

SITE PLAN REVIEW REGULATIONS

CORNISH, NEW HAMPSHIRE

ADOPTED BY VOTE OF THE TOWN OF CORNISH PLANNING BOARD, CORNISH
NEW HAMPSHIRE, April 24, 1978

Amended
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**SITE PLAN REVIEW REGULATIONS
TOWN OF CORNISH, NEW HAMPSHIRE**

ARTICLE I Authority, Purpose, Application of Regulations and Compliance

A. Authority

Pursuant to the authority vested in the Cornish Planning Board by the voters of the Town of Cornish in accordance with the provisions of Chapter 674:43-44, New Hampshire Revised Statutes Annotated, 1955, and pursuant to authorization from the Town of Cornish by Cornish Town meeting action on March 8, 1977, and March 9, 1993, the Cornish Planning Board adopts in the following rules governing the review of multi-family and nonresidential site plans in the Town of Cornish, New Hampshire. These rules shall be entitled “Site Plan Review Regulations, Town of Cornish, New Hampshire.”

B. Purpose

The purposes of these Regulations are to:

1. Provide for the safe and attractive development or change or expansion of use of the site and guard against such conditions as would involve danger or injury to health, safety, or prosperity by reason of:
 - a) Inadequate drainage or conditions conducive to flooding of the property of that of another;
 - b) Inadequate protection for the quality of groundwater;
 - c) Undesirable and preventable elements of pollution such as noise, smoke, soot particles, or any other discharge into the environment which might prove harmful to persons, structures, or adjacent properties; and
 - d) Inadequate provision for fire safety, prevention, and control.
2. Provide for the harmonious and aesthetically pleasing development of the town and its environs.
3. Provide for open spaces and green spaces of adequate proportions.
4. Require the proper arrangement and coordination of roads within the site in relation to other existing or planned roads or with features of the official map of the town;
5. Require suitably located roads of sufficient width to accommodate existing and prospective traffic and to afford adequate light, air, and access for firefighting apparatus and equipment to buildings, and be coordinated so as to compose a convenient system.
6. Require, in proper cases, that plans showing new roads or narrowing or widening of such roads be submitted to the Planning Board for approval;

7. Require that the land indicated on plans submitted to the Planning Board shall be of such character that it can be used for building purposes without danger to health; and
8. Include such provisions as will tend to create conditions favorable for health, safety, convenience, and prosperity.

C. Application of Regulations & Types of Development Requiring Site Plan Review

1. No building permit shall be issued for a residential use of more than two units, nonresidential use, change, or expansion of nonresidential use unless the applicant first presents a site plan approval granted by the Planning Board.
2. An applicant shall obtain site plan approval from the Board for the following types of 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 is less than 1,000 square feet and is determined by the Planning Board to have minimal impact.
3. No site plan approval shall be required for incidental improvements such as clothes lines, fences less than six feet tall, dog house, etc., or for one- family or owner-occupied two-family dwelling units or associated accessory uses.

D. Compliance

The site plan review procedure shall in no way relieve an applicant from compliance with the Cornish Zoning Ordinance, the Cornish 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.

ARTICLE II Submission Items: Site Development Plan and Supporting Data

The owner or his authorized agent shall submit three sets of site plan maps and supporting data to the Planning Board which shall include the following information:

A. Existing Data and Information

1. Location of site, names and addresses of owners of record and abutting land owners.
2. Name and address of persons or firm preparing the map, the scale of the map (1 inch equals 40 feet suggested), north arrow, and date. Such map shall be prepared by a registered surveyor, architect, landscape architect or registered professional engineer. Name and address of persons or firm preparing other data and information if different from the preparer of the map.
3. The boundary lines of the area included in the site, including angles or bearings of the lines, dimensions, and the lot area.
4. 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.
5. The shape, size, height, and location of existing structures located on the site and within 200 feet of the site.
6. Natural features such as 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.
7. Use of abutting properties shall be identified with approximate location of the structures thereon including access roads.
8. The size and location of all existing public and private utilities and all existing landscaping. 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' of the site.
9. A vicinity sketch (suggested scale 1" equal 500') showing the location of the site in relation to the surrounding public road system. The zoning districts and boundaries for the site and within 1,000 feet of the site shall be shown. 100-year flood elevation line shall be included where applicable.

B. Proposed Plan and Information

1. The proposed 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 a 5 foot contour interval.
2. The shape, size, height, and location of the proposed structure including expansion of existing buildings, including typical elevations.
3. Proposed roads, driveways, parking spaces, sidewalks, with indication of direction of travel for one way roads and drives, and inside radii of all curves. The width of roads, driveways and sidewalks, and the total number of parking spaces shall be shown. In addition, loading spaces and facilities associated with the structures on the site shall be shown.
4. The size and location of all proposed public and private utilities. In the case of electric lines or other utilities to be installed by a public utility corporation, or a municipal department, a statement shall be received in writing from such public utility, corporation, or municipal department that the work will be done within a reasonable time and without expense to the Town and that the utilities will be placed underground, if this has been agreed.
5. Exterior lighting plan and proposed signs to be located on the site.
6. A storm drainage plan including plans for retention and slow release of storm water where necessary and plans for snow removal and storage.
7. 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 roads including any traffic control devices necessary in conjunction with the site development plan. Suitable driveway permits shall be required. There shall be adequate access from suitable located existing public roads 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.
8. Construction drawing including, but not limited to, pavements, walks, steps, curbing, and drainage structures.
9. A proposed landscaping plan indicating the location, quality, type, and size of all natural cover to be retained, proposed landscaping and landscape improvements such as earth berms, walls, fences, screens, sculptures, fountains, road furniture, lights, courtyards, and paved areas. The plan shall specify in detail the size and types of shrubs, plants, and trees; caliper of trees; and size of all proposed landscaped material at the time of planting. 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. Methods and details for protecting existing vegetation during construction and an erosion control plan shall be included. Planting and installation details as necessary to ensure conformance with all required standards.

10. An estimated timetable for construction and completion of buildings, parking facilities, and landscaping.
11. If the proposed development requires a special exception or variance by the Zoning Board of Adjustment, a copy of the special exception or variance approval issued by the Board of Adjustment is attached and made a part of the application.

C. Addition Information

The Planning Board may require such additional other information as it deems necessary in order to apply the regulations contained herein.

ARTICLE III Design and Construction Requirements

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 convey 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 purposes of the development, and the location of buildings and improvements. Provisions shall be made for protection of natural features.
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 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 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. The trash container room or enclosure shall be located only in the rear or side of the building and shall be easily accessible for servicing.
2. Trash containers or 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 sealed containers within the enclosures or 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 or recyclable materials, the enclosure area shall be large enough to accommodate the materials and their containers.
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 alternate design that accomplishes the objectives set forth in this section.

C. Requirements for Exterior Lighting

1. Lighting under this section includes road 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 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 road intersections, along walkways, at entrances, between buildings, and in parking areas.
- b) The maximum height of standards, poles, or fixtures shall not exceed 15 feet, 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 the new installation unless approved by the Board.
- d) All road light fixtures and parking light fixtures shall be of the sharp and 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 roads. 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.
- g) 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 signs shall be considered a “flashing” light.
- h) All permanent outdoor sports lighting, including scoreboards, must be approved by the Board.
- i) Exterior lighting shall be installed and operated in such a way that adjacent residential uses are suitably protected.
- j) Signs shall be illuminated only by continuous indirect white light, with light sources so placed that they will not constitute a hazard to road or highway driving from the glare.

D. Landscaping and Screening Requirements

1. **Objectives** The goals of these landscaping and screening requirements are
 - a) To enhance the visual appearance of the Town;
 - b) 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;
 - c) 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;
 - d) To assure throughout the town appropriate barriers to and relief from traffic, noise, heat, glare, and odor;
 - e) To improve air quality; and
 - f) 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; utilize deciduous trees to provide summer shade and allow winter sun; and utilize deciduous vines on fences, trellises, and arbors to provide summer shade.
- 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.

3. Landscaping of Parking Areas The minimum size of a parking area that requires landscaping is two spaces.

- a) **Landscaping Requirements for the Perimeter of Parking Areas Containing Two or More Spaces**
 - i) A landscaped strip at least five feet wide shall be provided on the perimeter adjacent to abutting properties; if the abutting property is a residential use, the landscaped strip shall be fifteen feet wide.
 - ii) A landscaped strip at least ten feet wide shall be provided on the perimeter of the parking area adjacent to abutting roads.
 - iii) One tree at least 2 ½ inch caliper at six inches above the ground shall be provided for at most every thirty-five feet of perimeter.
 - iv) One or more shrubs at least three feet high at maturity shall be planted singly or in groups at regular 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.
 - v) In addition to landscaping, the Planning Board may require screening for parking areas containing two or more parking spaces.
 - vi) 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 shall be landscaped for all parking areas containing six or more spaces.

- ii) One tree at least 2 ½ inches 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 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.

4. Screening and Buffering Requirements and Methods

- a) **Screening Requirements** In addition to landscaping, 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;
 - 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 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. Examples of alternatives for adequate screening include:
 - i) Berms: Lawns and low-growing evergreen and/or deciduous shrubs covering the top and sides of the berm may be provided.
 - ii) Walls and Fences: Shall be erected where required for privacy, screening, separation, security, erosion control, or to serve other necessary and reasonable functions.

The design and materials used shall be functional and compatible with existing and proposed site architecture.

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.

E. Coordination of Roads, Parking, Loading, and Safety

1. Traffic access to the site from the Town roads shall ensure the safety of vehicles, bicyclists, and pedestrians.
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 roads within the site and in relation to other existing and planned roads (or with the features of the official map of the Town) such that the proposed development of the site shall not endanger public safety or welfare and shall promote public convenience and prosperity.
4. Access, circulation (vehicle and pedestrian) and parking including loading facilities shall be designed to ensure the safety of vehicles and pedestrians on the site.
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 suitable located existing public roads 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. Suitable driveway permits shall be required.
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. Parking shall be located to the rear and side of the building to the greatest extent practicable.
8. All loading areas shall be designed so as not interfere with other planned circulation on the site and so as to provide adequate space and facilities.
9. Provisions shall be made for snow removal and/or storage during winter months.
10. Construction requirements shall be in accordance with *Standard Specifications for Road and Bridge Construction* as published by the State of New Hampshire Department of Public Works and Highways provided that alternative provisions may be considered by the Planning Board if submitted by the developer.

F. Water Drainage

1. Provision shall be made for handling water drainage on the site to prevent the flooding of the site or that of another abutting property.
2. Storm drainage of the site shall be designed for a 25 year flood and if the 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 25 year flood demand.

G. Groundwater Protection The quality of ground water 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 Division with regard to ground water.

H. 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 roads providing access to the site shall be upgraded and improved as a result of the additional burdens placed on such roads and sidewalks by the proposed use of the site including water, sewer, and other utility mains, piping connections, or other facilities. Improvement to existing roads shall include signal devices if necessary because of increased traffic generated by the development. The applicant's share of such costs for off-site improvements shall be allocated in a manner consistent with the applicable New Hampshire law.

I. Public Services 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, telephone, and gas.

J. Flood Hazard Areas All proposals for developments governed by these regulations having lands identified as Special Flood Hazard Areas in the "Flood Insurance Study for the County of Sullivan, N.H." dated May 23, 2006, or as amended, together with the associated Flood Insurance Rate Maps dated, May 23, 2006, or as amended, shall meet the following requirements:

1. Where proposals for developments are made, the Planning Board shall require the applicant to 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.

2. Proposed new developments greater than fifty (50) lots or five (5) acres, whichever is less, shall include Base Flood Elevation (BFE) data within such proposals (i.e. floodplain boundary and 100-year flood elevation).
3. In riverine situations, prior to the alteration or relocation of a water course, the applicant for such authorization shall notify the New Hampshire Department of Environmental Services, Wetlands Bureau, and submit copies of such notification to the Planning Board, in addition to the copies required by the RSA 482-A:3. Further, the applicant shall be required to submit copies of said notification to those adjacent communities as determined by the Planning Board, including notice of all scheduled hearings before the Wetlands Bureau.

Within the altered or relocated portion of any water course, the applicant shall submit to the Planning Board certification provided by a registered professional engineer assuring that the flood-carrying capacity of the water course has been maintained.

4. Where new replacement water and sewer systems (including on-site systems) are proposed in flood prone areas, the applicant shall provide the Planning Board with assurance that the new and replacement sanitary sewage systems and discharges from the systems into flood waters and on-site waste disposal systems are located to avoid impairment to them or contamination from them during flooding.
5. The applicant must provide for the Planning Board's review of all necessary permits which have been received from those governmental agencies from which approval is required by Federal or State law, including section 404 of the Federal Pollution Control Act Amendments of 1972, 33 USC 1334, and including, but not limited to, State Dredge and Fill Permits.

ARTICLE IV Performance and Maintenance Security

1. Before final approval of a site plan, the Board shall require the applicant to file
 - a) Performance bond, issued by a surety company authorized to do business in New Hampshire, to be filed with the governing body in form and amount satisfactory to it, or;
 - b) Irrevocable letter of credit, cash, or savings bankbook properly endorsed to the Town in an amount to be determined by the governing body, and to be deposited with it, or;
 - c) That, pursuant to an agreement between the applicant and the Board for tentative approval which approval shall not be entered upon the plat but which shall be noted in the Board's minutes and shall constitute authorization for the commencement of construction of required roads and other improvements and

installations, the applicant has received final approval from the appropriate Town agents on all items listed on the engineer's cost estimate, or;

- d) A combination of a) and b), or b) and c).
2. **Amount of Security** The amount of security shall be determined by the Board and shall be sufficient to cover the costs of the improvements and estimated fees for inspections of the improvements by Town agents or their representatives and the estimated cost of inflation over the projected term of the security not to exceed 10% per year.
 3. **Release of Security** As phases or portions of the secured improvements or installations are completed and approved by the Planning Board or its designee, the Town shall partially release said security to the extent reasonable calculated to reflect the value or such completed improvements or installations. Cost escalation factors that are applied by the Planning Board to any bond or other security shall not exceed ten (10%) per year.

The performance guaranty shall not be released until the governing body has certified completion of the public utilities and improvements in substantial accordance with the requirements and deeds covering land to be used for public purposes, easements, and rights of way over property to remain in private ownership and rights to drain onto or across private property are submitted in a form satisfactory to the Selectmen. All recording fees shall be borne by the applicant.

4. **Maintenance Until Acceptance** Upon Completion of improvements and approval by the appropriate Town agents, surety covering maintenance of roads and improvements for a period of two (2) years from acceptance by the Town shall be required in an amount based on ten percent (10%) of the engineer's original estimate of such improvements, as approved by the governing body.
5. **Certificate of Performance of Improvements** Upon completion of all the required improvements associated with the site plan approval, the applicant shall make application to the Board in writing for a Temporary Certificate of Performance. This application shall include inspection reports from all affected Town departments and/or applicable outside agencies including, but not limited to, the Road Agent, the Fire Department, the sewer commission (should one exist), the water precinct, and the N.H. Department of Transportation. The Board shall issue the Temporary Certificate of Performance and release the original security filed with the Board if the Board determines that the following have been met.
 - a) All of the improvements are without material defects which need correction as determined by the Board; and
 - b) The applicant has submitted security for a period of two years which is acceptable to the Board to cover corrections of the defects, omissions or failure of installation

of the improvements to comply with the approved plans. The amount of security shall be determined by the Board and shall be sufficient to cover the costs of any defects, omissions, as well as failures of installation of the site plan improvements and may include the estimated cost of inflation over the two year period not to exceed 10% per year.

After a two year waiting period has expired, then the applicant may make application to the Board for a Final Certificate of Performance. This application shall include inspection reports from all affected Town departments, and/or applicable outside agencies indicating the acceptability of the completed improvements after completion of the two year waiting period. If all the improvements are without material defects which need correction as determined by the Board, the Board shall issue a Final Certificate of Performance and release the remaining security.

If any of the improvements are proposed to be turned over to the Town as public improvements with the Town being responsible for maintenance, then the applicant may apply to the Town for acceptance of these improvements only after the Board has issued a Final Certificate of Performance.

ARTICLE V Definitions

The definitions contained in the Cornish Zoning Ordinance and the Cornish Subdivision Regulations shall, where applicable, apply to the Site Plan Review Regulations.

Berm: An earthen mound designed to provide visual interest, screen undesirable views and/or decrease noise.

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.

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; non-living durable materials commonly used in landscaping, such as, but not limited to, rocks, pebbles, sand, walls, or fences but excluding paving.

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.

ARTICLE VI

Procedure for Planning Board Review

A. Preliminary Consultation

Before the submission of a site plan, an applicant may request that a site plan be placed on the agenda for a Planning Board's public meeting by requesting at least seven (7) days prior to the meeting a place on the Board's agenda, and such developer may appear at the scheduled meeting and submit a general site plan, soils data, utilities information, highway and traffic data, and such other information as the applicant may deem relevant to inform the Planning Board about the nature, scope, location, intensity, and public impact of the proposed plan. The developer should determine in advance of the meeting what, if any, issues may require discussion and should use the preliminary consultation process if there are known developmental problems under the applicable regulations.

The Planning Board and the applicant shall review the development concept, the effect of the development on the community services, the general road and utility requirements, the requirement of the development for public services, and the availability of such services, and shall note the probable compliance or non-compliance with the comprehensive planning maps, zoning, and any other applicable local, state, or federal regulations.

Any advice, recommendations, or notations of compliance shall not be considered a ruling of law or fact by the Board and shall not be binding upon or necessarily consistent with the Board's formal action of the plan. Interpretations of law or of these regulations during such consultation shall be subject to change by the Board at any time.

Preliminary Consultation shall not extend to a technical discussion of compliance with these regulations, the layout of roads or highways, or the substantive effect of these regulations on any particular facet of the development.

No act taken or not taken by the Planning Board during the Preliminary Consultation phase shall be deemed a determination of completeness of the plan or an acceptance thereof for the approval or disapproval of a plan.

B. Developments of Regional Impact

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

1. Relative size or number of lots or units compared with existing stock.
2. Transportation networks.
3. Proximity to the borders of a neighboring community.
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 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 Regional Planning Commission and the affected municipalities with copies of the minutes of the meeting at which the decision was made.

At least fourteen days prior to the 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 the right to testify concerning the development. **(RSA 36:54-58)**

C. Review of Completed Application

A completed application shall fulfill all requirements of Article 2 and 3 of these regulations. Provided an application is received at least twenty days before a Planning Board meeting, determination as to its completeness shall be made at that meeting. A receipt for the application shall be provided by the Planning Board. Following the completeness review, a decision concerning the proposal's potential for regional impact shall be made. If the Planning Board shall determine that the application as filed is complete, it shall accept the application for further consideration under these regulations and shall notify the applicant of the acceptance of the application and the application's status with regard to regional impact.

Within 30 days after it has been determined that the application for site plan review meets the requirements of these regulations, the Planning Board shall place consideration of such proposed site plan on its agenda and shall act to approve or disapprove thereof within 90 days of accepting the completed application, provided that the Planning Board may apply to the Selectmen for an extension not to exceed an additional 90 days before acting to approve or disapprove.

Upon failure of the Board to approve or disapprove the application within ninety (90) days, or within an additional ninety (90) day extension period requested by the Board and approved by the Selectmen, the applicant may obtain from the Selectmen an order directing the Board to act within thirty (30) days. Failure of the Planning Board to act upon such order of the Selectmen shall constitute grounds for the Selectmen, upon petition of the applicant, to approve the application pursuant to RSA 676:4 within forty (40) days of the issuance of the order, unless within those forty (40) days the Selectmen have identified in writing some specific subdivision regulation or zoning or other ordinance provision with which the application does not comply. Such approval shall cite RSA 676:4 and shall constitute final approval for all purposes including filing, recording, and court review.

Failure of the Selectmen to issue an order to the Planning Board as described, above, or to certify approval of the plat 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 subdivision regulations and zoning or other ordinances. If the court determines that the failure of the Town to act was not justified, the court may order the Town to pay the applicant's reasonable costs, including attorney's fees, incurred in securing such order.

The applicant may waive the requirements for the Planning Board's action within the time periods specified and consent to such extension as may be mutually agreeable.

{RSA 676:4-I(c)(1)-(2)}

D. Public Hearing, Notice, Fees

Before taking action on a site plan, the Planning Board shall hold a public hearing thereon. The applicant and abutters shall be notified of the public hearing and the time and place of such hearing by certified or registered mail, return receipt requested, not less than 10 days before the date fixed for the hearing. Upon determination of a potential for regional impact, the Planning Board shall notify, at least fourteen days prior to the public hearing, by certified mail, all affected municipalities and the Regional Planning Commission of the date, time, and place of the hearing and the right to testify concerning the development. In addition, notice of the public hearing shall be by advertisement in a newspaper of general circulation in the area stating the time and place of such hearing and a brief description of the location of the proposed site plan. The publication of such notice shall be not less than 10 days before the date fixed for the hearing. A filing fee of \$25.00 plus hearing notification costs shall be paid by the applicant at the time of submission of the application.

The Board may require the applicant to pay the cost of a professional review of various parts or of the whole of the proposed site plan upon such terms and conditions as the Board deems to be appropriate. The Board shall select the professional(s). Any and all design engineering and review costs incurred by the municipality in excess of the above-mentioned fees shall be paid by the applicant prior to any action by the Board to approve or disapprove the site plan.

E. Decision of the Board

The Planning Board may approve, approve with condition, or disapprove the plan. Within 72 hours after the Board's decision has been made, a final written notice shall be placed on file in the board's office or with the Town Clerk and shall be made available to the applicant and for public inspection (**RSA 676:3**). If the Planning Board should disapprove the plat, the ground or grounds therefore shall be specified in the record of the Planning Board, and the applicant shall be given notice of the disapproval and the grounds therefore.

The Board may grant condition approval of a plan or application which approval shall become final without further public hearing, upon certification to the Board by its

designee, or based upon evidence submitted by the applicant of satisfactory compliance with the conditions imposed. Final approval of a plat or application may occur in the foregoing manner only when 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;
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.

All other conditions shall require a hearing and notice (**RSA 676:4**).

Approval of the site plan by the Board shall not constitute an acceptance by the Town of any utility, sewerage system, water system, road, highway, right-of-way or other public open spaces.

F. 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 modification which shall be set forth in writing and signed by the Chairman of the Board.

G. Correction of Deficiencies

If the Board or their designated agent 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 Board or agent shall notify the applicant in writing of any such deficiency. 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 the 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.

ARTICLE VII

Concurrent and Joint Hearings

The Planning Board may hold a hearing 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 of variance is held for the project by the Board of Adjustment.

ARTICLE VIII Waiver Procedure

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 the Regulations. In determining what constitutes an unnecessary hardship, the Board shall be guided by court determinations in zoning variance cases.

ARTICLE IX Enforcement

Enforcement Upon determination by the Administrator that the Regulations are being violated, the Administrator shall immediately take informal steps to enforce the provisions of these Regulations. If informal efforts fail to achieve compliance, the Administrator will normally issue a cease and desist order addressed to the violator stating the provision of the Regulations which is being violated, the facts constituting a reasonable time within which such action shall be taken, but in no case longer than 20 days, and notice that failure either to take corrective action or to file an answer will cause the Administrator to issue a citation of land use violation or other appropriate legal action **(RSA 676:17-a)**

If the cease and desist order fails to achieve compliance, the Administrator may elect to issue and serve upon the violator a local land use citation in accordance with the provisions of RSA 676:17-b which will impose a civil penalty not to exceed \$100 a day payable by the offender for each day the violation continued subsequent to the written notice up to a maximum of five days violation charged in one citation. The recipient of the citation may either plead guilty or nolo contendere and pay the fine or answer and request a trial.

Alternatively, the Administrator, after giving the offender notice of the violation and reasonable time to take corrective action, but in no case longer than 20 days, may elect to commence an action directly in Court charging a violation of the Ordinance and requesting a fine not to exceed \$100 a day. If necessary, the Administrator may seek an injunction in the Superior Court to prevent or remove an unlawful construction or to enjoin an unlawful use. **(RSA 676:17-a-b)**

ARTICLE X Amendments

Amendments to these site plan review regulations shall be made in the same manner in which amendments to subdivision regulations are made.

ARTICLE XI Separability

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