

**NON-RESIDENTIAL SITE PLAN REVIEW**

**TOWN OF CENTER HARBOR**

**NEW HAMPSHIRE**

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# **NON-RESIDENTIAL SITE PLAN REVIEW**

## **TOWN OF CENTER HARBOR NEW HAMPSHIRE**

### **SECTION 1. AUTHORITY**

By the authority vested in the Center Harbor Planning Board by the voters of the Town of Center Harbor, New Hampshire, March 2, 1976 and in accordance with the New Hampshire Revised Statutes Annotated, the Planning Board adopts the following regulations for the submission and review of site plans under Non-Residential Site Plan Review Regulations.

## **SECTION 2. DEFINITIONS**

### **2:1 GENERAL**

**2:1:1** The use of all structures other than single or two-family dwellings and their accessory structures shall be deemed non-residential use for the purpose of Non-Residential Site Plan Review.

**2:1:2** Non-Residential Site Plan Review is of three types: Type A – Type B – Type C.

**2:1:2:1** Types A and B are processed by the Planning Board. (Section 3:2:1).

**2:1:2:2** Type C is processed by the Board of Selectmen. (Section 4 Exceptions).

**2:1:3** Type A Review shall require the submission of a Non-Residential Site Plan Review Plat. (Section 2:3:1).

**2:1:4** Type B Review shall require the submission of a Non-Residential Site Plan Outline. (Section 2:3:2).

### **2:2 SPECIFIC**

**2:2:1 NON-RESIDENTIAL SITE PLAN PLAT** means the final map or drawing or chart on which the applicant's plan of development for the site is presented to the Center Harbor Planning Board for approval and which, if approved, will be submitted to the Registrar of Deeds of Belknap County for recording.

**2:2:2 NON-RESIDENTIAL SITE PLAN OUTLINE** means a drawing to scale, in size no less than 8½ x 11 inches, on which the applicant's plan of development of the site is presented to the Center Harbor Planning Board for approval and which, if approved, will be retained on file in the Center Harbor Town Offices.

**2:2:3 ACCESSORY USE OR STRUCTURE** – a use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

**2:2:4 BUILDING** – any structure for the shelter, support or enclosure of persons, animals, chattels or property of any kind.

**2:2:5 DWELLING SINGLE-FAMILY** – a single residential dwelling unit or structure designed for and occupied by one family only.

**2:2:6 DWELLING TWO-FAMILY** – a single residential building containing two dwelling units, designed for and occupied by not more than two families.

**2:2:7 DWELLING UNIT** – one room, or rooms connected together, constituting a separate independent housekeeping establishment for owner occupancy, rental or lease, and physically separated from any other rooms or dwelling units which may be in the same structure, and containing independent cooking, sleeping and sanitary facilities.

**2:2:8 PATIO** – an area, usually paved, any part of which is within five (5) feet of a building, and used for outdoor lounging, dining, recreation, etc.

**2:2:9 OUTDOOR LIVING AREA** – an outdoor dining, recreation or lounging, etc. area no part of which is within five (5) feet of a building; developed by terracing or by covering the natural surface with wood, pavement, gravel, stone or any material save grass or herbage.

**2:2:10 STRUCTURE** – any combination of materials covering more than ten (10) square feet constructed or erected above or below or upon the surface of the ground or water, including a porch or a deck, or attached to something having a fixed location on the ground. Structure shall include but not be limited to buildings, mobile homes, walls, fences, billboards, poster panels, patios and terraces.

The following shall not be considered structures under this definition:

1. An awning or tent for a specific event limited to seven days.
2. A retractable awning or shade used solely to screen a door or window.
3. A backyard tent used for sleeping.

**2:2:11** The present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular.

**2:2:12** The word **SHALL** is mandatory, the word **MAY** is permissive.

**2:2:13** Terms not defined shall have the meaning defined in the Merriam Webster Collegiate Dictionary 10<sup>th</sup> Edition First Printing 1993.

## **SECTION 3. PROCEDURE**

### **3:1 Site Plan Requirements**

#### **3:1:1 General**

No construction or site development activity for non-residential use shall be permitted, nor shall any building or other structure for such use be erected or externally remodeled or enlarged and no area for parking, loading, vehicle service, or driveway access, shall be established or changed, except in conformity with a site plan approved by the Planning Board.

In addition to the requirements above, the following shall also require non-residential site plan review:

**3:1:1:1** Any change in the non-residential use of a property or structure.

**3:1:1:2** Any substantial increase in the intensity of non-residential use of property or structure which may include, but not be limited to, increased parking, increased noise, and increased traffic.

**3:1:1:3** Any change in local or state license requirements for a property or structure.

**3:1:1:4** Exceptions to the requirements for non-residential site plan review in 3:1:1:1 – 3:1:1:3 above are outlined in Section 4.

#### **3:1:2 Specific**

An application for NON-RESIDENTIAL SITE PLAN REVIEW submitted to the Center Harbor Planning Board for approval must comply with the Town of Center Harbor Zoning Ordinance and Subdivision Regulations. Any change in use involving a building will require a memorandum of code compliance from the Center Harbor Fire Department. Type A shall be submitted with a mylar and five (5) paper copies of the NON-RESIDENTIAL SITE PLAN PLAT. Type B shall be submitted with a NON-RESIDENTIAL SITE PLAN OUTLINE. All plans and outlines shall be prepared in accordance with these regulations and site plan checklist, and shall be accompanied by a properly completed application for a construction permit, if required.

## **3:2 Planning Board Procedure**

### **3:2:1 Pre-Submission Discussion and Documentation**

**3:2:1:1** An application for Non-Residential Site Plan Review may be submitted to the Town of Center Harbor during normal business hours or presented to the Planning Board at any regular meeting. A site plan plat (2:2:1) or a site plan outline (2:2:2) must accompany the application. All applicable NRSPR Checklist items must be completed or shown on the site plan plat before the application shall be deemed complete. Inadvertent omission of Checklist items or oblivious misunderstandings of requirements shall not necessarily dictate non acceptance if the scope of the submitted plan is clearly delineated and within the province of Center Harbor Regulations and Ordinances. The Site Plan Checklist is exhaustive, but not necessarily all inclusive. Additional requirements may be added at any time during the review process by the Planning Board

**3:2:1:2** The type designation for NON-RESIDENTIAL SITE PLAN REVIEW will be assigned at the Pre-Submission Discussion (2:1:2)

**3:2:1:3** The type designation does not reflect the size or cost of the project, but rather its perceived impact on the Town of Center Harbor.

**3:2:1:4** Should the applicant eschew the Pre-Submission Discussion the applicant shall submit Type A documentation with the application. (2:2:1)

### **3:2:2 Submission of Application and Board Action**

**3:2:2:1** The Planning Board shall formally consider the submission at the next scheduled Planning Board meeting for which notice can be given, in accordance with RSA 676:4.1 (b), or within thirty (30) days of the date of the delivery of the application whichever is shorter.

**3:2:2:2** If the Board determines that the application is incomplete ACCORDING TO THE BOARD'S REGULATIONS the Board shall notify the applicant in writing (see RDS 676:3) and shall



describe the information, procedure, or other requirement necessary for the application to be complete.

**3:2:2:3** The accepted application must be granted approval, disapproval or conditional approval within sixty-five (65) days of acceptance of the completed application. If the Board is unable to act within the initial sixty-five (65) days, it may apply to the Selectmen for an extension, not to exceed ninety (90), or the initial sixty-five (65) days can be waived by the applicant. This waiver must be in writing. In accordance with RSA 676:4.1(f). should the Planning Board not meet the original sixty-five (65) and has not asked for or been given an extension by the Selectmen, the applicant may ask the Selectmen to order the Planning Board to act within thirty (30) days. Should the Planning Board not react to that order the Selectmen must, within the next ten (10) days (40 days from the date of the original order) either certify approval of the site plan or identify some specific zoning ordinance, or other ordinance with which the plan does not comply.

### **3:2:3 Filing of Approved Applications**

**3:2:3:1** Approval of Type A applications shall be made by written endorsement of the Board therein and the Chairman or Secretary of the Board shall transmit a copy of the approved application to the Registrar of Deeds of Belknap County in the form required in Section 8:1 of the Subdivision Regulations.

**3:2:3:2** Approval of Type B applications shall be made by written endorsement of the Board therein and the Chairman or Secretary of the Board shall present a copy to the Center Harbor Town Clerk for permanent retention in the Town Office.

**3:2:3:3** Approval of Type C applications shall be made by written endorsement of the Board of Selectmen therein and the Selectmen shall present a copy to the Center Harbor Town Clerk for permanent retention in the Town Office.

### **3:3 Disapproval**

In case of disapproval of any accepted application, the grounds for such disapproval shall be adequately stated upon the records of the Planning Board and the applicant notified by certified mail.

### **3:4 Administrative**

#### **3:4:1 Hearings**

No outline/plat shall be approved or disapproved by the Planning Board without affording a hearing thereon. Notification of said hearing to applicants and abutters shall be by certified or registered mail, return requested. Said notification shall be mailed at least ten (10) days before the date fixed for the hearing.

#### **3:4:2 Cost of Notices**

The costs of any required publication or posting of notice and the costs of mailing notice of the hearing shall be paid by the applicant prior to the hearing.

#### **3:4:3 Review Procedure**

In evaluating a site plan under this section the Planning Board may exercise broadest discretion to assure compatibility with the objectives of the Town and with adjacent land uses, and it shall give consideration to the site plan's impact on the environment and to its immediate and long-term requirements for the town to provide necessary and desirable public facilities and services, and it may reject a site plan for cause or require modification including, but not limited to the following:

**3:4:4** Protection of adjoining premises against any possible detrimental or obnoxious uses on the site prohibited under Section 4:4:1 of the Zoning Ordinance.

**3:4:5** Convenience and safety of vehicular and pedestrian movement within the site and in relation to adjacent streets, property or improvements.

**3:4:6** Adequacy of water supply and methods of disposal for sewage, refuse and other wastes resulting from the uses permitted or permissible on the site and the methods of drainage for surface water, and of all other matters concerning public health.

**3:4:7** Adequacy of space for the off-street loading and unloading of vehicles, goods, products, materials and equipment incidental to the normal operation of the establishment or use.

**3:4:8** The Planning Board shall review non-residential site plan review proposals to determine whether such proposal will be reasonably safe from flooding. Non-residential site plan review proposals that are in a flood-prone area shall be reviewed to assure that:

- (i) All such proposals are consistent with the need to minimize flood damage within the flood-prone area;
- (ii) All public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage; and
- (iii) Adequate drainage is provided to reduce exposure to flood hazards.

The applicant shall designate on the plat if a Type A review under Section 2:1:3 or on the outline if a Type B review under Section 2:1:4 and land area susceptible to being inundated by water from any source. The applicant shall utilize such data as may be available from local, state, federal or other sources in making this designation.

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**3:4:9 Amendment of Approval**

The Planning Board shall have the power to modify or amend its approval of a site plan on application from the owner, lessee or mortgagee of the premises, or upon its motion, if such power is reserved by the Board in its original approval. All of the provisions of this Section which apply to approval under these regulations shall, where appropriate, be applicable to such modification or amendment.

**3:4:10 Performance**

The Planning Board requires assurance that the development is to be completed according to the terms under which the approval was granted. This may call for performance bonds, cash deposits or other means to assure completion of the project subject to approval by town counsel as set forth in Section 6:23 of the Subdivision Regulations.

**3:4:11 Penalty**

The penalty for violation of this regulation shall be five hundred (\$500.00) dollars for each violation and the property shall be restored to original condition within one (1) year. After one (1) year a penalty of five hundred (\$500.00) dollars shall be imposed for each month that the violation continues to exist. The Town through its solicitor or other official designated by its Selectmen may recover the said penalty by civil action (RSA 36:27 rev. 1970).

## **SECTION 4. Exceptions**

**4:1** There are certain cases where Site Plan Review may not be necessary. Proposed uses which meet the following standards may be granted an exception by the Board of Selectmen if all the following conditions are met:

**4:1:1** The proposed use will not adversely affect the health, safety, and general welfare of the community.

**4:1:2** There will be no increase in traffic, noise, odor, glare, heat, air or water pollution.

**4:1:3** There will be no significant changes in the site design, including but not limited to: entrances, exits, signs, parking areas, sidewalk drainage, safe sight distances, water and sewage systems or trash disposal.

**4:1:4** Additions or additional buildings will be limited to a maximum of 1000 square feet of surface area and will not obstruct any abutter's view, solar rights or negatively affect any abutter's property values.

**4:1:5** The use, as proposed, will not violate the purpose and intent of the Town's Site Plan Review Regulations.

**4:1:6** The proposed use will be reasonably safe from flooding. If proposed use is in a flood-prone area, each such proposal shall be reviewed to assure that:

- (i)** The proposal is consistent with the need to minimize flood damage within the flood-prone area;
- (ii)** All public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage; and
- (iii)** Adequate drainage is provided to reduce exposure to flood hazards.

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**4:2** In any instance where the impact from the granting of an exception is questionable, the Board of Selectmen shall refer the applicant to the Planning Board for a Non-Residential Site Plan Review as specified in the Town of Center Harbor Ordinance, Regulations and By-Laws.

- 4:3** When a change of non-residential use comes to the attention of the Selectmen and they are uncertain whether the change required non-residential site plan review, they shall consult with the Planning Board to determine whether or not this change of use fits the definitions outlined in these regulations. The Selectmen and the Planning Board shall jointly determine whether or not a non-residential site plan review is required, or whether to grant an exception as described in this section. (Section 4)
- 4:4** Only one exception can be granted by the Board of Selectmen. Any request for site plan approval after an exception must be referred to the Planning Board. The Board shall act upon such a request according to procedures in Section 3.
- 4:5** Approved exceptions shall be filed in accordance with Sub-Section 3:2:2:3 of this Regulation.

## **SECTION 5. Miscellaneous**

### **5:1 Variances**

Where strict conformity with these regulations would cause undue hardship or injustice to the applicant, a site plan substantially in conformity with these regulations may be approved by the Board, provided that the spirit of these regulations and the public convenience and welfare will not be adversely affected.

### **5:2 Amendments**

These regulations may be amended or rescinded by the Board but only following a public hearing on the proposed change. The Chairman or Secretary of the Board shall transmit a record of any changes so authorized to the Registrar of Deeds of Belknap County.

### **5:3 Severability**

If any section, sub-section, sentence, clause or phrase of these Regulations is for any reason held to be unconstitutional or illegal, such invalidity shall not affect the remaining portion of these Regulations.

### **5:4 Annual Review**

These Regulations shall be reviewed annually at a public meeting of the Planning Board. Any necessary revision of the regulations shall be held in accordance with Section 5:2.

**5:5** Construction Permits for Non-Residential use shall not be issued prior to approval of the Non-Residential site Plan.