

*Proposed Amendments to Site Plan Review Regulations, proposed by Newbury Planning Board
For public hearing on February 18, 2014*

Red-Line Document – Red, underlined text indicates new language proposed; Strike-through indicates proposed deletions; Green, double-underlined text indicates language relocated to a new section

ARTICLE I AUTHORITY AND PURPOSE

1.1 Authority: The Newbury Planning Board hereby adopts Site Plan Review Regulations in accordance with the provisions of Chapter 674 New Hampshire Revised Statutes Annotated 1955 as amended and pursuant to authorization from the Town of Newbury by Town Meeting action on March 11, 1987 and March 14, 1989.

1.2 Purpose: The purpose of these site plan review regulations is to:

1.2.1 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: inadequate drainage or conditions conducive to flooding of the property or that of another; inadequate protection for the quality of groundwater; undesirable and preventable elements of pollution such as noise, smoke, soot, particulates, light, or any other discharge into the environment which might prove harmful to persons, structures, or adjacent properties; and inadequate provision for fire safety, prevention, and control; and the inadequacy of vehicle and pedestrian safety;

1.2.2 Provide for open, harmonious and aesthetically pleasing development of the subject site, the municipality and its environs;

1.2.3 Provide for open spaces and green spaces of adequate proportions;

1.2.4 Require the proper arrangement and coordination of streets within the site and in relation to other existing or planned streets;

1.2.5 Require suitably located streets 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;

1.2.6 Require, in proper cases, that plats showing new streets or narrowing or widening of such streets be submitted to the Planning Board for approval;

1.2.7 Require that the land indicated on plats submitted to the Planning Board shall be of such character that it can be used for building purposes without danger to health, safety or welfare;

1.2.8 Include such provisions as will tend to create conditions favorable for health, safety, convenience and prosperity;

1.2.9 Enhance the rural character of the town by improving the appearance of the business district areas and maintaining a traditional New England atmosphere;

Comment [RR1]: Articles I and II were combined. The purpose statement was revised for clarity.

~~ARTICLE II PURPOSE AND SCOPE~~

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2.1 Purpose

~~These Site Plan Review Regulations authorize the Newbury Planning Board to review and approve or disapprove site plans for the development of commercial, non residential, and multifamily residential properties. The Regulations also prescribe the content and procedures for site plan preparation and submission to the Planning Board. The Site Plan Review process is intended to assist in the preservation and enhancement of the rural atmosphere, recreational facilities, existing natural environment, and the overall quality of life for residents and visitors to the Town of Newbury while allowing for orderly growth and development. Specifically, it is intended to address items such as drainage, potential flooding, protection of groundwater, pollution control, fire protection, provision for open and green spaces, proper layout and construction of streets, traffic impacts, control of conditions dangerous to health and safety, minimization of the ecological impact, definition of requirements for town services and facilities, and such other items as may apply to the specific application. The considerations apply equally to the preservation and enhancement of the lakes, ponds, streams, wildlife, and the natural scenic beauty of the area.~~

2.2 Scope

~~These Site Plan Review Regulations authorize the Newbury Planning Board to review and approve or disapprove site plans for the development or change or expansion of use of tracts for nonresidential uses and for multi family dwelling units which are defined as any structures containing more than two (2) dwelling units, whether or not such development includes a subdivision or resubdivision of the site. One family and two family dwellings are specifically excluded from the application of these Regulations. The purpose and scope of these Regulations are as follows:~~

~~1.2.8~~1.2.10 ~~2.2.1~~ 2.2.1—To protect the health, safety, and welfare of citizens and the community through a review and analysis of the location on the site of buildings, roads, ~~and access, parking, sidewalks,~~ improvements and landscaping and of the interaction of the site with neighboring lots, town and state highways; and sidewalks;

1.2.11 ~~2.2.2~~ 2.2.2—To assist the Planning Board in carrying out the objectives of the Town’s Master Plan; and

To provide for the ~~safe and attractive~~ timely installation of off-site and on-site improvements necessitated by the development ~~or change or expansion of use of~~

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~~the site and to guard against such conditions as would involve danger or injury to health, safety, or prosperity by reason of:~~

~~2.2.2.1 inadequate drainage or conditions conducive to increased flooding of the property or that of another;~~

~~1.2.9~~1.2.12 ~~2.2.2.2 inadequate protection and for the quality of groundwater; payment of such improvement costs.~~

~~2.2.2.3 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 other properties;~~

~~2.2.2.4 inadequate provision for fire safety, prevention, and control;~~

~~2.2.3 to require the proper arrangement and coordination of streets within the site in relation to other existing or planned streets or with features of the official map of the Town;~~

~~2.2.4 to provide for the harmonious and aesthetic development of the municipality and its environs;~~

~~2.2.5 to provide for open space and green spaces of adequate proportions;~~

~~2.2.6 to require suitably located streets of sufficient width to accommodate existing and prospective traffic and to afford adequate light, air, snow removal, and access for firefighting apparatus and equipment to buildings, and be coordinated so as to compose a convenient system; and~~

~~2.2.7 to require that the land indicated on plans submitted to the Planning Board shall be of such character that it can be used for purposes intended without danger to health or to the character of the land.~~

~~ARTICLE III TYPES OF DEVELOPMENT REQUIRING SITE PLAN REVIEW~~

II

~~3.1 Criteria: A landowner shall obtain Site Plan Review approval from the Board for the following types of development:~~

~~3.1.1 All new principal buildings and accessory buildings for multi-family and non-residential use;~~

~~3.1.2 additions of more than 500 square feet of floor area to such existing principal and accessory buildings or 10% whichever is less;~~

Comment [RR2]: Article III has been retitled When Site Plan Review Approval is Required – refer to page 5 for amended text for Article III.

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~~3.1.3~~ a change in use or layout of multi family or non residential property or building(s) which involves changes in traffic flow; parking; drainage; water, sewer, or other utilities; fuel storage; or toxic material storage; or

~~3.1.4~~ cottage industry. (See Article XIII for submittal requirements).

~~3.2~~ Interpretation: The Planning Board is responsible for interpreting whether or not a Site Plan Review is required for a particular development, change of use or change in site layout. Anytime a property subject to Site Plan Review changes ownership or tenancy, is remodeled, or engages in any of the activities outlined in paragraph 3.1, the landowner shall contact the Planning Board to see if Site Plan Review is required.

~~ARTICLE IV COMPLIANCE WITH OTHER REGULATIONS~~

~~4.1~~ The Site Plan Review procedure shall be used in conjunction with the Newbury Master Plan and shall in no way relieve an applicant from compliance with all State and Newbury Regulations. No Site Plan shall be approved unless such plan complies with all applicable local ordinances and regulations. Whenever the regulations governing site plan review differ from those prescribed by any statute, ordinance, or other regulations, that provision which imposes the greater restriction or the higher standard shall govern, to the extent not contrary to state law.

~~ARTICLE V DEFINITIONS~~

~~52.1~~ Zoning Ordinance Definitions: For the purposes of these Site Plan Review Regulations, the meaning of terms or words used herein shall conform to the definitions found in the Newbury Zoning Ordinance or Subdivision Regulations, with the provision that if there is a contradiction in meaning, the more stringent of the two shall apply. The word Board shall mean the Newbury Planning Board.

~~52.2~~ Abutter: Any person whose property adjoins, or is directly across the street or stream from the land under consideration. A property owner cannot be his/her own abutter for the purpose of notification. For the purposes of receipt of notification of a hearing, in the case of an abutting property being under a condominium or other collective form of ownership, the term abutter means the officers of the collective or association. For the purposes of receiving testimony only, and not for the purposes of notification, the term abutter shall include any person who is able to demonstrate that his/her land will be directly affected by the proposal under consideration. The names of all abutters shall be obtained from the Town Tax List as it exists in the Town Offices not more than 5 days before the day of filing an application. Alternatively, names of abutters may be obtained from the Assessor's Assessing & Mapping Database found on the Assessor Department page of the Town web site, within the same time period. Properties shall be selected according to the criteria stated above and the information transmitted on the Planning Board's abutter form.

Comment [RR3]: Article IV has been retitled Information for Developers. Refer to Page 6

Comment [RR4]: Article V Definitions has been renumbered to Article II. The abutter definition has been amended to clarify the process for identifying abutters. New definitions have been added relative to exterior lighting.

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- ~~2.3~~ Fully Shielded (full cutoff) Luminaire: A luminaire emitting no light above the horizontal plane.
- 2.4 Glare: Intense and blinding light. Causes visual discomfort or disability.
- 2.5 Landscaped Open Space: That portion of the lot not covered by impervious surfaces such as buildings, paving, walkways, and driveways. Landscaping shall consist of any of the following or combination thereof: material such as grass, ground covers, shrubs, vines, annuals, perennials, hedges or trees; and non-living durable material commonly used in landscaping, such as rocks, pebbles, sand, walls, fences, but excluding paving and artificial plant materials.
- 2.6 Luminaire (light fixture): A complete lighting unit consisting of one or more electric lamps, the lamp holder, any reflector or lens, ballast (if any), and any other components and accessories.
- 2.7 Obtrusive Light: Spill light that causes glare, annoyance, discomfort, or loss of visual ability. Light Pollution.
- 2.8 Spill light: Light from a lighting installation that falls outside of the boundaries of the property on which it is located. Usually results in obtrusive light.

ARTICLE III WHEN SITE PLAN REVIEW IS REQUIRED

- 3.1 Requirements: A landowner shall obtain Site Plan Review approval from the Board for any development of a lot for non-residential use or multi-family dwelling units including but not limited to:
- 3.1.1 All new principal buildings and accessory buildings for nonresidential uses and for multi-family dwelling units, which are defined as any structures containing more than two (2) dwelling units whether or not such development includes a subdivision or re-subdivision of the site. No site plan review shall be required for one-family or two-family dwelling units and their accessory uses or structures.
- 3.1.2 A change in use.
- 3.1.3 An expansion of use.
- 3.1.4 A change in site layout including but not limited to parking and access.
- 3.1.5 Remodeling of a building associated with a non-residential or multi-family dwelling use, which results in an architectural change to the exterior.
- 3.1.6 Cottage industry. (See Article X for submittal requirements).

Comment [RR5]: Article III has been retitled from Types of Development Requiring Site Plan Review to When Site Plan Review is Required. The text of this Article has been amended for clarity and consistency with other Articles.

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3.1.7 Land Application of Municipal Sewage Sludge. (See Article XI for submittal requirements).

3.2 Uses: Uses shall be those permitted by articles IV and V of the Zoning Ordinance.

3.3 Interpretation: The Planning Board has final authority for interpreting whether or not a Site Plan Review is required for a particular development, change of use, change in site layout or other condition

3.4 Change in Ownership or Tenancy: When there is a change in ownership or tenancy of a property that is used for nonresidential uses, the new owner or tenant shall meet with the Planning Board to discuss their plans prior to opening for business and for the Planning Board to determine if a site plan review is required and to communicate any particular conditions that may apply to that site from a previous site plan approval or town regulations that apply to the site or its use.

ARTICLE IV INFORMATION FOR DEVELOPERS

4.1 Concurrent Hearing: When both Subdivision and Site Plan approvals are required on a proposed development, the Board may hold the Site Plan Review at the same time as the hearing required for the final plan by the Subdivision Regulations.

4.2 Compliance with Other Regulations: The Site Plan Review procedure shall be used in conjunction with the Newbury Master Plan and shall not relieve an applicant from compliance with all State and Newbury Regulations. No Site Plan shall be approved unless the plan complies with all applicable local ordinances and regulations. It is especially important for developers to review and comply with Article XXI (Stormwater Management) in the Zoning Ordinance.

4.3 Conflict with Other Regulations: Whenever the regulations governing site plan review differ from those prescribed by any statute, ordinance, or other regulations, that provision which imposes the greater restriction or the higher standard shall govern, to the extent not contrary to state law.

4.4 Development Before Approval: Prior to the approval of any proposal that is subject to the requirements of Section 3.1 above:

4.3.1 no building permit shall be granted;

4.3.2 no land clearing or site preparation shall be started;

4.3.3 no building construction or modification shall be started.

Comment [RR6]: Article IV has been retitled from Compliance with Other Regulations to Information for Developers.

Comment [RR7]: Reorganized from Article VIII Procedure when Subdivision Approval is Required, no amendments to text.

Comment [RR8]: Reorganized from existing Article IV (4.1) and renumbered; no amendments to text.

Comment [RR9]: New provision

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4.5 Certificate of Occupancy: No development may be occupied and no site may be used unless and until a Certificate of Use and Occupancy has been issued by the Board of Selectmen in accordance with Section 3.9 of the Zoning Ordinance.

Comment [RR10]: Reorganized from Article IX Certificate of Completion, text amended from Certificate of Completion to Certificate of Use and Occupancy.

4.6 Fees and Notification Costs: The application fees established by the Board as outlined on the fee schedule shall be paid by the applicant in advance of the public notice and the hearing at which the application will be considered. Failure to pay such fees shall constitute valid grounds for the Board to terminate further consideration and to disapprove the plan without a public hearing.

4.6.1 Additional fees as outlined in Section 5.6 may be imposed by the Board during the review process to cover fees and costs of professional reviewers of the Board including engineers, surveyors, lawyers and planning consultants.

Comment [RR11]: New provision

4.7 Changes and Alterations in an Approved Site Plan. ~~No changes or alterations shall be made in an approved Site Plan without the consent of the Board. The Board may grant such consent for good cause upon request of the applicant and upon such notice and hearing as may be required.~~

Comment [RR12]: Reorganized from Article XVI (16.2) – no amendments to text.

4.8 Five-year Exemption: The purpose of the exemption is to protect the developer from changes in the regulations while the property is being developed. However, this protection is subject to certain requirements and conditions as spelled out below and in RSA 674:39.

Comment [RR13]: New provision, replaces Article XVI (16.1) regarding period for construction, codifies RSA 674:39.

4.8.1 Every site plan approved by the Planning Board shall be exempt from all subsequent changes in site plan review regulations and zoning ordinances adopted by the Town Newbury, except those regulations and ordinances which expressly protect public health standards such as water quality and sewage treatment requirements, for a period of five years after the date of approval, provided, however, that once substantial completion of the improvements, as shown on the plan, has occurred in compliance with the approved plan, or the terms of said approval, the rights of the owner or his successor in interest shall vest and no subsequent changes in subdivision regulations or zoning ordinances shall operate to affect such improvements. The exemption is subject to the following requirements:

4.8.1.1 At the time of approval, the site plan conforms to site plan review regulations and zoning ordinances then in effect in the Town of Newbury.

4.8.1.2 The development remains in full compliance with the public health regulations and ordinances of the State of New Hampshire and the Town of Newbury.

4.8.1.3 Active and substantial development or building has been achieved on the site by the owner or the owner's successor in interest in accordance with the approved site plan within twenty four (24) months after the date of approval. The required start of active and substantial development or building may be stated in the conditions subsequent of the approval depending on the scope

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and details of the project.

4.8.2 The developer may request one extension of the required start of active and substantial development or building no later than one (1) month before the required start. The length of the extension shall be at the discretion of the Planning Board.

4.8.3 Failure to achieve active and substantial development within twenty four (24) months of approval of the Site Plan or within twelve (12) months of the time stated in the conditions subsequent shall be grounds for revocation of the site plan approval.

4.8.4 For purposes of these regulations, unless modified by the Board at the time of approval of a specific application, “active and substantial development or building” for new construction shall be defined as:

4.8.4.1 Construction of and/or installation of the basic infrastructure to support the development (including all of the following: foundation walls and footings of proposed buildings; roadways, access ways, parking lots, etc. to a minimum of gravel base; water, and wastewater lines, and installation of underground conduits ready for connection to proposed buildings/structures) in accordance with the approved plans; and

4.8.4.2 Construction and completion of drainage improvements to service the development (including all of the following: detention/retention basins, treatment swales, pipes, under drains, catch basins, etc.) in accordance with the approved plans; and

4.8.4.3 Erosion control measures installed and maintained on the site as specified on the approved plans.

4.8.4.4 Movement of earth, excavation, or logging of a site without completion of the above items shall not be considered “active and substantial development or building.”

4.8.4.5 Site Plans approved in phases shall be subject to this definition for the phase currently being developed.

4.8.5 For purposes of these regulations, “active and substantial development or building” for modifications of existing sites and structures shall be defined in the conditions subsequent of the approval with due regard to the scope and details of the particular project.

4.8.6 For purposes of these regulations, “substantial completion” is that point in the progress of the construction of improvements or development of the site whereby the project qualifies for and receives a Certificate of Use and Occupancy in accordance with the terms of Section 3.9 of the Zoning Ordinance. For purposes of

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these regulations, “substantial completion” for off-site improvements is that point in the progress of the work where the work is in compliance with all the plans and specifications approved by the Planning Board in the opinion of the Highway Administrator or the Planning Board’s engineer.

4.8.7 The developer shall achieve substantial completion within five (5) years from the date of approval, or before the date stated in the conditions subsequent of the approval depending on the scope and details of the project.

4.8.8 The developer may request one extension of the required date of substantial completion no later than one (1) month before the required date. The length of the extension shall be at the discretion of the Planning Board.

4.8.9 Failure to achieve substantial completion by the date required shall be grounds for revocation of the site plan approval.

ARTICLE ~~VI~~ V PROCEDURE FOR SITE PLAN REVIEW

65.1 General: There are three phases in the site plan review process: ~~Non-binding Preliminary Conceptual Consultation and Conceptual Review~~ (Phase I), ~~Preliminary Design~~ Review (Phase II) and ~~Final Application Site Plan Approval~~ (Phase III).

6
5.2 Phase I: ~~Nonbinding Preliminary Conceptual Consultation and Conceptual Review~~: In order to save expense and unnecessary changes later on, ~~a person is potential applicants are~~ encouraged to request a consultation ~~and/or request to be on the agenda of a regular meeting of the Board for a discussion of a proposed for review of the basic concept in general terms of their proposal~~ and for a review of applicable Site Plan Review Regulations, application forms, ~~and necessary supporting maps, and documents.~~ ~~and documents.~~ ~~The Board and the applicant may discuss proposals in conceptual form only and in general terms such as desirability of types of development and proposals under the master plan.~~ Conceptual Consultation may occur only at formal meetings of the Planning Board.

There is no application fee, nor is this consultation and review binding in any way on either the applicant or the Board. ~~Conceptual Review does not require a public hearing with the Planning Board~~ To be placed on the Board’s meeting agenda, the applicant shall submit a form entitled “Application for Conceptual Review - Site Plan Review” at least five (5) business days before the Board’s next regular scheduled meeting.

5.3 Phase II: Design Review: The objective of design review is to give the applicant and the Planning Board an opportunity to discuss a proposal in much greater detail than is allowed in the conceptual consultation phase. On the other hand, it should not delve into details that are better left to the site plan approval phase. Design review is intended to assure that the essential characteristics of the site and specific requirements of local regulations are thoroughly reviewed and understood before the final design is prepared. Also it gives the

Comment [RR14]: Article renumbered

Comment [RR15]: Text has been amended to match the phases defined in RSA 676:4.

Comment [RR16]: Amendments clarify the scope and process of Phase I, based on RSA 676:4.

Comment [RR17]: Amendments clarify the scope, process and notification/application requirements of Phase II, based on RSA 676:4.

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Planning Board the opportunity to determine whether or not the development has the potential for regional impact under RSA 36:54. Design Review is not required, but it may be recommended for larger projects by the Board after Preliminary Conceptual Consultation.

Design Review shall take place at a public meeting (not a hearing) of the Board for which notice has been given in accordance with Section 5.5. Statements made during the discussion shall not bind either the applicant or the Board in any manner, and statements made by the Board members are for guidance and shall not be construed as prejudging the proposal nor shall they be the basis for disqualifying said members or invalidating any action taken.

The Board is not required to accept questions and comments from the public, however the Board may provide time for members of the public to present comments specific to matters that have been discussed.

When, in the opinion of the Board, the design review process is complete, it shall inform the applicant and send a written copy of the determination to the applicant within 10 days. This requirement complies with RSA 676:4,II(b) and RSA 676:12,VI.

Any person interested in a design review of a proposed project shall submit a form entitled “Application for Preliminary Design Review - Site Plan Review” and associated documents to the Board at least twenty-one (21) days prior to any regularly scheduled public meeting of the Board. The associated documents shall include: a plan of the site and drawings of any buildings which clearly communicates the nature of the proposal to the Board and the following sections from ARTICLE X:

10.3 Check for Fees

10.4 Agency Letter

10.5 Abutters List

10.8 Landscaping Plan

10.9 Drainage Plan

10.

~~6.3 Phase II: Preliminary Review: If a person wishes a review of a project which goes beyond discussion of the proposed site plan in conceptual form, he/she shall apply to the Board on a form provided by the Board and pay the required fees. The Board shall then give public notice of the preliminary site plan review hearing in accordance with these regulations as listed below:~~

~~The preliminary review shall be conducted only at meetings of the Board. The Board may review the proposal in detail and receive testimony in person or in writing from any~~

Comment [RR18]: Amendments clarify that a public hearing will not be held for a Phase II application.

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~~applicant, any abutter, or any other person as permitted by the Board. A copy of the appropriate minutes of the Board or such other communication as the Board may desire shall be a sufficient report. The applicant may feel that the Preliminary Review by the Board is not necessary and that he/she is willing to risk the expense of preparing a final Site Plan without review and comment by the Board.~~

610 Structure Plan

10.11 Written Summary

The submission shall consist of one full size copy and seven 11" x 17" copies of each plan and eight copies of all the documents required by the application submittal above.

5.4 Phase III: ~~Final Application Review; Site Plan Approval~~: Any person desiring final approval ~~for~~ of a site plan shall submit an application as outlined in ARTICLE ~~XVII~~ to the Board at least twenty-one (21) days prior to the regularly scheduled public meeting of the Board. At that meeting, the Board will determine if the application is complete, and if it is, a public hearing will be held on the merits of the proposal. Prior to the meeting, the public and abutters will be given notice as required in ~~paragraph 6.6~~Section 5.7 with the additional requirement that the notice shall state that the Board will determine if the application is complete at the meeting.

5.5 ~~Notice of Design Review Meeting: The Board may engage in non-binding discussions with the applicant beyond conceptual and general discussions which involve more specific design and engineering details; provided, however, that the design review phase may proceed only after giving notice as described below~~

5.5.1 The Board shall notify the following persons by certified mail of the date and time of the public meeting when the Board will conduct a Design Review:

5.5.1.1 the applicant,

5.5.1.2 the abutters (see definition in Section 2.2),

5.5.1.3 holders of conservation, preservation, or agricultural preservation restrictions on the land under consideration, and

5.5.1.4 every engineer, architect, land surveyor, or soil scientist whose professional seal appears on any plat submitted to the Board.

5.5.2 Such notice shall be mailed at least ten (10) clear days (not including the days of mailing and hearing) prior to such public meeting. At the same time the notice is mailed to the abutters and applicant, such notice shall also be given to the general public by posting a copy of the notice in two public places in the Town, and the placement of a notice in a local newspaper of general circulation. The notice shall include a general description of the proposal which is the subject of the application

Comment [RR19]: New provision – outlining notification requirements for Design Review meetings, per 676:4.

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and shall identify the applicant and the location of the property which is the subject of the application. In addition the notice shall state: "The purpose of this meeting is to discuss the proposal in detail and acquaint the applicant with the regulations. No binding decisions will be made at this meeting."

5.6.5 Fees for Consultants: Fees in addition to the application fee may be imposed by the Board during the review process to ascertain compliance, to cover fees and expenses of consultants to the Board including, but not limited to, engineers, surveyors, lawyers, and community planners. If consultants are required, the applicant shall deposit with the Board one of the following fees:

~~One~~

5.6.1 Two thousand dollars (~~\$1000~~2,000) for parcels of 40,000 square feet of disturbed land area or less, or

~~Two~~

5.6.2 Four thousand dollars (~~\$2000~~4,000) for parcels of over 40,000 square feet of disturbed land area but less than 80,000 square feet of disturbed land area, ~~and/or~~

~~Three~~

5.6.3 Six thousand dollars (~~\$3000~~6,000) for parcels ~~in excess of~~ over 80,000 square feet of disturbed area.

This money shall be placed in an escrow account and dispersed by the Town to the consultants for the Board based on actual costs as detailed on invoices. If the escrow account is depleted, then the applicant shall reimburse the Town for any additional costs for consulting services prior to any final decision by the Board on the application. The balance in the escrow account shall be refunded to the applicant after a final decision by the Board and all costs for consultants to the Board have been paid.

~~6.65.7~~ Public Hearings: Notice of Public Hearing: No application may be denied or approved without a public hearing on the application.

~~6.65.7.1~~ The Board shall notify the following persons by certified mail of the date and time when the completed application will be formally heard by the Board:

~~6.6~~

~~5.7.1.1~~ the applicant,

~~6.6~~

~~5.7.1.2~~ the abutters (see definition ~~5-in Section 2.2~~),

~~6.6~~

~~6.6.1.4~~ holders of conservation, preservation, or agricultural preservation restrictions on the land under consideration, and

~~6.6~~

~~5.7.1.5-4~~ every engineer, architect, land surveyor, or soil scientist whose professional seal appears on any plat submitted to the Board.

~~6.65.7.2~~ Such notice shall be mailed at least ten (10) clear days (not including the days of mailing and hearing) prior to such formal hearing. At the same time the notice is mailed to the abutters and applicant, such notice shall also be given to the

Comment [RR20]: Amendment to fee structure, has not been updated since 2005

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general public by posting a copy of the notice in two public places in the Town, and the placement of a notice in a local newspaper of general circulation. 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 property which is the subject of the application. If the application is to receive accelerated review, the Board shall give notice that the application will be reviewed for completeness and that the public hearing on the Site Plan Review will take place at the same time. The Board may also give notice by regular mail to other landowners in the vicinity of the tract.

6-65.7.3 Additional notice of an adjourned session of a public hearing is not required if the date, time, and place of the adjourned session is made known at the prior hearing. At the hearing, the applicant, any abutter or any person with a demonstrable interest in the matter may testify in person or in writing. The Board will receive written or verbal input from any of the review entities outlined in Section 40-12.2-7.11 below. Other persons may testify as permitted by the Board at each hearing. Additional public hearings may be held at the discretion of the Board.

6-75.8 Public Hearing on Application for Final Approval; Time Limits

5.8.1 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 Section 5.7, determine if a submitted application is complete and shall vote upon its acceptance.

~~6.6, determine if a submitted application is complete and shall vote upon its acceptance.~~

5.8.2 Upon determination by the Board that a submitted application is ~~incomplete~~not complete according to Section ~~407.1~~, the Board shall notify the applicant of ~~the determination~~its decision in writing in accordance with RSA 676:3, ~~which. The letter~~ shall describe the information, procedure, or other requirement necessary for the application to be complete. When the applicant is present ~~and consents~~, the Board ~~shall~~may also describe verbally the ~~information, procedure, or other requirement~~requirements necessary for the application to be complete.

5.8.3 Upon determination by the Board that a submitted application is complete according to the Board's regulations, the Board shall begin formal consideration and shall act to approve, conditionally approve, or disapprove within 65 days. However 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. Alternatively the applicant may waive the requirement for Planning Board action within the time periods specified in this section and consent to such extension as may be mutually agreeable.

5.8.4 Upon failure of the Board to approve, conditionally approve, or disapprove the application, the selectmen shall, upon request of the applicant, immediately issue an

Comment [RR21]: Amendment to clarify process for notifying an applicant of an incomplete application, to codify state law RSA 676:4.

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order directing the Board to act on the application within 30 days. If the Planning Board does not act on the application within that 30-day time period, then within 40 days of the issuance of the order, the selectmen shall certify on the applicant's application that the plat is approved pursuant to this paragraph. The selectmen shall not certify approval if within those 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 a certification, citing this paragraph, shall constitute final approval for all purposes including filing and recording under RSA 674:37 and 676:18, and court review under RSA 677:15.

5.8.5 Failure of the selectmen to issue an order to the Planning Board under the paragraph 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 selectmen or the city council to act was not justified, the court may order the municipality to pay the applicant's reasonable costs, including attorney's fees, incurred in securing such order.

6-85.9 **Notice of Decisions:** If the application is approved, the Board shall issue a written decision, which includes any and all conditions which have been required by the Board as a part of the approval decision. If the application is denied, the Board shall state the reasons for denial. Minutes of the Board meeting shall be a sufficient record of the Board's decision.

5.10 Signing of the Final Site Plan: In order for the Planning Board to sign an approved site plan, the applicant shall satisfy all conditions precedent of Planning Board approval, if any, and shall comply with any requirements for security for the construction of improvements as outlined in Article XII. The site plan shall be inscribed with the date of signing and be signed by a majority of the Board. Four print copies of the final site plan shall be furnished to the Board for signature with the original to be retained in the Planning Board file, one copy to be placed in the property file, one copy to be given to the Code Enforcement Officer, and one copy to be given to the applicant. All copies shall be identical to the Planning Board original.

5.10.1 The Planning Board may grant final approval of a plat subject to conditions precedent without further hearing if such conditions are:

5.10.1.1 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

5.10.1.2 Conditions which are in themselves administrative and which involve no discretionary judgment on the part of the board; or

5.10.1.3 Conditions with regard to the applicant's possession of permits and

Comment [RR22]: New provision, to codify Board procedure

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approvals granted by other boards or agencies or approvals granted by other boards or agencies, including state and federal permits.

All conditions not specified within this subparagraph as minor, administrative, or relating to issuance of other approvals shall require a hearing, and notice 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.

5.11 Review of Developments of Regional Impact

5.11.1 The purpose of this section is to:

- 5.11.1.1 Provide timely notice to potentially affected municipalities concerning proposed developments, which are likely to have impacts beyond the boundaries of the Town of Newbury.
- 5.11.1.2 Provide opportunities for the regional planning commission and the potentially affected municipalities to furnish timely input to the Town of Newbury.
- 5.11.1.3 Encourage the Town of Newbury to consider the interests of other potentially affected municipalities.
- 5.11.1.4 Fulfill the statutory requirements of RSA 36:54 through 36:58.

5.11.2 Definition. Any development which the Planning Board determines could reasonably be expected to impact on a neighboring municipality, because of factors such as, but not limited to, the following:

- 5.11.2.1 Relative size or number of dwelling units as compared with existing stock.
- 5.11.2.2 Proximity to the borders of a neighboring community.
- 5.11.2.3 Transportation networks.
- 5.11.2.4 Anticipated emissions such as light, noise, smoke, odors, or particles.
- 5.11.2.5 Proximity to aquifers or surface waters that transcend municipal boundaries.
- 5.11.2.6 Shared facilities such as schools and solid waste disposal facilities.

5.11.3 Review Required:

The Newbury Planning Board, upon receipt of an application for development or a Comprehensive Planning Application, shall review it promptly and determine whether or not the development, if approved, reasonably could be construed as having the potential for regional impact. Doubt concerning regional impact shall be resolved in a determination that the development has a potential regional

Comment [RR23]: New provision, to codify state law RSA 676:4.

Comment [RR24]: New article, to codify state law RSA 36:54-57

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impact. Failure of the Planning Board to vote specifically on an application to determine if a project meets the criteria of Development of Regional Impact shall result in a determination being made that the proposal is not a Development of Regional Impact.

5.11.4 Procedure:

5.11.4.1 Upon determination that a proposed development has a potential regional impact, the Newbury Planning Board shall afford the regional planning commission and the affected municipalities the status of abutters as defined in RSA 672:3 for the limited purpose of providing notice and giving testimony.

5.11.4.2 Within 72 hours of reaching a decision regarding a development of regional impact, the Newbury 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.

5.11.4.3 At least 14 days prior to public hearing, the Newbury Planning Board shall notify, by certified mail, all affected municipalities and the regional planning commission of the date, time, and place of the hearing and their right to testify concerning the development.

ARTICLE VI MINOR SITE PLAN REVIEW

6.1 Certain low impact proposals may be addressed by Minor Site Plan Review at the discretion of the Planning Board.

6.2 Criteria: The Planning Board shall use the following guidelines to determine if a proposal qualifies:

6.2.1 The proposal is an amendment to an approved site plan, which is on file.

6.2.2 The proposal involves a building expansion of less than 500 square feet.

6.2.3 The proposal involves minimal changes to the appearance of the structures.

6.2.4 The proposal involves minimal changes to the appearance of the site.

6.3 Procedure: The following materials shall be submitted:

6.3.1 Application form.

Comment [RR25]: New provision permitting minor site plan review process for certain low-impact development proposals

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6.3.2 Abutter list.

6.3.3 Reduced fee per schedule.

6.3.4 One full size copy and seven 11" x 17" copies of the site plan and eight copies of all
the documents required in the following sections of this Article.

6.3.5 Site plan with notations of changes.

6.3.6 Written summary of changes and other information required by the Board.

ARTICLE VII APPLICATION REQUIREMENTS

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

7.1 When a Special Exception or Variance is required by the Zoning Ordinance, the applicant shall first obtain the Special Exception or Variance before applying for Site Plan approval. Additional conditions may be required by the Planning Board as part of the Site Plan approval.

7.2

~~ARTICLE VIII PROCEDURE WHEN SUBDIVISION APPROVAL IS REQUIRED~~

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

~~ARTICLE IX CERTIFICATE OF COMPLETION~~

9.1 No development may be occupied and no site may be used unless and until a Certificate of Completion has been issued by the Board or its designee. A certificate shall not be issued until the site improvements have been completed and are in conformance with the approved Site Plan. Before a certificate is issued, all construction and site preparation debris shall be removed and the site left in a neat and tidy condition. A site may be occupied or used prior to completion if a performance bond or other security in an amount and form approved by the Board is provided to the Town for unfinished improvements.

Comment [RR26]: Article s reorganized, no amendments to text.

Comment [RR27]: Article VIII relocated to new Article IV (4.1 Concurrent Hearing); no amendments to text.

Comment [RR28]: Article IX relocated to new Article IV (4.5), Certificate of Completion replaced with Certificate of Use and Occupancy.

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~~ARTICLE X~~ APPLICATION REQUIREMENTS

~~40.1~~ Introduction: The standards and requirements in Article ~~XHIX~~ will be used by the Board in its review of any site plans submitted. The Board will accept, as complete, an application for Site Plan Review which consists of the materials outlined below.

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7.2.1 Documentation: In addition to one copy of each of the materials, the applicant shall provide for use of the Board members seven 11" x 17" copies of each plan (Section 7.6) and seven copies of the documents required in sections 7.7 through 7.10 and 7.13.

7.3 Application Form: An application form provided by the Board completely filled out.

~~10.37.4~~ Check for Fees: A check for the required fees, which shall be calculated from the Board's fee schedule ~~provided with the application form.~~

7.5

~~10.4~~ Agency Letter: Written authorization from the landowner of record for any agent(s) to represent the owner

~~10.57.6~~ Abutters List: The abutter list (on Planning Board form) shall include the following:

7.6.1 the applicant

7.6.2 the abutters (see definition ~~section 5~~ in Section 2.2)

7.6.3 holders of conservation, preservation, or agricultural preservation restrictions on the land under consideration

~~5)~~

7.6.4 every engineer, architect, land surveyor, or soil scientist whose professional seal will appear on any plat submitted to the Board.

The names and addresses of all abutters shall be selected from the town records not more than five (5) days before the date of filing the application.

When common land abuts the subject land, all persons with an interest in that land shall be on the abutter list.

~~10.6~~ ~~Documentation: One full size copy and seven 11" x 17" copies of each plan and eight copies of all the documents required by the application submittal requirements of this Article.~~

~~107.7~~ Site Plan: A Site Plan map drawn to the scale of 1"=20' or an alternative scale acceptable to the Board. The Site Plan map shall be prepared by a NH Licensed Land Surveyor and/or Licensed Professional Engineer. The following information shall be included:

~~107.7.1~~ A title block in the lower right-hand corner containing the tax map and lot numbers, the name and address of the owner of record, the

Comment [RR29]: Note several minor amendments to required features to be included on site plan.

Comment [RR30]: New provision to require site plans be prepared by a Licensed Land Surveyor or Licensed Professional Engineer

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name and address of the surveyor or engineer, date of last revision, and scale.

~~10.7.7.2~~ True north point, graphic scale, dates of revisions, and the seal and signature of the surveyor or engineer.

~~10.7.3~~ An approval A use block above the title block with the title "Legend "Use Applied For" and the stated use printed below it in the box.

7.7.3 The Site Plan map shall include the following signature block in a convenient location:

Approval Date: _____

TOWN OF NEWBURY, N.H. PLANNING BOARD", approval date, and seven blank lines for signatures.

~~10~~ **Signatures of Board:**

Chair

7.7.4 The Site Plan map shall include a graphic scale near the center bottom of the map and a north arrow in a convenient location.

7.7.5 A location map, shown as an inset on the Site Plan, which shall show the proposed development in relation to major roads, bodies of water, or other landmarks of the town.

~~10.7.5~~7.6 A perimeter boundary survey by a licensed land surveyor including metes and bounds and the lot area.

~~10.7.6~~7.7 Rights-of-way and traveled surface of all fronting streets.

~~10.7.7~~ Names, mailing addresses,7.7.8 Show the name and the tax map # and lot #number of ~~abutter~~each abutter (see definition in ~~5~~Section 2.2).

~~10.7.8~~7.9 Zoning districts including their lines of demarcation, and

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building setback lines.

- ~~7.7.10~~ ~~7.9~~ The location, shape, and size of all existing and proposed buildings or other structures, septic systems and wells and site features such as signs, access points, driveways, sidewalks, parking spaces, loading areas, storage areas, open spaces, large trees, open drainage courses, service areas, and easements. A picture or drawing of each sign with dimensions shall be included.
- ~~10.7.10~~ ~~10.7.11~~ Existing and proposed grades with topographic contours at intervals not exceeding two (2) feet ~~and extending two hundred (200) feet beyond the site plan boundary.~~
- ~~10.7.11~~ ~~10.7.12~~ Any existing streams, wetlands, marshes, lakes or ponds whether natural or manmade ~~within two hundred (200) feet beyond the site plan boundary, and the location and elevation of any designated flood hazard areas.~~
- ~~10.7.12~~ ~~10.7.13~~ A utility plan (underground utilities are encouraged whenever possible) showing location of and provisions for either private or municipal:
- ~~10.7.12~~ ~~10.7.13.1~~ fresh water supply including a water supply sufficient for fire protection
 - ~~10.7.12~~ ~~10.7.13.2~~ sewage disposal system.
 - ~~10.7.12~~ ~~10.7.13.3~~ electrical lines and equipment.
 - ~~10.7.12~~ ~~10.7.13.4~~ exterior lighting and sign illumination showing type of lamp, beam direction and candle power or wattage.
 - ~~10.7.12~~ ~~10.7.13.5~~ phone, cable, and communication lines.
 - ~~10.7.12~~ ~~10.7.13.6~~ fuel storage, distribution lines and equipment.
 - ~~10.7.12~~ ~~10.7.13.7~~ air conditioning including cooling towers.

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7.8 Landscaping Plan: A plan of landscaped open space (see definition in Section 2.5.3) which, in addition to showing the layout of buildings and paved areas, indicates a planting plan and species to be planted. The plan shall also show landscaped features such as stone walls, bollards, seating, etc. The plan shall meet the standards set forth in ~~paragraph 12~~Section 9.4.

~~10~~7.9 Drainage Plan: A drainage plan showing:

~~10~~7.9.1 the existing and proposed method of handling water runoff.

~~10~~7.9.2 the direction of flow of the runoff through the use of arrows.

~~10~~7.9.3 the location, elevation, and size of all catch basins, dry wells, drainage ditches, swales, retention basins, storm sewers, culverts and manholes.

~~10~~7.9.4 engineering calculations used to determine drainage requirements including alteration of existing drainage patterns due to such factors as the amount of new impervious surfaces (such as paving and building area) being proposed based on a fifty (50) year storm frequency for box culverts and bridges and a twenty-five (25) year storm frequency for all other drainage improvements.

7.10 ~~10~~Structure Plan: Provide plans and elevations of all existing structures to remain and proposed structures on the site showing how they will meet the standards set forth in paragraph ~~12~~29.5. Floor plans should show the breakdown of the floor area and the proposed use(s). Plans shall be drawn to a scale of 1/8 inch equals 1 foot or larger. In addition, present elevations of all signs showing height, size, character, composition and layout. Photographs, 5"x 7" in size, of the four elevations of all existing structures which are to remain unchanged may be substituted for drawings.

~~10~~7.11 Written Summary: Provide a written summary describing the proposed site development and the proposed use(s). Include each of the applicable items below.

~~10~~7.11.1 days and hours of operation

~~10~~7.11.2 number of employees

~~10~~7.11.3 the extent of normal customer/business traffic including truck deliveries

~~10~~7.11.4 an estimate of the maximum hourly traffic into and out of the premises, traffic flows on connecting roads, special traffic problems and how the applicant proposes to mitigate them

~~10~~7.11.5 data and calculations used to arrive at the number of parking spaces specified

~~10~~7.11.6 the need for utility services by type

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~~10~~

7.11.7 any other information which will clarify the proposal to the Board.

~~10.12~~ Permits and Approvals: One copy each of all required federal, state, and local permits, and approvals (with or without special conditions and/or stipulations):

~~10.12.1~~ Special Exception or Variance approval by the Zoning Board of Adjustment, if required.

~~10.12.2~~ 7.12 Sign-Off Sheets: A copy of the Site Plan Review application and related materials together with a Sign-off Sheet supplied by the Board shall be provided to each of the entities below for their review and comment. An authorized signature, indicating review, shall be obtained from each entity. Sign-off Sheets shall be submitted to the Planning Board at or before the public hearing on acceptance of the application.

7.12.1 Newbury Board of Selectmen

7.12.2 Newbury Police Department

7.12.3 Newbury Fire Department

7.12.4 Newbury Highway Department

7.12.5 Newbury Conservation Commission

7.12.6 Any other as required by the Planning Board.

~~10.13~~ 7.13 Permits and Approvals: One copy each of all required federal, state, and local permits and approvals (with or without special conditions and/or stipulations) shall be obtained and submitted prior to final approval. This includes any Special Exceptions or Variances that may be required. The Planning Board may condition approval upon the receipt of such permits or approvals in accordance with Section 5.10.

7.14 Legal Documents: Draft copies of all proposed easement deeds or other legal documents.

7.15 Additional Information: The Board may require such additional information as it deems necessary in order to evaluate the proposal in relation to the purposes and scope of these regulations.

~~10.14~~ The applicant's attention is directed to Articles IX, XV, and XVI.

ARTICLE ~~XVIII~~ WAIVER OF REQUIREMENTS

Comment [RR31]: Amendment clarifies site plan requirements relative to federal, state and local permit approvals

Comment [RR32]: New provision to require copies of legal documents

Comment [RR33]: Text amendment to update waiver-granting process to conform to state law RSA 674:44

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~~11~~8.1 Upon request of the applicant, the Planning Board may waive compliance with any portionpart of these regulations. All requests for waivers shall be made in writing with technical documentation and supporting arguments to justify granting each waiver for either one of the Site Plan Review Regulations where, in two reasons stated below. Generally, requests for waivers of submittal requirements should use reason (1) and requests for waivers of regulations affecting the opiniondevelopment of the property should use reason (2). The Board, may grant the waiver only if it finds, by majority vote, that:

8.1.1 Strict conformity would pose an unnecessary hardship to the applicant and the waiver would not be contrary to the spirit and intent of the regulations. All such waivers shall be set forth in the decision of the Board as reflected in its minutes. Upon request of the applicant, the above notwithstanding, the Board may waive any portion of the application requirements for the convenience of the applicant providing that such waiver does not impair the Board's ability to evaluate the proposal in relation to the purposes and scope of these regulations; or

8.1.2 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.

8.2 The Planning Board may require such conditions as will, in its judgment, ensure the objectives of the regulations which are waived.

8.3 The Board shall evaluate the evidence presented by the applicant and vote to grant or deny the waiver.

8.4 The basis for any waiver granted by the Planning Board shall be recorded in the minutes of the Board.

8.5 The waiver shall be noted on the final approved plan.

ARTICLE ~~XII~~ IX STANDARDS ~~— AND —~~ REQUIREMENTS FOR PROPOSED DEVELOPMENTS

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~~12~~

- 9.1 **Introduction:** The following standards and requirements will be used by the Board in its review of site plans and approval will depend on compliance with them.

The State of New Hampshire and the Town of Newbury stress the importance of aesthetics in any development. When designing a site and buildings the developer should take into consideration and preserve the natural beauty of the environment and the traditions of landscape and construction in the New England Area.

- ~~129.2~~ **Site Characteristics:** The development shall conform 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, the need for light and air, the need for views, and the goal of minimizing the adverse visual impact of the project. Natural cover shall be retained to supplement required landscaping to the extent possible and reasonable.

- ~~129.3~~ **Harmonious and Aesthetic Development:** The site shall be developed to provide for the harmonious and aesthetic development of the site with the surrounding area.

- ~~129.4~~ **Landscaped Open Space:**

~~129.4.1~~ General: The site shall be landscaped with appropriate species that will survive and prosper in their proposed locations to provide a neat and tidy appearance. Landscaping shall be provided which is in keeping with the character of the area where the site is located, the purpose of the development, and the location of buildings and improvements. The quality of the proposed site development is directly related to the extent of the landscaping effort expended.

~~129.4.2~~ Perimeter Landscaping: A landscaped buffer shall provide privacy and noise protection, but in no case shall the width of the buffer be less than the setbacks otherwise required in that zoning district. For commercial development the landscaped buffer between the street right-of-way and the edge of the on-site parking lot shall be no less than ten (10) feet wide.

~~129.4.3~~ Minimum Landscaped Open Space Area:

~~129.4.3.1~~ Commercial or Industrial: The minimum landscaped open space for site plans for the development of commercial or industrial type uses shall be 25% of the total lot area exclusive of public or private rights-of-way.

~~129.4.3.2~~ Residential: The minimum landscaped open space for site plans for the development of residential uses including cottage industries is 50% of the total lot area excluding public or private rights-of-way.

~~129.4.4~~ Location of Landscaped Open Space: The Board encourages the main emphasis of the landscaping effort be expended enhancing the appearance of the

Comment [RR34]: New provision relative to landscaped open space

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property as viewed from adjacent streets and properties.

Comment [RR35]: New provision relative to landscaped open space

~~viewed from adjacent streets and properties.~~

~~12~~

9.4.5 Use of Landscaped Open Space Areas for Snow Storage: The accessible open portions of landscaped open areas may be used for snow storage if the use of those areas for snow storage does not conflict with other site design parameters such as drainage control and site visibility, and continued viability of vegetation.

Comment [RR36]: New provision relative to landscaped open space

~~129~~.4.6 Landscaping Within Parking Areas: Parking in excess of ten spaces shall include internal landscaping to provide shading of parking areas, break up of the mass of parking areas, and facilitate pedestrian and traffic flow and safety. A minimum of one 2 ½ inch caliper deciduous tree or alternative landscaping plan as approved by the Board shall be provided for each ten parking spaces.

~~129~~.4.7 Slopes: Where slopes of 25% or greater are created or disturbed, they shall be covered or planted with deep rooted species to prevent erosion and to provide an attractive, finished appearance to the site. If the slope is too great to support vegetation, the earth shall be retained by a wall or other appropriate means.

~~129~~.4.8 The following features are encouraged:

~~12~~

9.4.8.1 An ordered and attractive site layout and landscape.

~~129~~.4.8.2 Preservation of natural landscape elements such as boulders, views, animal habitats, etc.

~~129~~.4.8.3 The use of native plants.

~~129~~.4.8.4 Landscape which includes low-maintenance perennial gardens and shrubs and trees which add beauty and interest to the site.

~~129~~.4.8.5 Natural but stabilized surfaces.

~~129~~.4.8.6 Quality construction and materials for durability and attractiveness, for example: granite curbs, paving for areas which are heavily trafficked, etc.

~~129~~.4.8.7 Outdoor amenities for the enjoyment of the pedestrian.

~~129~~.4.8.8 Variety and visual interest.

~~129~~.4.8.9 Village-type, pedestrian scaled lighting.

~~129~~.4.8.10 Screening of unsightly features.

Comment [RR37]: New provision relative to landscaped open space

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- 9.5 Structures: New structures should be designed to reflect and blend in with the natural landscape and they should be designed to reflect New Hampshire's and Newbury's heritage, which is largely agricultural and residential.
- ~~12~~ 9.5.1 Buildings should create variety and visual interest. Large, single mass forms are generally out of place unless they are agricultural in nature. Where larger floor areas are required by function every effort should be made to break up the building mass into smaller components more reflective of traditional wood frame construction practices. Large expanses of uninterrupted walls without windows and without architectural features are to be avoided. Large masses of building without architectural detail or interest are to be avoided.
- ~~129~~ 5.2 There should be a clear order in the building design which indicates where the entry is and how the pedestrian should move safely from place to place on the site and from car to entry.
- ~~129~~ 5.3 Buildings should be designed to relate to each other and sited to create exterior space which facilitates community gathering and use and which makes the pedestrian experience pleasant, for example: town greens on the large scale, outdoor court yards and sitting areas on the smaller scale.
- ~~129~~ 5.4 The use of quality materials and construction is encouraged to assure the longevity and good looks of the project. Local building forms which include pitched roofs (7/12 slope or greater), wood clapboards or shingles, significant eaves for protection from snow and rain, and architectural detailing such as corner boards, fascias, cornices, etc. are encouraged.
- ~~129~~ 5.5 Existing structures which are a part of Newbury's heritage should be preserved and re-used if they are architecturally valuable.
- ~~129~~ 6 Recreational Areas: A site plan for multi-family structures shall make adequate provision for on-site recreational uses by the residents of the proposed development to minimize the likelihood that public safety will be endangered by the use of internal roads and parking areas for recreation.
- ~~129~~ 7 Storage and Waste Areas: Storage areas and waste collection areas shall be appropriately located and fenced or screened from on-site and adjoining parking areas and from neighboring properties.
- ~~129~~ 8 Parking, Loading, and Safety:
- ~~129~~ 8.1 There shall be adequate traffic access to and from Town and State streets and highways to insure the safety of vehicles, pedestrians, and bicycles.
- ~~129~~ 8.2 The access/egress to a parking facility shall be clearly marked and signed and said markings/signs maintained year around. One-way entrances shall be a

minimum of 13 feet wide; two-way entrances a minimum of 24 feet wide.

Access/egress points should be at least one hundred-twenty-five (125) feet away from another entrance on the street.

Comment [RR38]: Clarification of language relative to access/egress points to a parking facility

~~away from another entrance on the street.~~

~~12~~

~~9.8.3~~ No paving, except for walkways perpendicular to the building, shall extend to directly meet the building. There shall be a landscape buffer and pedestrian way between parking and the building.

~~129.8.4~~ There shall be adequate access to each structure for fire, police, and medical emergency vehicles and personnel. Adequacy shall be established by the Board following written input from the appropriate agencies.

~~129.8.5~~ Through traffic on fronting streets shall not be impeded or endangered by vehicles entering or leaving the site.

~~129.8.6~~ Provisions shall be made for the safe accommodation of pedestrian traffic along fronting streets in the vicinity of the development.

~~129.8.7~~ There shall be adequate circulation, parking, and loading facilities to ensure the safety of vehicles and pedestrians on the site. Loading facilities shall be provided off-street. Loading space shall be accessible when all designated vehicle parking spaces are occupied. Necessary traffic controls (signs, lights, etc.) will be installed. The Board may establish speed limits.

~~129.8.8~~ The proposal shall conform to the Town's on-site parking regulations as shown in Appendix A. In addition, the Board may require additional on-site parking spaces for uses such as, but not limited to marinas, docking facilities and hotels/motels for boat and/or trailer parking and for auto repair garages for vehicles which will be or have been repaired.

~~129.8.9~~ The street(s) serving the site shall be paved and of sufficient width and load carrying capacity to accommodate existing and projected traffic.

~~129.8.10~~ Adequate provisions shall be made for handicapped parking and safe accessibility for the handicapped from the parking spaces to the proposed building(s)/use(s).

~~12.9.9~~ Water Drainage: The applicant shall provide written assurance and, if necessary, an assurance from a consultant selected by the Board, that provisions for handling surface and subsurface waters, storm drainage, and melting snow are adequate and will not adversely affect abutting or other properties or Town facilities. No stream, brook, river, wetland, lake, pond, reservoir, or aquifer shall be affected adversely.

~~129.10~~ Snow Removal and Storage: Provision for adequate and safe snow storage and /or removal must be made. In general, an area equal to 20% of the parking, aisle, and driveway areas will be needed for on-site snow storage. It shall be the developer's responsibility to eliminate snow hazards. Aspects to be considered will include: (a) accessibility,

topography, and practicality; (b) width of snow storage area (ten feet minimum); (c) snow melt and runoff - not to adversely affect neighboring properties, landscaping, or traffic safety; (d) dangerous hazards resulting from snow storage.

~~129.11~~ Consideration for Adjacent Land: The proposed location and height of buildings or structures, walls and fences, parking, loading, landscaping, and snow removal shall be such that it will not interfere with or discourage the appropriate development or use of land adjacent to the proposed site or unreasonably affect its value.

~~9.12~~ ~~12~~ Interaction With Adjacent Land: The site shall be designed for the comfort and scale of the pedestrian not just the vehicle. Where possible, provide landscaped pedestrian paths which link to other pedestrian destinations in the town or off site. Pedestrian paths shall have sufficient lighting and dressed surfaces to assure safe use. Trees for shade and shelter from the wind should be provided along the paths. It is a goal of Newbury to create the atmosphere of a town center and the development of a pedestrian network in and around the area of the Newbury harbor. Other areas which might be developed in the future should also promote a sense of community through landscape which provides for paths, seating, view points, etc. for the use of the general public.

~~129.13~~ Adverse Features: Site development shall not generate or create adverse and preventable elements of pollution such as noise, smoke, soot, particulates or other discharge into the environment which might prove harmful to persons, structures, adjacent or other properties or be in violation of State or Federal laws.

|

~~129.14~~ Exterior Lighting and Signs:

~~129.14.1~~ Required Luminaire or Lamp Shielding: All exterior lighting installations shall be designed and installed to avoid glare and operated in spill light (See ARTICLE II). Fully shielded (full cutoff) luminaires shall be used. Light shall be shielded such a way that adjacent residential uses are suitably protected and that glare the lamp itself or the lamp image is not experienced by adjacent residential uses and by passing motorists directly visible outside the property perimeter.

~~12.14.2~~ ~~9.14.2~~ Maximum Lamp Wattage: All exterior lighting installations shall have a maximum lamp wattage of 250 watts HID (or lumen equivalent) for lighting in the Business District, 100 watts incandescent, and 26 watts compact fluorescent (or approximately 1,600 lumens) for lighting in the Residential District.

9.15 Signs: Signs shall conform ~~with~~to the provisions of the Newbury Zoning Ordinance.

| **ARTICLE ~~XXX~~ SITE PLAN REVIEW FOR A COTTAGE INDUSTRY**

Comment [RR39]: Amendment to specify exterior lighting standards

~~43~~10.1 **Introduction:** The Board will accept an application as complete which consists of the materials outlined below for a Site Plan Review for most Cottage Industries. The Board at its discretion may impose the full set of application requirements outlined in ARTICLE ~~XVII~~ above.

~~43~~ 10.1.1 **Documentation:** In addition to one copy of each of the materials, the applicant shall provide for use of the board members seven 11" x 17" copies of each plan (10.7) and seven copies of the documents required in sections 10.6, 10.8 and 10.11.

10.2 **Application Form:** An application form provided by the Board completely filled out.

~~13~~

~~10.3~~ 10.3 **Check for Fees:** A check for the required fees which shall be calculated from the fee schedule provided with the application form.

~~13~~10.4 **Agency Letter:** Written authorization from the landowner of record for any agent(s) to represent the owner.

~~13~~10.5 **Abutters List:** The abutter list (on form) shall include the following:

10.5.1) the applicant

10.5.2) the abutters (see definition Section ~~5-2.2~~)

10.5.3 holders of conservation, preservation, or agricultural preservation restrictions on the land under consideration

~~10.5~~4) every engineer, architect, land surveyor, or soil scientist whose professional seal will appear on any plat submitted to the Board.

10.5.1 The names and addresses of all abutters shall be selected from the town records not more than five (5) days before the date of filing the application.

10.5.2 When common land abuts the subject land, all persons with an interest in that land shall be on the abutter list.

~~13~~10.6 — ~~Documentation: One full size copy and seven 11" x 17" copies of each plan and eight copies of all the documents required by the application submittal requirements of this Article.~~

~~13.7~~ 10.7 **Written Summary:** A Written Summary of the proposed cottage industry which describes the proposed business, area (sq. ft.) within the buildings allocated to the cottage industry, the percentage this area represents of the total floor area, the days and hours of operation, the number of employees, the extent of normal customer/business traffic including truck deliveries, any change in demand for service for any utility including water, sewer, electric, phone, and cable, the provisions of fire protection, and any other descriptive information on the proposed cottage industry which will be helpful to the Board in evaluating any impacts of the proposed site development.

~~13.8~~10.7 **Site Plan:** A Site Plan drawn to the scale of 1"=20' to include:

~~13.8~~10.7.1 north point, graphic scale, date of preparation, dates of revisions, zoning district, and name of person preparing the site plan;

~~13.8~~10.7.2 name(s) and address(es) of owner(s) of record and applicant if different from owner(s);

~~13.8~~

~~10.7.3~~ site location map which shall show the proposed development in relation to major roads in Newbury;

~~13.8~~~~10.7.4~~ boundary lines of the area included in the site (Typically, a boundary survey by a licensed land surveyor is not required. However, the Board may require one as they deem it necessary in a particular situation);

~~13.8~~~~10.7.5~~ the location and dimensions of existing and proposed structures, parking areas, driveways, and landscaping/open space areas on the property;

~~13.8~~~~10.7.6~~ location of all existing and proposed on-site parking and landscape buffering;

~~13.8~~~~10.7.7~~ location of water and sewer lines or on-site sanitary systems serving the property;

~~13~~~~10.7.8~~ ~~.8~~ location of any proposed signage and lighting - include a picture or drawing of each sign with dimensions;

~~13.9~~~~10.7.9~~ location and type of outdoor lighting;

10.8 Structure Plan: Provide drawings to a scale of 1/8"=1' or photographs, 5"x 7" in size, of the four elevations of the structures which are to be used for the business.

~~13.10~~ Permits and Approvals:

~~13.10.1~~ any and all necessary State permits approved by the appropriate agency for new or proposed access drives, sewage disposal systems, storm drainage systems, etc.;

~~13.10.2~~ written approval from the Fire Chief and Road Agent or a representative of the N.H. Department of Transportation;

~~13~~~~10.9~~ Sign-Off Sheets: A copy of the Site Plan Review application and related materials together with a Sign-off Sheet supplied by the Board shall be provided to each of the entities below for their review and comment. An authorized signature, indicating review, shall be obtained from each entity. Sign-off Sheets shall be submitted to the Planning Board at or before the public hearing on acceptance of the application.

10.9.1 Newbury Fire Department

10.9.2 Newbury Highway Department

Comment [RR40]: New provision – amendment to require that exterior lighting be shown on the site plan for a cottage industry

10.9.3 Any other as required by the Planning Board.

10.10 Permits and Approvals: One copy each of all required federal, state, and local permits and approvals (with or without special conditions and/or stipulations) shall be obtained and submitted prior to final approval. This includes any Special Exceptions or Variances that may be required. The Planning Board may condition approval upon the receipt of such permits or approvals in accordance with Section 5.9

10.11 Additional Information: the Board may require such additional information as it deems necessary in order to evaluate the proposal in relation to the purposes and scope of these regulations.

~~10.12~~ Waivers: Waivers may be granted in accordance with ARTICLE VIII.

ARTICLE XI

~~13.13~~ The applicant's attention is directed to Articles IX, XV, and XVI.

~~ARTICLE XIV~~ **SITE PLAN REVIEW FOR LAND APPLICATION OF MUNICIPAL SEWAGE SLUDGE/BIODEGRADABLE SLUDGE IN THE TOWN OF NEWBURY**

~~11.1~~ Applicant shall provide the Planning Board the following for review and approval before beginning any land application of Municipal sewage sludge:

~~14~~

11.1.1 A copy of the Site Map submitted to the ZBA with all information required by Newbury Zoning Ordinance, Article 3.8. In addition, the Site Map shall show the location and details of the following:

~~14~~

11.1.1.1 All areas of the site with slopes of 8 percent grade or better shall be shaded.

~~14~~

11.1.1.2 Points of site access and egress shall be clearly shown together with traffic control measures to be provided.

~~14~~

11.1.1.3 Complete information on planned containment control measures.

~~14~~

11.1.1.4 Site signage, means of posting the permit(s), and any lighting planned.

~~14~~

11.1.1.5 Site plantings and/or other means of screening the site; e.g., around a buffer zone.

~~14~~

11.1.1.6 Wheel washing and roll off areas for vehicles.

~~14~~

Comment [RR41]: New provision requiring Sign-Off Sheets from Fire and Highway Departments for Cottage Industry site plan applications

Comment [RR42]: Amendment clarifies site plan requirements relative to federal, state and local permit approvals

- 11.1.1.7 Vehicle overnight parking, maintenance, and service areas.
- +4
- 11.1.1.8 A wind rose (from Weather Bureau, showing average wind direction over a 12 month period).
- +4
- 11.1.2 A plan for materials handling, including equipment types and sizes, number of pieces of each, hours of operation, days of operation, and equipment security methods.
- +4
- 11.1.3 Information and data on the volume and weight capacity of materials handling equipment and planned rate of application.
- +4
- 11.1.4 Information on methods and means for mixing materials to be spread and of tilling into the soil, if planned.
- +4
- 11.1.5 Details and plans for equipment maintenance, storage, and fueling, together with plans for preventing fuel and/or oil and grease spills.
- +4
- 11.1.6 Plans for fire prevention and fire suppression.
- +4
- 11.1.7 Schedule of operations.
- +4
- 11.1.8 Plans for drainage and erosion control.
- +4
- 11.1.9 Plans for dust control.

Comment [RR43]: Amendment to require drainage plans for sludge applications

ARTICLE ~~XV~~ — XII SECURITY FOR CONSTRUCTION OF IMPROVEMENTS

- +5
- 12.1 Security: The developer shall provide financial security for any site development or improvement that involves earth disturbance. The Board shall specify in its preliminary approval of the Site Plan the amount and term of any security to be posted by the applicant for the development of the site in accordance with the Board's approval. Such security shall be in the form approved by the Board. The purpose of the security shall be to allow the Town to construct and install drainage, erosion control, landscaping, parking, traffic control and other non-building improvements as determined by the Board in the event of default by the applicant. Security shall be delivered to the Board prior to final approval of the application.
- 12.1.1 The amount of security shall be determined by the Board upon recommendation by the Board's engineer.
- 12.1.2 The term shall be equal to the period of construction plus six months.
- 12.1.3 Acceptable forms of security shall be an irrevocable letter of credit or cash.

12.1.4 If an irrevocable letter of credit is chosen, it shall be substantially in the form of EXHIBIT C in the Newbury Land Subdivision Control Regulations. Any changes shall be approved by Town counsel.

12.1.5 If cash is chosen, it shall be turned over to the Town Treasurer to be put in an interest bearing savings account.

12.1.6 The security may be reduced at the discretion of the Board, subject to appropriate retainage, as improvements are made. The steps for issuing and releasing security 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 security.~~ Newbury Land Subdivision Control Regulations.

Comment [RR44]: Amendment to establish clear standards and process for security for construction of improvements

ARTICLE XVI PERIOD FOR CONSTRUCTION

~~16.1~~ ~~Period for Construction. The applicant shall commence construction of improvements within six (6) months from the date of approval of the Site Plan and complete all construction and improvements within one (1) year from the date of commencing construction. The Board may extend the time for commencing or completing construction for a period not to exceed an additional six (6) months. Failure to commence construction within eighteen months of approval of the Site Plan shall nullify the approval.~~

Comment [RR45]: 16.1 replaced with 4.8 relative to five-year exemption

~~16.2~~ ~~Changes and Alterations in an Approved Site Plan. No changes or alterations shall be made in an approved Site Plan without the consent of the Board. The Board may grant such consent for good cause upon request of the applicant and upon such notice and hearing as may be required.~~

Comment [RR46]: Relocated to 4.7

12.2 Agreement: When the site plan involves the construction of new buildings or extensive site development, the applicant and the Board shall enter into an agreement using the Site Review Agreement form provided by the Board. The Board, at its discretion, may require an agreement in any other situation.

Comment [RR47]: Amendment to establish a Site Review Agreement for large development projects

12.3 Inspection Requirements: In order to confirm that various items and features delineated on plans presented to the Planning Board for approval (or which are otherwise required in connection with the development) are, in fact, constructed in accordance with those plans and/or in accordance with applicable codes and standards, the Planning Board may, at the time of plan approval, require the applicant to establish an appropriate escrow, or other security, in addition to the Performance Guarantee required under this Article XII herein, acceptable to the Planning Board, which will be used by the Town of Newbury as security for retention of appropriate engineers or other consultants to confirm that construction is in conformance with the approved plans and/or applicable codes and standards.

Comment [RR48]: Amendment to clarify inspection procedures

ARTICLE ~~XVHXIII~~ SEPARABILITY

~~13.1~~ If any provision in these Regulations shall be held to be invalid for any reason by any court, such holding shall not invalidate in any manner any other provisions contained herein.

ARTICLE ~~XVIII~~ ~~XIV~~ ENFORCEMENT, FINES AND PENALTIES, AND INJUNCTIVE RELIEF

~~14.1~~ Enforcement: These regulations shall be enforced by the Board of Selectmen as provided in RSA 676:17.

| ~~18~~14.2 Fines and Penalties and Injunctive Relief: Enforcement of these regulations by the Board of Selectmen shall follow the provisions of RSA 676:15 and 676:17.

| **ARTICLE ~~XIX~~XXV CERTIFICATION**

Certified to be a true copy, attest:

|

Adopted: September 19, 1989

Amended: June 9, 1992

Amended: June 8, 1993

Amended: November 4, 1998

Amended: April 19, 2005

Last Amended: January 21, 2014

|

APPENDIX A ON-SITE PARKING

a. Density: The general guidelines regulating on-site, off-street parking are as follows:

<u>Land Use</u>	<u>Unit</u>	<u>Minimum Standard Spaces</u>
Auditorium, Theater, Church	Seat	.3
Hospital	Bed	1.2
Restaurant	Seat	.3
Restaurant with Take-out	Seat	0.5
Industrial	Employee	.6
Office	1000 sq.ft.. gross floor space	4.0
Medical/Dental/ Veterinary	1000 sq.ft.. gross floor space	4.5
Bank	1000 sq.ft.. gross floor space	5.0
Retail	1000 sq.ft.. gross floor space	4.0
Shopping Center	1000 sq.ft.. gross floor space	5.5
Hotel/Motel	Unit	1.0 plus 1.0 per employee on the largest shift
Bed & Breakfast	Room	1.0
	Owner's Unit	2.0
Elementary/Jr. High School	Classroom	1.0
College/University		By Board Review
Funeral Home	Seat	.25
Private Club	Member	.25
Multi-family Dwelling	Family Unit	
	Efficiency Unit	1.0
	1 & 2 Bedroom Unit	1.5
	3+ Bedroom Unit	2.0
Marinas & Docking Facilities	Slip, mooring and Dry Storage Space	1.0

b. Uses Not Listed: Minimum parking requirements for uses not listed shall be determined by the Board.

c. Multiple Use of the Same Site: The on-site parking requirement for each use of a multiple use site shall be added together to determine the total on-site parking requirement for that site.

d. Small Car Allowance: Small vehicles may not exceed 30% of the total parking spaces.

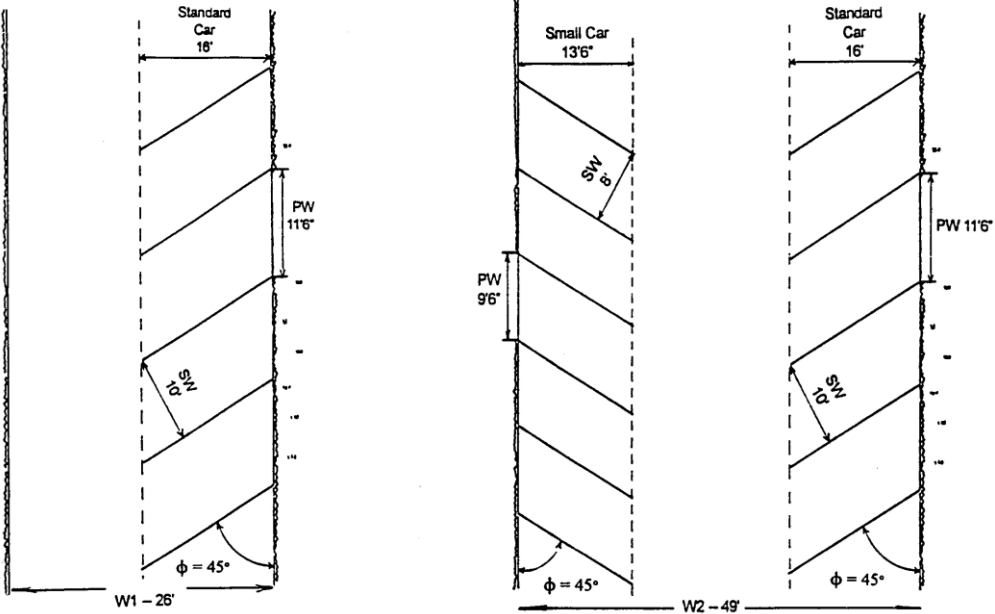
e. Parking Stall Widths and Lengths: Minimum parking stall widths and lengths are as follows:

Category	Minimum Parking Stall Width	Minimum Parking Stall Length
Small Car	8 feet	18 feet
Standard Car	9 feet	20 feet
Elderly Use	10 feet	20 feet
Supermarket and Camper Use	11 feet	20 feet
Handicapped	12 feet	20 feet

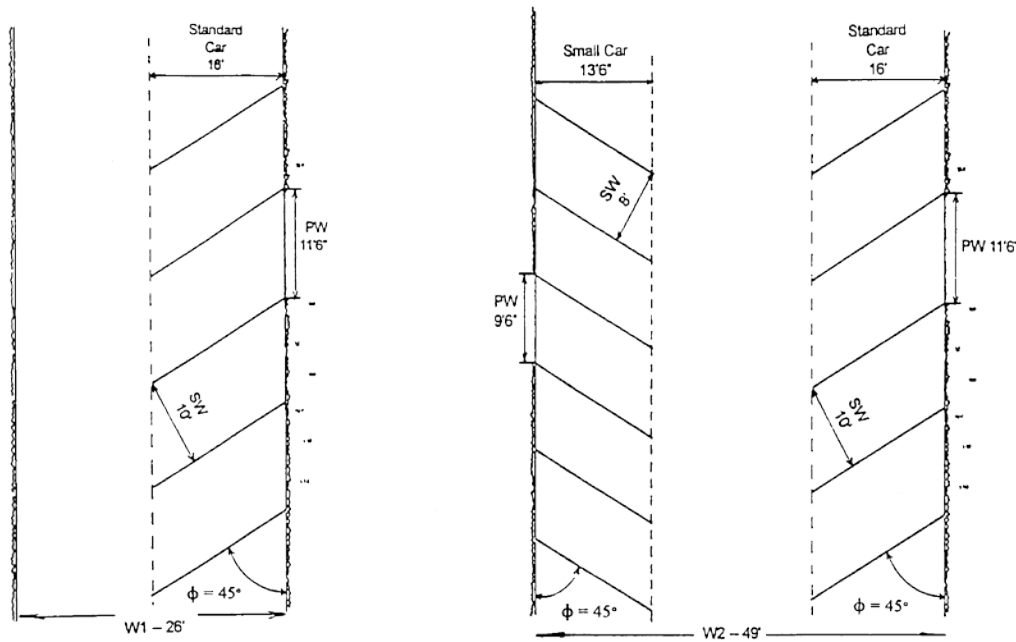
f. Required Parking Lot Layout: The following table and sketch detail the minimum required dimensions for layouts of parking lots:

		Parking Dimensions - Wall to Wall (W1 & W2)				
		Width of Parking & Aisle	Angle of Parking - ϕ			
Group of Vehicle	Stall Width			$\phi = 45^\circ$	$\phi = 60^\circ$	$\phi = 75^\circ$
Small Car	8'	W1	26'	29'	36'	42'
		W2	40'	46'	52'	57'
Standard Car	9'	W1	32'	35'	62'	48'
		W2	49'	55'	62'	66'
Elderly Use	10'	W1	32'	34'	42'	48'
		W2	49'	54'	62'	66'
Supermarket & Camper Use	11'	W1	33'	35'	43'	49'
		W2	49'	54'	62'	66'
Handicapped	12'	W1 & W2	Same as above for Supermarket Use			

Reg. Parking Layout



Reg. Parking Layout



$$PW = SW / \sin \phi$$

W1 & W2 are wall to wall layouts. If parking is curb to curb, subtract 1 ft. - 6 in. from table dimensions for W1, and 2 ft. for W2.

g. Parallel Parking : Parking spaces for all vehicles outlined in section e. above except small cars require a rectangular space of at least 9' by 24'; small vehicles require a space 8' by at least 21'.

h. Parking Lot Grade: The maximum grade of a parking lot shall be 5% for paved parking areas and 3% for unpaved parking areas.

i. Handicapped Parking: It is suggested that provision be made for parking for handicapped

persons in accordance with the Americans with Disabilities Act as ~~interpreted~~interpreted and implemented by the landowner. Handicapped parking spaces shall be at least 12' by 20' .

j. Drainage: Sheet flow discharge from parking lots is desirable when flow is into well vegetated areas. When runoff flow is concentrated along one side of the parking lot or if the flow is directed primarily toward the corner of a lot or otherwise concentrated, a collection and discharge system ; e.g. ditches, lawn drains, catch basins and/or culverts shall be provided. Ditches shall be seeded or sodded on slopes less than or equal to three percent (3%). Ditches with slopes over three percent (3%) shall be lined with pavement, half-pipe sections or stone rip-rap to prevent erosion. When parking lots exceed 15,000 square feet in size (approximately 1/3 acre), means of intercepting runoff flows (e.g. swales, ditches and culverts, yard trench drains, catch basins and culverts) shall be provided to reduce runoff flow being concentrated at a single discharge point or along one side of the parking lot. Similar systems shall be provided when the parking lot is subjected to concentrated runoff from higher elevated property or sheet flow from upland areas. Interceptor ditches, french drains, etc. may be employed along the top edges of the lots to collect this runoff and convey it around or away from the lot. In all cases of concentrated discharge or sheet flows in excess of two feet per second (2 fps), suitable energy/velocity dissipators shall be provided.

k. Settlement and Separator Systems: All parking lots discharging runoff into or within 300 feet of streams, ponds, lakes; and all parking lots and service drives of gasoline filling stations, fuel storage and handling facilities, garage repair facilities, and any other facilities handling petroleum, oils and fuels shall collect runoff from these areas into settlement basins and petroleum products separators and holding systems. These systems shall be designed by a registered professional engineer, and design specifics and calculations shall be provided with an application for site plan review. In addition, the engineer shall specify maintenance and cleaning frequencies and standards.