

Chapter 185, SITE PLAN REVIEW

[HISTORY: Adopted by the Planning Board of the Town of Hillsborough 12-8-1982. Amendments noted where applicable.]

§ 185-1. Applicability. [Amended 9-17-1997 and 5-19-2010]

These Site Plan Review regulations apply to the development or change or expansion of use of tracts for nonresidential uses or for multifamily units, which are defined as any structures containing more than two dwelling units. All such development or change or expansion of use requires Site Plan Review approval, unless exempted by these regulations. For sites that have previously received site plan approval, or for legally existing developments that have not previously received site plan approval that would now have to undergo Site Plan Review in order to be newly constructed or otherwise permitted, any action or proposal to eliminate, create new, alter or use differently any existing structures, parking, circulation, landscaping, open space, lighting, drainage, screening, or any other site plan element or standard, shall be subject to site plan review Site Plan Review and approval, unless specifically exempted by these regulations.

§ 185-2. Purpose.

The purpose of the site review procedure is to:

- A. Protect the public health, safety, and welfare.
- B. Promote balanced growth.
- C. Promote the timing of development.
- D. Prevent premature and uncoordinated development of land without the adequate provision of public services and facilities.
- E. Ensure sound site utilization.
- F. Avoid development which may result in negative environmental impacts, including but not limited to the protection of air, water and soils.
- G. Guide the character of development.

§ 185-3. Compliance with other regulations required.

The site review procedure in no way relieves the developer, his agent, or any individual from compliance with the Zoning Ordinance, Subdivision Regulations or any other ordinance which pertains to the proposed development. No site plan will be approved until it complies in all respects with any and all pertinent ordinances and regulations.

§ 185-4. Authority; title.

Pursuant to the authority vested in the Hillsborough Planning Board by the voters of the Town of Hillsborough in accordance with the provisions of RSA 674:43 and 674:44 (formerly Chapter 36, Section 19A, New Hampshire Revised Statutes Annotated 1955), the Hillsborough Planning Board adopts the following rules governing the review of site plans in the Town of Hillsborough, New Hampshire. These rules shall be entitled "Site Plan Review Regulations, Town of Hillsborough, New Hampshire."

§ 185-5. Preliminary sketch; site plan map information and data. [Amended 6/15/22]

A. Prior to the submission of the site development plan, the owner may submit a preliminary sketch showing any preliminary information he wishes, for purposes of discussion only.

B. On formal submission of the site development plan, the owner or his authorized agent shall submit to the Planning Board four sets of site plan maps, prepared by a licensed land surveyor or registered engineer .15, copies of the full set of plans measuring 11x17, and one 22 x 34 electronic copy of the site plan application, and all associated plans and documents

(1) The maps shall include the following information:

(a) Existing data and information:

- [1] Location of site, Town tax lot number, names and addresses of owners of record and abutters.
- [2] Name and address of persons or firm preparing the map, which shall be at an appropriate scale (one-inch equals 40 feet is suggested) and shall include North arrow and date; name and address of persons or the firm preparing other data and information if different from the preparer of the map. The Board requires a licensed land surveyor or registered engineer to prepare the plans.
- [3] The boundary lines and area of the Town tax map lot which includes the site; the boundary lines of the site itself, including angles or bearings of the lines, dimensions, and lot area; and all required setbacks.
- [4] The existing grades, drainage systems, structures and topographic contours at intervals not exceeding two feet, with spot elevations, where the grade is less than 0.5%.
- [5] The shape, size, height, and location of existing structures located on the site and within 50 feet of the site and their uses, i.e., residential, retail, etc.
- [6] Natural features, such as aquifers, wetlands, streams, springs, marshes, lakes or ponds; man-made features, such as but not limited to existing roads, stone walls, and structures. Such map shall indicate which of such features are to be retained and which are to be removed or altered.
- [7] Plan and elevation of high-water table.
- [8] The sizes and locations of all existing public and private utilities and all present landscaping as may be required. This shall include the locations and sizes of existing public utilities that are located off-site but are planned to be connected.
- [9] A vicinity sketch (suggested scale is one-inch equals 500 feet) showing the location of the site in relation to the existing public street and any prominent natural features. The zoning district shall be noted. The base flood elevation line shall be included where applicable.

(a) Proposed development:

- [1] The proposed grades, drainage systems, structures, and topographic contours in the site development area at contour intervals not exceeding two feet.
- [2] The shape, size, height, and location of each proposed structure, including expansion of existing buildings.
- [3] Proposed streets, driveways, parking spaces and sidewalks shall be shown, with indication of direction of travel for one-way streets and driveways, and inside radii of all curves, along with total square/feet of hardscape. The width of each street, driveway and sidewalk 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 sizes and locations of all proposed public and private utilities such as sewer, water, telephone, electric lines, and distances to fire hydrants.
- [5] The locations, types and sizes of all proposed landscaping and screening.
- [6] Exterior lighting plan and proposed signs, including a lighting level layout with all luminaire locations, type, lumens, mounting height and BUG rating.
- [7] A storm drainage plan, including plans for retention and slow release of stormwater where necessary, and plans for snow removal and storage.
- [8] A circulation plan of the interior of the lot showing provisions for both vehicular and pedestrian circulation. An access plan showing means of access to the site and proposed changes to existing public streets, including any traffic control devices necessary in conjunction with the site development plan.
- [9] Construction standards. (See § 185-7.)
- [10] Existing and proposed lot coverage.
- [11] The location of all existing and proposed easements.
- [12] Architectural rendering of each proposed structure or expansion.

(2) For subdivisions and site plans that involve land designated as "Special Flood Hazard Areas" (SFHA) by the National Flood Insurance Program (NFIP):

- A. The Planning Board shall review the proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.
- B. The Planning Board shall require that all proposals for development greater than 50 lots or 5 acres, whichever is the lesser, include Base Flood Elevation (BFE) data within such proposals (i.e. floodplain boundary and 100-year flood elevation).

- C. 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.

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

§ 185-5.1. Exempt changes of use. [Added 9-17-1997] [Amended 1-18-2012] [Amended 1-6-2016,] [Amended 06-15-22]

- A. A change of use which does not expand the floor area of a building by more than 200 square feet or involve construction on the site of a building with a floor area greater than 200 square feet is exempt from Site Plan Review, provided that: [Amended 10-2-2002]
 - (1) No adverse impacts beyond site boundaries will occur, due to:
 - (a) Increased traffic.
 - (b) Groundwater and drainage.
 - (c) Sanitary and solid waste disposal.
 - (d) Lighting/glare.
 - (e) Noise.
 - (f) Fumes, odors or air pollutants.

 - (2) Municipal services, facilities and utilities will not be overburdened or adversely impacted.

- B. In order to achieve exempt status, the owner of a property (or his/her agent) must apply to the Planning Board for an exemption from Site Plan Review on forms to be provided by the Board. The application shall fully describe the proposed change of use and shall address the requirements set forth in Subsection A above.

- C. No request for exempt status shall be approved or disapproved by the Planning Board without affording a Public Hearing with the Planning Board to review and determine whether to waive or require Site Plan Review. Changes of Use are defined in Article II General Provisions section 229-6 Definitions CHANGE OF USE. This applies to changes or expansion of any Commercial use or Dwelling. At this meeting, the Planning Board will decide whether to waive or require Site Plan Review.

D. The Planning Board may exempt a change of use from Site Plan Review if it determines that the criteria of Subsection A above are met. If any of the criteria are not met or if the Board is unable to determine whether any of the criteria are met, a Site Plan Review application shall be required.

- (1) After the review of the application, the Planning Board shall determine whether or not a Site Plan Review is required.
- (2) If the Planning Board decides that a Site Plan Review is required, the applicant shall submit a Site Plan Review application in accordance with § 185-5.
- (3) In appropriate circumstances, the Planning Board may require an abbreviated site plan submitted by requiring only some of the information required by § 185-5.

E. A property owner (or his/her agent) may bypass the review procedure outlined in Subsection B above and submit a site plan application to the Board for review and approval.

§ 185-5.2. Design and landscaping standards. [Added 3-6-2002; amended 10-2-2002, 5-19-2010 and 1-18-2012] [Amended 06-15-22]

These standards apply to all projects involving construction of a freestanding building, a building addition, or combination thereof with a footprint area greater than 200 square feet in all zoning districts in the Town of Hillsborough.

A. Design goals. Design goals shall be to:

- (1) Encourage high-quality building design which improves the aesthetic character of the community.
- (2) Blend building design and layout with other site features (landscaping, signage, lighting, etc.) to produce an attractive commercial environment.
- (3) Allow diversity of building designs and architectural styles.
- (4) Avoid monotonous and bland buildings typical of strip commercial development.
- (5) Minimize conflicts between residential and commercial uses.

B. General design criteria. General design criteria shall be:

- (1) To avoid long unbroken expanses of walls; use facade divisions, such as building jogs, pilasters, architectural detailing, and changes in surface materials, colors, textures and rooflines. Uninterrupted facades should not exceed 50% of the building wall, and in no case should exceed 100 feet in length. Ground-floor facades that face public streets should have arcades, display windows, entry areas, awnings, or other such features along no less than 60% of their length. All facades of a building which are visible from public streets should feature characteristics similar to the front facade.
- (2) To use architectural features and details, such as porches, awnings, columns, towers, turrets, skylights, and arches, to create interesting buildings.
- (3) To avoid long unbroken expanses of roofs through the use of dormers, skylights,

chimneys, and changes in ridgelines.

- (4) To use brick, clapboard, shingle, glass, stone, or similar materials for wall surfaces.
- (5) To limit exposure of foundation walls to no more than three feet.
- (6) To make door and window openings proportional to facade length and height.
- (7) To create a sense of entry into the site and into major businesses within the site through landscaping, facade treatment, and signage.
- (8) To screen rooftop and ground-level mechanical equipment from public view, screen areas for outdoor storage, truck parking, trash collection, loading, and other such uses from view of abutting properties and streets.
- (9) Building trim and accent areas may feature bright colors, including primary colors, but neon tubing shall not be an acceptable feature for building trim or accent areas.
- (10) To minimize negative impacts to residential abutters through sensitive placement and/or screening of buildings, driveways, parking lots, loading areas, lighting, and mechanical equipment.
- (11) Lighting devices on buildings and freestanding poles shall be located and screened to not spill onto adjoining properties and the street.
- (12) To harmonize the location, size, material, and lighting of signs with the building design.
- (13) The following factors will be considered in evaluating new building designs:
 - (a) Scale, proportion, height, and area of building.
 - (b) Type, shape, and pitch of roof.
 - (c) Size and spacing of windows, doors, and other openings.
 - (d) Exterior materials and colors.
 - (e) Styling of front facade.
 - (f) Architectural details and features.
 - (g) Building and site signage.
 - (h) Building and site lighting.

C. Landscaping criteria.

- (1) All shade trees should have a minimum of a two-inch diameter at breast height at planting. All evergreen trees should be a minimum of six feet high at planting.
- (2) At planting, evergreen shrubs should be a minimum of two feet high and deciduous or flowering shrubs should be three feet high (unless species is low-growing variety).
- (3) All trees should be planted in a permeable area of no less than a three-foot wide radius from the base of the tree.
- (4) Existing trees of significant size or special character should be preserved wherever possible.

- (5) Planting islands should be used to define vehicular and pedestrian circulation patterns and to break up large expanses of pavement. In general, islands should be distributed throughout the parking lot. A combination of end-cap islands and linear islands running parallel to parking rows are preferred. Islands should include trees and be planted with either grass or evergreen shrubs.
- (6) Plantings adjacent to pavement should be protected with curbs or equivalent barriers to protect them from vehicular damage. (7) Views from public streets of large parking lots should be screened with low (2 1/2 feet to 4 feet) evergreen shrubs, densely twigged deciduous shrubs, evergreen trees, mounds, berms, walls, or a combination thereof, provided that adequate sight distance is maintained.
- (8) Screening or buffering of commercial uses from residential properties should consist of evergreen trees and shrubs, opaque fencing, walls, berms, or a combination thereof.
- (9) Plantings should be used to identify major entryways to sites, screen service and storage areas and freestanding sign poles, and break up long building walls.
- (10) Plant materials should be of specimen quality conforming to the American Standard for Nursery Stock (ANSI Z60.1 - 1980 or later revision).
- (11) Landscaping should be maintained to present a healthy appearance, and dead materials shall be replaced.

(12) Recommended plantings:

Botanic Name	Common Name
Shade trees:	
Acer rubrum	Red maple
Quercus palustris	Pin oak
Fraxinus pennsylvanica	Green ash
Quercus rubra (borealis)	Red oak
Tilia cordata greenspire	Littleleaf linden
Zelkova serrata	Japanese zelkova
Ornamental trees:	
Cornus spp.	Dogwood
Malus spp.	Crabapple
Prunus spp.	Flowering cherry
Pyrus calleryana	Callery pear
Evergreen trees:	
Picea pungens	Colorado Spruce
Pinus nigra	Austrian pine
Pinus strobus	White pine
Thuja occidentalis	Eastern arborvitae
Tsuga canadensis	Canadian eastern hemlock
Evergreen shrubs:	
Ilex spp.	Holly

Juniperus spp.	Juniper
Kalmia latifolia	Mountain laurel
Rhododendron spp.	Rhododendron
Taxus spp.	Yew

Deciduous shrubs:

Azalea spp.	Azalea
Cornus spp.	Dogwood
Cotoneaster spp.	Cotoneaster
Euonymus spp.	Euonymus
Forsythia spp.	Forsythia
Myrica pensylvanica	Northern bayberry
Syringa spp.	Lilac

For a more detailed list of recommended trees, consult "Selecting Trees for Urban Landscape Ecosystems: Hardy Species for Northern New England Communities," New Hampshire Department of Resources and Economic Development, 1994.

D. Guaranty for site improvements.

- (1) The installation of all site improvements, such as landscaping, drainage facilities, sidewalks, and the like, shall be guaranteed by bond, letter of credit, or similar instrument.
- (2) All landscaping shall be guaranteed for a period of not less than two years after installation.

§ 185-6. Requirements for site plan approval. [Amended 6-15-22]

The Planning Board shall review the proposed site plan and shall approve such site plan if the Board determines that the following requirements are met:

- A. There is adequate traffic access to the site from the Town streets to ensure the safety of vehicles and pedestrians.
- B. There are adequate provisions for improvement to existing streets, including traffic control devices and signs necessary because of increased traffic generated by the development.
- C. There is adequacy of circulation, both vehicular and pedestrian, and parking including loading facilities, to ensure the safety of vehicles and pedestrians on the site.
- D. There is an adequacy of landscaping and screening of adjacent properties, the public highway and within the site, including interior landscaping of large parking areas.
- E. There are adequate provisions for storm drainage of the site if the existing drainage system to which the site drainage system will be connected appears inadequate. Provisions shall be made for retention and gradual release of stormwater, if necessary. Provisions for any reconstruction of public streets made necessary by the design of the site drainage system shall be included.
- F. Adequate provisions are made for snow removal and storage during winter months.
- G. Adequate provisions are made for the site to be serviced by necessary utilities, which may

include water for fire and domestic use, sanitary sewer, electricity, and gas.

H. Adequate provisions are made for sign and outdoor lighting. [Amended 3-7-2001]

- (1) All lighting fixtures will be of a fully shielded design, which means that the light fixture is constructed in such a manner that all light emitted by the fixture is projected below the horizontal plane from the fixture's lowest light emitting part.
- (2) All lighting of any property where the outside lighting exceeds 20,000 lumens must be approved by a licensed professional engineer and shall be designed to achieve no greater than the median illuminance level for the activity as recommended by Illuminating Engineering Society of North America.
- (3) No lighting shall create a safety or nuisance hazard for drivers of vehicles on any street or driveway on or off the site, and no outdoor lighting shall shine directly on adjacent properties and roadways with the exception of street lighting. Lighting design must minimize glare and reflected glow to the sky above.
- (4) Externally lighted signs and buildings will be illuminated from the top only, and the lighting fixtures shall be fully shielded.
- (5) Seasonal temporary lighting is exempt from these regulations, provided the use does not exceed four months.
- (6) Temporary lighting for construction is exempt, provided the use does not exceed six months.
- (7) Exception may be allowed if nonconformity to the above requirements is necessary for reasons of safety of persons or property.

I Site Visits

- 1) Whenever the Board deems it necessary for the consideration of an application to visit the site, the Board shall request permission from the applicant.
- 2) Such a site walk shall be posted as a meeting of the Board pursuant to the Right-to-Know provisions of RSA 91-A. If there is a quorum present at the site walk, minutes shall be kept.
- 3) All applications are conditioned upon the owner allowing access to the property, to the extent reasonable and necessary to properly review the application. Denial of access automatically terminates any further consideration of the proposal.
- 4) No individual Planning Board member in an official capacity shall visit a property under review without prior agreement by the Board.

J Adequate provisions are made for protection of natural features.

§ 185-6.1. Site Plan Modification. [Added 5-19-2010] [Amended 1-18-2012]

A. If due to unanticipated field conditions or for other viable reasons, an applicant proposes to adjust a previously approved site plan, approval by the Planning Board must first be

obtained, and three copies of a modified plan reflecting the proposed changes must be provided to the Planning Director for inclusion in the Planning Board’s permanent records.

B. Minor adjustments which do not substantially modify the approved plan and which do not modify specific conditions established by the Board can be approved by the Planning Director. A written explanation of any such approvals shall be included in the project files and provided to the Planning Board. [Added 1-18-2012]

C. When plans have been modified, as-built plans shall be submitted to the Town, reflecting the final proposal as constructed. When feasible, as-built plans shall be submitted to the Town in an electronic format determined by the Town.

§ 185-7. Other standards.

All developments shall meet the standards and requirements included in the Town of Hillsborough Zoning Ordinance, Subdivision Regulations and other codes which may be adopted by the Town of Hillsborough, unless exempted or otherwise waived.

§ 185-8. Third Party Review and Inspections [Added 06-15-22]

Pursuant to RSA 676:4-b, The Planning Board may require third party review and consultation during the review process, at the applicant’s expense

§ 185-9. Performance bond.

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

185-10. Site Inspections: [Added 06-15-22]

A. Whenever the Board deems it necessary for the consideration of an application to visit the site, a time will be arranged for a site inspection. Such a site inspection shall be posted as a meeting of the Board pursuant to the Right-to-Know provisions of RSA 91-A, and minutes shall be kept.

B. All applications are conditioned upon the owner allowing access to the property by Planning Board members and members of the public, to the extent reasonable and necessary to properly review the application. Denial of access automatically terminates any further consideration of the proposal.

§ 185-11. Definitions.

A. For the purposes of these regulations, the following terms shall have the meanings indicated:

BUG RATING -- A luminaire classification system that classifies backlight (B) up-light (U)

and glare (G). **[Added 06-15-22]**

CHANGE OF USE -- Occurs when the use of a building or site, or any portion thereof, changes to a new use. For example, a gas station succeeding a hardware store or an office succeeding a retail use is a change of use. By contrast, one restaurant succeeding another restaurant and a real estate office succeeding an insurance agency are not changes of use. Some changes of use occur without any development, as defined herein. These regulations provide for Site Plan Review of such changes of use in certain situations. **[Added 9-17-1997, amended 5-19-2010]**

DEVELOPMENT -- The construction, placement or installation of improvements of a tract or tracts of land for nonresidential uses or for multifamily dwelling units other than one- or two-family dwellings. The word "development" here shall not include structures or improvements for farming, logging, or forestry. **[Amended 5-19-2010]**

HARDSCAPE __Hard landscape materials in the built environment structures that are incorporated into a landscape. **[Added 06-15-22]**

LOT COVERAGE --The portion of a lot that is occupied by buildings or structures, expressed as a percentage of the total lot area. **[Added 06-15-22]**

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

§ 185-12. Procedure. [Amended 1-18-2012] [Amended 06-15-22]

A. The procedure for Site Plan Review will be the same as specified in the Town of Hillsborough Subdivision Regulations, including the provisions for a public hearing and required notice to abutters. Approved final site plans are not required to be recorded with the Hillsborough County Registry of Deeds but the Board requires the recording of the Notice of Decision, with the Hillsborough County Registry of Deeds.

B. Completed application.

- (1) A completed application shall fulfill all requirements of §185-5 and §185-6 of these regulations. The applicant shall submit the completed application form to the Town office, together with all applicable fees as approved by the Planning Board. The cost of any required publication or posting of and the cost of mailing notice of all public hearings shall be paid by the applicant prior to the hearing. [Amended by the ATM 3-8-1988 by Art. 2]
- (2) Within 30 days after it has been determined that an application for site plan approval is complete and meets the requirements of these regulations, the Planning Board shall place consideration of the proposed site plan on its agenda and shall act to approve or disapprove it within 65 days subject to a waiver or extension as provided in RSA 676:4, I.

If the Board determines that it lacks sufficient information to make a final decision on an application and the applicant does not consent to an extension, the Board may, in its discretion deny the application without prejudice, in which case the applicant may

resubmit the same or a substantially similar application. If the Planning Board does not act on the application within that 65-day time period, then the Selectmen shall certify on the applicant's application that the plat is approved. Such a certification, shall constitute final approval for all purposes under RSA 674:37 and 676:18, and court review under RSA 677:15.

Pursuant to RSA 676:4, I (c) 2, failure of the Selectmen to certify approval of the plat upon the Planning Board's failure to act within the required time period shall constitute grounds for the superior court, upon petition of the applicant, to issue an order approving the application. The superior court shall act upon such a petition within 30 days. If the court determines that the failure of the selectmen 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.

- (3) No site plan shall be approved or disapproved by the Planning Board without affording a public hearing thereon. Such hearings shall be held with the procedure set forth in the Town of Hillsborough Subdivision Regulation. The applicant and abutters shall be notified of said hearing and the time and place of such hearing, by certified or registered mail, return receipt requested, at the expense of the applicant, not less than 10 days before the date fixed for the hearing.
- C. The Planning Board may approve, approve with conditions, deny without prejudice or disapprove the application.
- a. Pursuant to RSA 676:3 I the decision shall include specific written findings of fact that support the decision. For approvals with conditions, to clarify the expectations of the Board, time limits may be set for each condition as appropriate. In the case of disapproval, the grounds for such disapproval shall be stated in the findings of fact, the minutes of the meeting and in the Notice of Decision of the Planning Board. The Notice of Decision shall be recorded at the Hillsborough County Registry of Deeds. The applicant shall receive a copy of the Notice of Decision by certified mail and by e-mail.
 - b. Approval may become final without further public hearing when 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 approval granted by other boards or agencies or approvals granted by other boards or agencies.
 4. All other conditions shall require a hearing and notice.

5. In case of disapproval of any application, the grounds for such disapproval shall be adequately stated upon the records of the Board and a copy thereof shall be mailed to the applicant within 72 hours after the decision is made.

D. All conditional approvals granted by the Board shall expire eighteen (18) months from the date of conditional approval, unless the conditional approval explicitly sets a different expiration date, which shall be so stated in the record. An applicant may apply for an extension of the expiration date, but the Planning Board is under no obligation to grant an extension. No extension shall be granted if the proposal does not comply with a zoning amendment or an amendment of these regulations which was enacted since conditional approval was granted. **[Added 1-18-2012]**

E. Every site plan approved by the Planning Board, shall be exempt from all subsequent changes in subdivision regulations, site plan review regulations, ordinances, and zoning ordinances adopted by the town, in which there are located, except those regulations and ordinances which expressly protect public health standards, such as water quality and sewage treatment requirements, for a period of 5 years provided the following criteria are met:

- (1) Active and substantial completion within 24 months of approval.
- (2) Development remains in compliance with public health regulations and ordinances.
- (3) The site plan conformed with applicable regulations and ordinances at time of approval and recording. **[Added 06-15-22]**

F Revocation of Planning Board Approval

An approved and recorded site plan may be revoked by the Board in whole or in part, under the following circumstances:

- (1) At the request of or by agreement with the applicant.
- (2) When any requirement or condition of approval has been violated.
- (3) When the applicant or successor in interest to the applicant has failed to perform any condition of approval within the time specified or within four years.
- (4) When five years have elapsed without any vesting of rights and the plan no longer conforms to applicable regulations.
- (5) When the applicant has failed to provide for the continuation of adequate surety.

§ 185-13. 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 may be held by the Planning Board at the same time and place as a hearing for a Special Exception or a Variance for the project held by the Zoning Board of Adjustment.

§ 185-14. Administration and enforcement. [Added 1-18-2012] [Amended 06-15-22]

- A. These regulations shall be administered and enforced by the Code Enforcement Officer, or any duly authorized agent of the Board of Selectmen as provided herein or otherwise as directed by the Board of Selectmen. Should it be determined that an applicant is proceeding contrary to these regulations, an approved plan, the terms and conditions of an approved plan or application, whether express or implied, or any other protective covenant or other agreement with the Planning Board or with the Town, then the applicant shall be notified of the specifics of the violation(s) by the Code Enforcement Officer and the appropriate steps and timetable to undertake in order to remedy said violations.
- B. The Code Enforcement Officer shall undertake all field investigations for noncompliance with this chapter governing site regulations, including those as may be requested by the Town, or its Planning Board; and shall report back to the Town, or its Planning Board, any findings. The Planning Board and/or staff shall inform the Code Enforcement Officer of any alleged violations under this chapter which require field inspection. Otherwise, the Planning Board may cite violations for noncompliance with approvals issued under this chapter under its administration powers, including revocation of approvals as a remedy.
- C. Any person, firm, or corporation violating the provisions of these regulations or terms of any approved Site Plan Review regulation shall be subject to injunctive relief pursuant to RSA 676:15 and/or a civil penalty as specified by RSA 676:17, for each day, or part thereof, as that such a violation is identified and found to continue after the conviction date or after the date on which the violator receives written notice from the municipality that he/she is in violation, whichever is earlier.
- D. The Board reserves the right to waive, upon written request, any portion of these regulations in such cases were, in the opinion of the Board, either:
 - (1) Strict conformity would pose an unnecessary hardship to the applicant and waiver would not be contrary to the spirit and intent of these regulations; or,
 - (2) Specific circumstances relative to the site plan, or conditions of the land in such site plan, indicate that the waiver will properly carry out the spirit and intent of these regulations.
- E. Upon completion of construction and prior to the occupancy of the premises, a Certificate of Use and Occupancy shall be obtained from the Code Enforcement Officer to ensure compliance with the approved Site Plan and the Planning Board's conditions of approval.

§ 185-15. Appeals. [Added 1-18-2012] [Amended 06-15-22]

In accordance with RSA 677:15, any person(s) aggrieved by any decision of the Board may appeal such decision to the superior court within thirty (30) days of the Planning Board's decision; however, if any of the matters to be appealed are appealable to the Board of adjustment under RSA 676:5, III, such matters shall be appealed to the Board of Adjustment before any appeal is taken to the superior court.

§ 185-16 Construal of provisions; severability. [Added 1-18-2012]

- A. In their interpretation and application, the provisions of these regulations shall be held to be the minimum requirements for the promotion of public health, safety, and general welfare.
- B. Where any section of these regulations' conflicts with another, or with any other local regulation or ordinance, the regulation imposing greater restrictions or higher standards shall apply. In addition, the fact that requirements under these regulations are less restrictive than a federal or state regulation or statute, does not relieve an applicant from the requirements of that regulation or statute, unless specifically authorized by said regulation or statute.
- C. If any section, clause, provision, or portion of these regulations shall be held invalid or unconstitutional by any court or competent justice, such holdings shall not affect or impair any other section, clause, provision, or portion of these regulations.

§ 185-17. Amendments. [Amended 1-18-2012]

Pursuant to RSA 675:6, these regulations may be amended, changed, altered, added to, or rescinded from time to time whenever this action is deemed necessary or advisable by the Board after a public hearing on the proposed amendment, change, alteration, addition, or rescission.