motion for rehearing, the minutes of the meeting at which such vote was taken, including the written decision containing the reasons therefor, shall be placed on file in the Planning Board's office and shall be made available for public inspection within 5 business days of such vote. A copy of the decision shall be made available to the applicant. (Amended 6/25/02 and 3/23/10.)

7.6 Jurisdiction of the courts to review procedural aspects of the Planning Board decisions and actions shall be limited to consideration of compliance with applicable provisions of the constitution, statutes and regulations. The procedural requirements specified in this section are intended to provide treatment for all parties and persons. The Planning Board's procedures shall not be subjected to strict scrutiny for technical compliance. Procedural defects shall result in the reversal of the Planning Board's actions by judicial action only when such defects create serious impairment of opportunity for notice and participation.

7.7 Compliance Hearing

a) If the Board places a condition precedent (one to be fulfilled before the project can be built, such as obtaining an easement, posting a bond, procuring special permits, etc.) on the approval, final approval will become effective on the plat or application without further public hearing

providing the conditions are:

1. Minor plan changes whether or not imposed by the Board as a result of a public hearing, compliance with which is administrative and which does not involve discretionary judgment; or,
2. Conditions which are in themselves administrative and which involve no discretionary judgment on the part of the Board; or,
3. Conditions with regard to the applicant's possession of permits and approvals granted by other boards or agencies or approvals granted by other boards or agencies.

Otherwise, all other conditions shall require an additional noticed public hearing at which affected parties will have an opportunity to review and comment on the developer's compliance with the condition(s) precedent. Notice as provided in Section 7.4a) shall be required except that additional notice shall not be required of an adjourned session of a hearing with proper notice if the date, time and place of the adjourned session were made known at the prior hearing.

b) If the Board places a condition subsequent, such as the completion of on-site or off-site improvements before the project is considered to

be completed, an additional public hearing shall be held at which interested parties and town officials will have an opportunity to review and comment on the developer's compliance with the condition(s) subsequent before any bonds are released. In the event that conditions subsequent are a condition of final approval, the final plat will not be signed, nor occupancy permit(s) issued until all conditions subsequent have been met and a compliance hearing held.

SECTION 8 ON-SITE INSPECTION(S)

After an application has been submitted to the Board, and prior to the scheduled hearing date, the Planning Board may perform an on-site inspection of the area and proposal in order to visually inspect and address concerns related to the site plan. This inspection may be performed with representatives from any other town department the Board feels may have concern with the site plan, such as the Fire Department, Conservation Commission, Road Agent, etc. Any comments and/or recommendations by these departments shall be submitted to the Board in writing. The owner/applicant shall be given prior notice of the on-site inspection date and time. (Amended 6/25/02.)

SECTION 9 CONCURRENT AND JOINT HEARINGS

The Planning Board may hold a meeting on site plan review in conjunction with a subdivision hearing if both are required for a project. A hearing for site plan review by the Planning Board may be held at the same time and place that a hearing for a special exception is held for the project by the Board of Adjustment.

SECTION 10 WAIVER PROCEDURE

The applicant may submit a proposed site plan and request the Planning Board to waive specific requirements for the plan and supporting data. The Planning Board may grant a waiver to any portion of the Non-Residential Site Plan Review Regulations only when the Board finds, by majority vote, that

- 1) strict conformity to the Non-Residential Site Plan Review Regulations would pose an unnecessary hardship to the applicant and a waiver would not be contrary to the spirit and intent of the regulations, or,
- 2) specific circumstances relative to the site plan, or conditions of the land in such site plan, indicate that the waiver will properly carry out the spirit and intent of the regulations.

A waiver of any specific requirement shall not be construed as a waiver in full or in part of any other requirement, nor shall such waiver constitute a waiver of requirements on any other site plan proposal. The basis for any waiver granted by the Planning Board shall be recorded in the minutes.

SECTION 11 DEFINITIONS

11.1 Abutter

Abutter shall have the meaning provided for in RSA 672:3, as said section may, from time to time, be amended. (Amended 3/23/10.)

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11.2 Development

A development means the constructing of improvements on a tract or tracts of land for non-residential use.

11.3 Non-residential Use

All non-residential development, as defined in RSA 674:43 and Court decisions interpreting that statute.

11.4 Non-residential site

As used in these regulations, non-residential site shall mean those areas and/or structures that are to be utilized and/or occupied for a non-residential use.

11.5 Acceptable

As used in these regulations, acceptable shall mean as approved by the authority having jurisdiction, as determined by the Planning Board.

11.6 Zoning and Subdivision Regulations

Definitions contained in the Town of New Boston Zoning Ordinance and Subdivision Regulations, where applicable, shall apply to these "Non-Residential Site Plan Review Regulations."

SECTION 12 FEES AND COSTS

The Planning Board shall set fees consistent with normal costs incurred in the review of site plans. The applicant shall be responsible for all such costs incurred by the Town of New Boston, its Planning Board, and its officials in the review of such plans. The Planning Board may require that the applicant post with the Town, at the time of application for site plan review, sufficient funds from which anticipated review costs can be paid. The fee schedule for Non-Residential Site Plan Review Applications can be found in the New Boston Planning Board's Rules of Procedure. (Amended 6/25/02.)

SECTION 13 APPLICATION FORMS AND CHECKLISTS

The Non-Residential Site Plan Review application forms and checklists for the Town of New Boston can be found in the New Boston Planning Board's Rules of Procedure. (Section added 6/25/02.)

SECTION 14 AMENDMENTS

These "Non-Residential Site Plan Review Regulations" may be amended by the Planning Board in the same manner in which the Subdivision Regulations may be amended.

SECTION 15 SEVERABILITY

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