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# SITE PLAN REVIEW REGULATIONS

## TOWN OF FREEDOM, NEW HAMPSHIRE

Adopted: January 17, 2002

Amended: February 18, 2010

April 15, 2010

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## TOWN OF FREEDOM, NEW HAMPSHIRE

### SECTION 1

#### AUTHORITY AND PURPOSE

- 1.1 Authority.** Pursuant to the authority vested in the Town of Freedom Planning Board voted on at the March, 2001 Town Meeting, in accordance with the provisions of New Hampshire Revised Statutes Annotated (RSA) 674:43, as amended, the Town of Freedom Planning Board adopts the following regulations governing the review of site plans for, developments within the boundaries of Freedom, as defined in the ***Freedom Zoning Ordinance (District Objectives and Land Use Control)*** whether or not such development includes a subdivision or re-subdivision of the site. These regulations shall be entitled "Site Plan Review Regulations, Town of Freedom, New Hampshire.
- 1.2 Purpose.** The purpose of the Freedom Site Plan Review Regulations as authorized by RSA 674.44-II is to protect the public health, safety and welfare; to promote balanced growth; to protect property values; to encourage uses that are in harmony visually and aesthetically with rural living; to prevent premature and uncoordinated development without the adequate provision of public service and facilities; to ensure sound site utilization; and to avoid unnecessary and adverse impacts on neighboring property and uses.
- 1.3 Applicability.** The Freedom Site Plan Review Regulations govern the review of site plans for, Commercial/Industrial Developments, Multi-family Developments of more than three (3) living units, Cluster Developments, and developments within the Shorefront District as defined in the ***Freedom Zoning Ordinance***, whether or not such development includes a subdivision or re-subdivision of the site. Planning Board approval of the site plan is required before a Building Permit can be issued in these areas.

### SECTION 2

#### RELATIONSHIP TO OTHER ORDINANCES AND REGULATIONS

- 2.1 General.** These Site Plan Review Regulations in no way relieve the developer, his/her agent or individual from compliance with the ***Freedom Zoning Ordinance***, Subdivision Regulations or any other ordinance which pertains to the proposed development.
- 2.2 Exceptions/Variances.** Any Special Exception and/or Variances required under the Zoning Ordinance shall be obtained prior to application for Site Plan Review.
- 2.3 Improvements.** No construction or site development improvements shall be permitted except in conformity with a site plan approved by the Planning Board.
- 2.4 Concurrent Hearings.** Site Plan Review hearings may be held concurrently with hearings on Subdivision and Special Use Permits.

SECTION 3  
DEFINITIONS

- 3.1 General.** For purposes of **The Site Plan Review Regulations** the meaning of terms or words used herein shall conform to the definitions in of the ***Freedom Zoning Ordinance***.
- 3.2 Regulation definitions.** Terms specific to the regulations include:
- “Board” shall mean the Freedom Planning Board,
- “Regulation” shall mean the Site Plan Review Regulation, and “Plan” shall mean The Site Plan.
- “Development” means the construction or improvements on a tract or tracts of land.
- “Tract” means any lot or parcel of land.
- “Site Inspection” Shall refer to a written report, of an inspection of the Site, by the Board or Freedom Zoning Officer.
- “Owner” means also the owners agent, contractor, or developer.

SECTION 4  
PLAN PROCEDURES

- 4.1 General.** Whenever any development of a site subject to this Regulation is proposed, the developer or his/her authorized agent shall apply for and secure approval of such proposed site development in accordance with this section
- 4.2 Plan Phases.** There are four phases to Plan’s application procedure. Phases 1 & 2 are optional and are strongly advised. They are used to provide guidance in order to minimize the cost for changes in preparing the final Plan.
- Phase - 1.** Pre-application Consultation and Review. Prior to submission of the Plan, the owner /agent may submit a preliminary sketch showing any preliminary information he desires to the Board for discussion purposes only.
- Phase - 2.** Preliminary Layout Review. Updated sketch including any request for waivers, and the reason for the request. The Board may waiver any item within the Regulation, but this can only be accomplished upon written request of the applicant. If all waivers are granted, the Board may provide Phase 4 approval after acceptance of a completed plan application.
- Phase - 3.** Completed Application. A completed Plan application shall fulfill all the requirements of the Regulations pertaining to the type of development. If all Regulations are satisfied, the Board may provide Phase 4 approval.
- Phase - 4.** Final Plan Submission. Upon completion of any Board required actions, the Plan may be approved for Building Permit.

## SECTION 5

### APPLICATION REQUIREMENTS

**5.1 General.** A letter of intent detailing the proposed development along with a list of names and addresses of all abutters to the site, as defined by R.S.A. 672:3 as may be amended, who own property not more than five (5) days before the day of filing, as shown in the Town Records and signed by a Town Official shall be submitted to the Planning Board.

**5.2 Site Plan Plat.**

**5.2.1 Copies.** The applicant shall submit five copies, 24" x 36" of the plat.

**5.2.2. Scale.** The scale shall be at a minimum scale of 1-inch equals 100 feet.

**5.2.3. Preparation.** A land surveyor, an engineer, or an architect shall prepare the plat.

**5.2.4. Content.** The Plat shall contain the following:

- 1) A location plan at a minimum scale of one inch equals one thousand feet showing property lines of parcels being developed in relation to surrounding areas; names and locations of town streets; names and locations of proposed streets; names of water courses and water bodies on and adjacent to the site; and area of the entire parcel in acres and square feet. In addition the following items must be included:
- 2) A title block with title; owners name and address; name of agent; scale of plan; and name, seal, and address of preparer.
- 3) North arrow and bar scale.
- 4) Surveyed property lines of the parcel showing their bearings and distances.
- 5) Names of all abutting property owners, showing book and page as shown in the Carroll County Registry
- 6) Location and layout of existing and proposed structures and buildings.
- 7) Existing and proposed contours at five-foot intervals for the entire site being considered for development. Where grade is proposed, existing contours shall be dotted lines and finished elevations solid.
- 8) Area of entire parcel in acres and square feet.
- 9) Zoning and special district boundaries.
- 10) Deed reference and tax map number.
- 11) Location width, curbing and paving of access ways, egress ways, and streets within the site.
- 12) Location and layout of all on-site parking and loading facilities.
- 13) Location and size of all municipal and non-municipal utilities and appurtenances including: water, sewer, electric, telephone, gas lines, and fire alarm connections, indicating whether overhead or underground, and the locations of well and septic systems.

- 14) Type and location of solid waste disposal facilities.
- 15) Location, elevation, and layout of catch basins and other surface drainage features.
- 16) Location of all physical/natural features including: water bodies, water courses, wetlands, vegetation/foilage lines, soil types, railroads, rock outcroppings, and stone walls.
- 17) Dimensions and area of all property to be dedicated for public use of common ownership.
- 18) For all site plans that involve and designated as "Special Flood Hazard Areas" (SFHA) by the National Flood Insurance Program (NFIP) assure all necessary permits required under Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.
- 19) For site plans that involve land designated as "Special Flood Hazard Areas" (SFHA) by the National Flood Insurance Program (NFIP), proposals for development of greater than fifty (50) lots or five (5) acres (whichever is the lesser), must include Base Flood Elevation (BFE) data (i.e., floodplain boundary and 100-year flood elevation).
- 20) Date and permit number of all required state and federal permits.
- 21) Location of all buildings, wells, and leach fields within one hundred and fifty feet of the parcel.
- 22) Dimensions, area, and minimum setback requirements on all existing and proposed lots.
- 23) Proposed landscaping including size and type of plant material.
- 24) Pedestrian walks providing circulation through the site.
- 25) Location and size of proposed and existing signs, walls, and fences.
- 26) Location, widths, and purposes of any easement or right-of-way.
- 27) Total on-site square footage of impervious surfaces.
- 28) Snow storage requirements.

**5.3 Additional Plats.** The Board can require additional plats if necessary. Examples of additional plats are as follows: ***Erosion Control Plan, Landscape Plan, Building Elevation Plan, and Profiles and cross-sections on roadways and bridges***

**5.4 Graphic Presentation.** The Board can require the applicant to provide photo simulation, photomontage, or drawings that depict the built conditions of the site.

**5.5. Additional Documentation.** At the request of the Board additional documents may be required. Examples of additional documentation include: ***Drainage studies, Traffic studies, Wetland studies, and Environmental, and fiscal impact studies.***

## SECTION 6

### DESIGN STANDARDS AND REQUIRED IMPROVEMENTS

- 6.1. **Architectural.** New construction throughout the town shall conform to the *Freedom Zoning Ordinance* and should be compatible with surrounding properties in terms of formal characteristics such as height, massing, roof shapes and window proportion. The following architectural guidelines are suggested but not required:
- 6.1.1. **Building Height.** The height of proposed structures shall be in harmony with existing structures and the *Freedom Zoning Ordinance*.
- 6.2. **Bridge and Road Construction.** Construction of roads and bridges shall be controlled by standards and specifications provided in the *Freedom Subdivision Regulations, the Freedom Road Ordinance, and the NHDOT Standards and Specification for Road and Bridge Construction*.
- 6.3. **Sedimentation and Erosion Control.** Erosion of soil and sedimentation of watercourses and water-bodies shall be minimized by employing the following "best management" practices:
- 1) Stripping of vegetation, soil removal, and regrading or other development shall be accomplished in such a way as to minimize erosion.
  - 2) Duration of exposure of the disturbed area shall be kept to a practical minimum.
  - 3) Temporary vegetation and/or mulching shall be used to protect exposed critical areas during development.
  - 4) Permanent (final) vegetation and mechanical erosion control measures shall be installed as soon as practicable after construction.
  - 5) Until a disturbed area is stabilized, sediment in run-off water shall be trapped by the use of debris basins, sediment basins, silt traps, or other acceptable methods as determined by the Board.
  - 6) The top of cut or bottom of fill sections shall not be closer than ten (10) feet to adjoining properties, unless specified by the Board.
  - 7) Extraction operations shall be in accordance with the **Town of Freedom, New Hampshire Earth Excavation and Reclamation Regulations**.
  - 8) During grading operations, methods of dust control shall be employed wherever practicable.
  - 9) Any material used for erosion control shall be removed once the project has been completed and the soil stabilized.
  - 10) For details on erosion and control standards see Carroll County Erosion and Sediment Control Handbook.
- 6.4. **Storm Water Drainage.**

- 1) All development shall make adequate provision for storm water facilities which shall be designed to handle 1 year, 10 year and 25 year storm events, containing all increases in drainage onsite and stamped by a licensed professional engineer.
- 2) Storm water drainage systems shall be constructed within specified easements to carry storm water to existing watercourses or existing storm drains.
- 3) If the storm water drainage system creates any additional flow over other properties, the developer shall obtain easements from the owners of said property for that system.
- 4) Storm water runoff shall be carried away in a storm water system designed in accordance with the standards established in the **Standards for Roadway and Bridge Construction**, NHDOT 1997. Such drainage facilities shall be located in the road right-of-way where feasible.
- 5) Drainage easements shall be carried from the road to a natural watercourse or to other drainage facilities.

#### **6.5. Flood Hazard Plan**

Flood Hazard Plan: For projects involving land designated as "Special Flood Hazard Areas" (SFHA) by the National Flood Insurance Program (NFIP), the plan shall provide sufficient evidence (construction drawings, grading and land treatment plans) so as to allow a determination that:

- 1) All such proposals are consistent with the need to minimize flood damage;
- 2) All public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage; and,
- 3) Adequate drainage is provided so as to reduce exposure to flood hazards.

#### **6.6. Water Quality.**

- 1) The location of individual wells shall comply with all standards of the New Hampshire Water Supply and Pollution Control Commission.
- 2) All outdoor storage facilities for fuel, chemicals or industrial waste and potentially harmful raw materials must be located on impervious pavement and shall be completely enclosed by impervious dikes high enough to contain the total volume of liquid kept in the storage areas plus accumulated rainfall of a fifty (50) year storm.

#### **6.7. Dust, Fumes, Vapors, Gases, and Odors.**

- 1) Emission of dust, dirt, flyash, fumes, vapors, or gases which could be injurious to human health, animals or vegetation, detrimental to enjoyment of adjoining or nearby properties, or which could soil or stain persons or property, at any point beyond the lot line of the commercial, industrial establishments or home occupation creating the emissions, shall be prohibited.
- 2) No land use shall be permitted which produces harmful, offensive, or bothersome odors, scents, or aromas perceptible beyond their lot lines, either at ground or habitable elevation.

**6.8 Glare.** No land use or establishment shall be permitted which produces a strong, dazzling light or reflection of that light beyond its lot lines onto neighboring property, or onto any town way so as to impair the vision of the driver of any vehicle on the town way.

#### **6.9. Noise.**

- 1) Excessive noise at unreasonable hours shall be required to be muffled so as not to be objectionable due to intermittence, beat frequency, shrillness, or volume.

- 2) The time period and type of land use district shall establish the maximum permissible sound level of any continuous regular or frequent source of sound produced by any activity subject to this regulation.
- 3) Sound pressure shall be measured at all major lot lines, at a height of a least four (4) feet above the ground surface.

District	7 am to 10 pm	10 pm to 7 am
Commercial District	65 d.b.a.	55 d.b.a.
Residential District	55 d.b.a.	45 d.b.a.

**6.10. Sewage**

- 1) All development shall make adequate provision for sanitary sewage disposal facilities.
- 2) The facilities shall be designed and stamped by a registered New Hampshire engineer.
- 3) Sanitary sewage disposal shall be accomplished through the provision of individual waste disposal systems or private central sewage systems.
- 4) The State of New Hampshire Water Supply and Pollution Control Commission shall approve the design and location of individual disposal systems.
- 5) The system shall be located on private property.
- 6) The location shall be no closer than one-hundred and twenty-five (125) horizontal feet to a watercourse, a water body, a wetland. The location shall be no closer than seventy-five feet (75) to a well that is being used as a source of individual water supply
- 7) The State of New Hampshire Water Supply and Pollution Control Commission must approve the design and location of a private central sewage system.
- 8) Maintenance and operating costs of the system shall be borne by the developer.

**6.11. Utilities.** The applicant is responsible for all coordination with utility providers to assure that all utilities are installed in accordance with plans approved by the Board pursuant to these regulations. Where possible, the utilities shall be underground.

**6.12 Lighting**

- 1) Lighting for new development or redevelopment of a site, whether mounted on the building or on poles, shall be designed so as not to spill onto adjacent properties.
- 2) Lighting elements shall be covered by a globe or shielded.
- 3) Where there is a mix of residential and commercial uses, light standards are restricted to a maximum of twenty (20) feet in height.

**6.13. Signs.** Sign size, type, location, height shall conform to the requirements of the Freedom Zoning Ordinance.

**6.14. Equipment and Service Areas.**

- 1) All roof, wall, or ground-mounted mechanical equipment shall be screened from the public view.
- 2) Off-street loading facilities shall be provided for all institutional, commercial, and industrial uses. These facilities shall be located so that delivery vehicles are parked outside of the street right-of-way.
- 3) Service areas, delivery locations, dumpster and trash receptacle locations, and other similar uses, shall be screened from street and from public view.
- 4) They may be screened using a variety of materials and structures, such as walls, fences, planting, or a combination of these materials.
- 5) All loading areas shall be designed so as to minimize interference with automobile and pedestrian circulation on the site, and so as to provide adequate space and facilities.
- 6) Suitable types of screening, which includes opaque wood fences and dense evergreen hedges of five feet or more in height, should be used.
- 7) Where evergreen hedges are proposed, a temporary fence should be built to provide screening until the evergreens are of sufficient height.
- 8) The applicant shall provide for disposal of all solid and liquid waste on a timely basis and in an environmentally safe manner.

#### **6.15. Parking.**

- 1) Off-street parking spaces shall be provided in any district in accordance with the specifications set forth in the Freedom Zoning Ordinance whenever any new use is established, any existing use enlarged, or when a use is changed.
- 2) All parking lots, drives and loading areas shall be paved. The Board may allow the installation of other surfaces providing that they will not lead to dust or erosion having an adverse impact on adjacent properties or users of the site.
- 3) Parking lots shall be located to the side or rear of new buildings. This will allow for a close visual relationship of the structure to the street, which helps to promote pedestrian access between and within various developments.
- 4) Shared parking shall be required where multi-lot and multi-business development occurs. Where possible, shared parking is also required where new development is proposed adjacent to existing development with parking facilities.
- 5) Parking lots containing ten or more spaces shall be planted with at least one tree per eight spaces, no smaller than 2" caliper (trunk diameter at chest height), each tree being surrounded by no less than 40- sq. ft. of permeable unpaved area.
- 6) Parking lots with more than 30 spaces shall be either divided into several areas divided by landscaping or building features, or be interspersed with planted tree islands.
- 7) Parking lots must be screened along lot lines bordering institutional or residential uses. Screening shall consist of a landscaped area at least six feet wide, densely planted with a mixture of deciduous and evergreen trees and shrubs, and shall create an effective visual barrier. All trees shall be a minimum of 2" caliper when planted. Native trees and shrubs shall be planted whenever possible, in order to capture the "spirit of the locale."

- 8) Adequate space for snow removal shall also be provided.

## **6.16. Access Management and Multi-modal.**

### **6.16.1. Access Management**

- 1) The Board may require the connection of adjacent properties via the use of common drives.
- 2) Improvement to existing streets, traffic access to the site from town streets, on-site vehicular and pedestrian circulation, parking, loading facilities, and emergency vehicle access shall all be designed to ensure the safety and convenience of vehicles and pedestrians.
- 3) Adjacent commercial or multi-family properties shall provide a cross access drive and pedestrian access to allow circulation between sites.
- 4) Normally a maximum of one access shall be allowed, regardless of number of lots or businesses served.
- 5) Frontage roads and/or service roads shall be required for all multi-lot and multi-business developments. Access will only be permitted from said frontage and access roads.
- 6) New drives must be located directly across from existing drives (if any exist).
- 7) The proposed drive must be located so there is sufficient sight distance on the highway to allow for proper stopping.
- 8) No structures or vegetation shall be located at the intersection of the drive and the street that will restrict the view from, or of, vehicles entering onto the highway.

### **6.16.2 Multi-modal**

- 1) It shall be required that all development be designed so as to promote pedestrian access, not only within the development, but also to adjacent properties and the street.
- 2) In order to reduce the impact of the automobile on traffic and to insure public safety, the Board may require sidewalks or pedestrian paths to be maintained year round within and between developments.
- 3) Bike racks shall be provided for all development.
- 4) Site plan development proposals that will service the leisure travel trade shall have at least two spaces for buses.
- 5) All developments shall be designed to provide for the safe and convenient use of public transit.

## **6.17. Landscaping.**

- 1) Landscaping and screening shall be provided with regard to the impact on adjacent properties, the public highway and the site itself.
- 2) Plant material must be of the type, size, quality, and variety which are suitable for the location and the climate. Development should consider plant species which are indigenous to the area.

- 3) Salt tolerant varieties shall be planted along roadways and parking areas.
- 4) Planting must not be located so as to obstruct the vision of motor vehicle operators.
- 5) Roadside trees are extremely important to the character of the Town of Freedom. Therefore, the removal of roadside trees over five (5) inches in diameter must be absolutely minimized.

#### **6.18. Fencing, Walls, and Buffers.**

- 1) Where commercial development is proposed adjacent to a residential use, a buffer strip of thirty (30) feet shall be observed for buildings, parking, and/or storage. This area shall be landscaped according to the standards listed within these regulations.
- 2) Where proposed expansion or reconstruction on a non-conforming lot fails to meet the above buffer requirements increased screening shall be provided to lessen the effect on adjacent lots. In no case shall the expansion of the existing use be allowed to extend closer than ten feet to any lot line.
- 3) All fences and walls must be of a traditional New England material such as wood, brick, or stone. Iron fences are also acceptable. The least desirable fences shall include chain link, stucco, concrete, etc.
- 4) Buffer strips should contain vegetation which will screen non-residential uses from residential areas during winter months.
- 5) Where appropriate, existing vegetation should be incorporated into buffer strips.
- 6) All possible attempts should be made to save existing stone walls

### SECTION 7

#### INDEPENDENT STUDIES AND INVESTIGATIONS

**7.1. General.** The Board reserves the right to require additional studies to determine the potential impact of the proposed site development. Studies may include, but are not limited to, ***Traffic Impact Analysis, Fiscal Impact Analysis, and Environmental Impact Analysis.***

**7.1.1 Traffic Impact Analysis.** When it is determined that a study is needed, it shall be presented in accordance with the Regional Planning Commission's Guidelines. The Board reserves the right to retain the services of an outside agency for the purposes of reviewing any traffic analysis submitted. This review shall be at the expense of the applicant paid prior to final approval of the plan.

**7.1.2 Fiscal Impact Analysis.** When it is determined that a study is needed, it shall be presented in accordance with the Regional Planning Commission's Guidelines. The Board reserves the right to retain the services of an outside agency for the purposes of reviewing any fiscal analysis submitted. This review shall be at the expense of the applicant paid prior to final approval of the plan.

**7.1.3 Environmental Impact Statement.** Specifications will be dictated on a case-by-case basis. The Board reserves the right to retain the services of an outside agency for the purposes of reviewing

any Environmental Impact Statement submitted. This review shall be at the expense of the applicant paid prior to final approval of the plan.

**7.1.4 Legal Analysis.** When it is determined that legal issues are applicable for the Board to consider, such as but not limited to Developer's easements, sufficiency of plans, review of supplemental documents, procedures of the Board regarding the Development and site plan review including litigation of appeals thereof, the Board reserves the right to retain the services of the Town Attorney. The fees and expenses of the attorney shall be paid by the applicant prior to final approval of the plan.

## SECTION 8

### MITIGATION

- 8.1 Traffic.** Whenever, in the opinion of the Board, traffic generated by the development will adversely impact existing public streets, the Board may require improvements to be made to such streets and intersections in an effort to mitigate these impacts.
- 8.2 Inspection.** Whenever, in the opinion of the Board, the project warrants construction observation because of the scope of development, the Board shall require an independent engineer or qualified professional hired by the Town and paid for by the developer, to perform scheduled inspections during construction of the project. The inspector shall keep regular records and report to the appropriate Town official and the Board. The Board prior to approval of the Site Plan shall receive payment for this service.
- 8.3 Maintenance Guarantee.** A financial surety shall be in an amount equal to the cost for completion of all roads, public and private, drainage, and landscaping. The financial surety shall be effective for a period of two years after site improvements are completed. If such repairs are needed and are not satisfactorily installed by the developer, then such guarantee shall be used to complete and/or install such improvements.
- 8.4 Roadside Trees.** If it is absolutely necessary to remove roadside trees at the proposed site, the Board shall require the applicant to plant an equal number of new trees of a type and at a location specified by the Board. Planting of new or replacement trees every thirty (30) feet along the road is encouraged, to reinforce the rural character of the community.
- 8.5 Refuse Disposal.** The Board shall consider the impact of particular industrial or chemical waste or by-products on the town's disposal area (in terms of volume, flammability, and/or toxicity) and may require the applicant to dispose of such waste elsewhere, in conformance with all applicable State and Federal regulations. The Board may require the applicant to specify the amount and exact nature of all industrial or chemical waste to be generated by the proposed operation.

## SECTION 9

### POST-CONSTRUCTION REQUIREMENTS

- 9.1. Legal Documents.** All deeds covering land to be used for public purposes, easements, and right-of-ways over property to remain in private ownership, and right of drainage across private property shall be submitted in a form satisfactory to the Town Attorney
- 9.2. As-built construction drawings.** As-built construction drawings, plans, and profiles at a scale of 1 inch equals 20 feet, shall be prepared for all infrastructure improvements, buildings, and structure footprints, including, but not limited to: *Underground Utilities Drainage ways, ditching, impoundments, swales, etc., and Road construction*

## SECTION 10

### ADMINISTRATION AND ENFORCEMENT

- 10.1. Violations.** The Board may bring to the attention of the Zoning Officer any violations or lack of compliance with the approved plans. The Zoning Officer must act on the violation within a timely manner.
- 10.2. Board Modification.** The Board shall have the power to modify or amend its approval of a Site Plan on application of the owner. The cost of an amended Site Plan shall be the same as a new submission.
- 10.3. Acceptance.** The Board shall at the next regular meeting, or within 30 days following the delivery of the application for which notice can be given in accordance with the requirements of determine if a submitted application is complete according to the Board's regulations, and shall vote upon its acceptance.
- 10.4. Security Instrument.** The Board may require a security instrument, with surety and/or conditions, in lieu of completion of work and installations previous to the issuance of a Certificate of Approval. A security instrument provision may be required for actual construction and installation of improvements and utilities within a specified time period.
- 10.5. Penalties.**
  - 10.5.1 Initial Notification.** If the Board finds, as a result of a Site Inspection, that any of the conditions of the latest approved Site Plan are in violation, the Board or the Zoning Officer shall give written notice to the owner to make corrections, as it deems necessary, to bring the use and operation into compliance with the conditions of the approved Site Plan. Such an order shall be complied with within a period of time extending not more than sixty (60) days from the initial notification
  - 10.5.2 Second Notification.** As a result of a follow-up **where** the owner fails to conform to the original notice, the Board or the Zoning Officer shall again give notice to the owner to make corrections, to bring the use and operation into compliance with the conditions of the approved Site Plan. Such an order shall be complied with within a period of time extending not more than thirty (30) days from the second notification. In addition a fine not to exceed \$100.00 per day may be levied against both the owner and General Contractor/Builder in addition to any other legal or equitable remedy as may be afforded through appropriate legal action, pursuant to RSA 676:15 (Injunctive Relief) and RSA 676:17, together with the Town's costs of enforcement including reasonable attorney's fees.

**10.5.3 Third Notification.** The Third Notification of non-conformance is an immediate cancellation of the Site Plan Building Permit. Any further development/improvement to the site without re-issuance of a new building permit may result in a fine not to exceed \$200.00 per day against both the owner and General Contractor/Builder. A re-application to the Board will be required for a new Building Permit approval.

## SECTION 11

### WAIVERS AND SUBSTITUTIONS

- 11.1** The Board may grant a waiver of any design requirement or plat standard of this chapter in accordance with the following:
- 11.2** The applicant shall provide a written request for waiver. The request shall indicate the exact section for which the waiver is requested, the extent of the waiver, and the justification.
- 11.3** In evaluating the request, the Board shall not grant the waiver unless it finds, based upon evidence presented to it, that:
- 1) Granting the waiver shall not be detrimental to the public health, safety or general welfare;
  - 2) Granting the waiver shall not, in the opinion of the Board, be injurious to other parties;
  - 3) Granting the waiver shall not have the effect of nullifying the intent and purpose of this chapter; and
  - 4) Strict compliance with the regulations would cause a hardship to the applicant solely because of the unique physical characteristics of the site (financial hardship shall not be considered); or
  - 5) The Board determines that granting the waiver would result in substantial public benefit.
- 11.4** A waiver request shall be considered only at or after a noticed public hearing by the Board on the subject application, and at which the waiver request is presented or discussed, so that abutters have an opportunity to be made aware of all waiver requests.
- 11.5** The Board may condition any waiver granted so as to secure the objectives of this chapter.
- 11.6** The request for waiver shall be granted only when a motion to grant the request, duly seconded, is carried by a majority of the members present and voting. If the motion is not carried, the request is denied and no further motion is required. If no action is taken on the waiver request, it shall be deemed to be denied.
- 11.7** In the event that alternative design standards which are independently and scientifically derived are provided to and accepted by the Board, the Board may permit their substitution for the Town design standard. Such substitution shall be permitted at the Board's option only when, in the Board's opinion, the alternative standard would better accomplish the intent of this chapter for this case. Substitution shall require a formal motion of the Board, and the minutes of the meeting should indicate the Board's reasoning for future reference. No waiver is required for design standard substitution.