

**THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE**

	)	
Industrial Tower and Wireless, LLC	)	
	)	
v.	)	Docket No.:
	)	
Town of Hancock, New Hampshire	)	
	)	

COMPLAINT

NOW COMES plaintiff, Industrial Tower and Wireless, LLC (“ITW”), by its undersigned attorneys, and complains against defendant Town of Hancock, New Hampshire (“Hancock” or the “Town”), as follows:

1. ITW brings this action because the Hancock Planning Board (the “Board”) has unreasonably and unlawfully exercised its authority under the Hancock Zoning Ordinance (the “HZO”), under the Board’s Telecommunications Facilities Regulations (the “Telecom Regulations”), and under the Board’s Site Plan Regulations to deny an application for permission to construct a new personal wireless services facility, in violation of Section 704 of the Telecommunications Act of 1996, 47 U.S.C. 332(c)(7)(B) (the “TCA”).

2. Under the HZO and Telecom Regulations, wireless telecommunications facilities are allowed in Hancock up to a height of 180 feet, but only in the Town’s Rural & Agricultural (“RA”) zoning district, and only upon the issuance of a Conditional Use Permit (“CUP”) and site plan approval by the Board. Copies of the relevant provisions of the HZO, the Telecom Regulations and the Board’s Site Plan Regulations are submitted herewith as Exhibits A, B and C, respectively, and are incorporated herein by reference.

3. On September 2, 2026, following four hearings which included strident personal attacks directed at the Board Chair leading directly to his resignation in the middle of the process, the Board voted 3-1 to deny ITW's requests for a CUP and for site plan approval for a proposed new wireless antenna facility in Hancock. The Board relied on an appraiser's opinion that "even a partial view of a cell tower will produce an impact to property values". The Board then issued a written decision, confirming that the Board's sole basis for denial was the concern about impact to property values and that it "did not [consider] the remaining CUP standards, nor ... consider the corresponding site plan application for the same project." *See* Written Decision dated September 9, 2026 (the "Decision"), submitted herewith as Exhibit D and incorporated herein by reference.

4. The appraiser's opinion that any cell tower, regardless of location, would negatively impact the value of any property with "even a partial view" property values is not "substantial evidence contained in a written record" within the meaning of the TCA, 47 U.S.C. 332(c)(7)(B)(iii), and is thus insufficient to support the denial. What is more, the appraiser's methodology was flawed and contrary generally accepted appraisal standards, and could not properly have been relied on by the Board.

5. In addition, because there is a significant gap in coverage in Hancock and because there are no feasible alternatives to the site proposed by ITW, the denial of ITW's request for permission to construct a personal wireless services facility has the effect of prohibiting wireless services in Hancock in violation of the TCA, *see* 47 U.S.C. §332(c)(7)(B)(i)(II).

6. The Decision is a "final decision" within the meaning of the TCA.

7. ITW is aggrieved by the Decision, and is entitled to an order directing the Town to issue the requested CUP and the site plan approval so that the proposed facility can be constructed without further delay.

PARTIES

8. ITW is a limited liability company formed and existing under the laws of the State of Delaware, with a principal place of business at 40 Lone Street, Marshfield, Massachusetts, 02050. It is engaged in the business of building, owning, and maintaining “personal wireless service facilities” as that term is defined in the TCA, *see* 47 U.S.C. §332(c)(7)(C)(ii). ITW routinely leases space on its facilities to wireless telecommunications providers who are licensed by the Federal Communications Commission (the “FCC”), to provide “personal wireless services” as defined in the TCA, *see* 47 U.S.C. §332(c)(7)(C)(i), including Verizon, AT&T, and T-Mobile, the three providers who are licensed to provide those services in Hancock and the surrounding vicinity (the “Wireless Providers”).

9. The Town is a municipal corporation organized and existing under the laws of the State of New Hampshire with offices located at 50 Main Street, Hancock, NH 03349. The Board is the agency or instrumentality of the Town responsible for regulating personal wireless services facilities in the Town, and must do so in a manner which complies with both New Hampshire law and federal law.

JURISDICTION AND VENUE

10. ITW’s claims arise under the laws of the United States within the meaning of 28 U.S.C. § 1331. Accordingly, this court has original jurisdiction pursuant to that statute.

11. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b)(1), in that the defendant resides in this district, and pursuant to 28 U.S.C. § 1391(b)(2), in that a substantial part of the events or omissions giving rise to the claims arose here.

ALLEGATIONS COMMON TO ALL CLAIMS FOR RELIEF

The Coverage Gap

12. Until 2011, there were no cell towers anywhere in Hancock, and wireless service was poor to non-existent almost everywhere in the Town. In or about 2010, ITW considered building a tower at the top of Norway Hill, a large hill in eastern Hancock, from which the Wireless Providers could have provided service to most of Hancock, and could also have offered seamless coverage to other wireless sites in the area, including two existing wireless facilities built and owned by ITW in the neighboring Town of Peterborough. However, ITW realized that residents of the Town did not consider the top of Norway Hill a good location for a tower, because it would be visible from many places in the Town, including the Town center, which contains historic structures and is designated as an Historic District. Accordingly, ITW did not apply for permission to construct a tower on top of Norway Hill. Instead, it found a location on the eastern side of Hancock, near the base of that Hill, and was granted permission to construct a 180-foot-tall tower at that location, which it built in 2011 (“Hancock I”). All three of the Wireless Providers have since installed their antennas upon Hancock I, from which they provide good coverage to eastern Hancock. However, because the signals are blocked by Norway Hill to the west and because of the distance to western part of the Town, Hancock I provides no coverage, or inadequate coverage, to more than half of Hancock.

13. According to Hancock’s 2020 Master Plan, the Planning Board conducted a survey in December 2017 and concluded that “expansion of...cell phone reception is a priority for the town.”

14. On or about July 23, 2018, the Town formed a “Telecommunications Committee” and charged it to “research, investigate, evaluate, and report on technologies and infrastructure

improvements that bring a high standard of broadband and cell service throughout the community at competitive costs; allowing each resident the opportunity to fully participate in these state-of-the-art utilities.” On January 7, 2019, the Telecommunications Committee issued an Interim Report which included results of a second survey. 101 out of 121 respondents reported that they were not satisfied with the quality of cellphone service in Hancock.

15. Despite the Town’s statement that improving cell phone service is a “priority” and despite the continued concerns of residents regarding inadequate wireless service in the Town, no new telecommunications facilities have been built in Hancock since ITW built Hancock I in 2011.

16. Like the Town itself, ITW has been aware ever since it built Hancock I that there was no coverage to most of the Town to the north and west of Norway Hill, an area that includes the Town center and almost all of the northwestern part of the Town (the “Coverage Gap”).

Hancock’s Regulation of Wireless Facilities

17. According to the Table of Permitted Uses in the HZO, wireless telecommunications are allowed only in the Town’s RA district, and only upon issuance of a CUP by the Planning Board. *See* Exhibit A hereto. Among the general criteria for obtaining a CUP is a requirement that the “proposed use would not adversely affect property values of neighboring properties.”

18. In addition to the general CUP criteria set forth in the HZO, the Planning Board has adopted its own Telecom Regulations, a 9-page document setting forth additional criteria for approval of a CUP for any Telecommunications Facility. *See* Exhibit B hereto. Among other restrictions, the Telecom Regulations limit height to 180 feet, require a balloon test to generate “pictures from all locations around town and within 20 miles from which the balloon is visible” (an area which could include more than 1,000 square miles), and impose a “setback...equal to 125% of the height of the tower from all property lines.” *Id.* This setback requirement makes

finding a suitable site difficult. By way of illustration, a 150-foot-tall tower requires, at a minimum, a circular area of more than two acres to meet the setback requirements.

19. With respect to potential visual impact on the Town's Historic District, the Telecom Regulations expressly defer to the Nationwide Programmatic Agreement entered into among the FCC, the Advisory Council on Historic Preservation, and the National Conference of State Historic Preservation Officers in September 2004, which is intended to facilitate review of impacts on historic properties as required by federal law, referred to as Section 106 Review. (*see* FCC-04-222, Docket No: 03-128, 20 FCC Record 1073, 70 FR 555 (01/04/2005)) (the "Programmatic Agreement"). Pursuant to the Programmatic Agreement, any new wireless facility must be at least half a mile away from the edge of the Town's Historic District in order to avoid the presumption of an adverse impact on historic properties.

20. In addition to meeting the general criteria for a CUP and the specific criteria of the Telecom Regulations, site plan approval is also required by the HZO, in accordance with various criteria contained in the Planning Board's 50-page Site Plan Regulations. *See* Exhibits A and C hereto.

Finding A Site

21. In order for a new wireless facility to satisfy network engineering requirements, it must be strategically located so that it not only allows Wireless Providers to close the Coverage Gap, but also allows for seamless "hand-off" of wireless signals to and from the other antenna facilities in the area. In particular, the new facility must be able to hand-off signals to Hancock I and to ITW's existing facilities in the neighboring town of Peterborough. In addition, the new facility cannot be too close to the other facilities in the area, since this would create overlapping coverage which is inefficient and degrades network performance.

22. According to the Hancock Master Plan, “[t]here are 20,003 acres of land in the Hancock township of which 8,685 acres are in conservation land.” This is more than 40% of all the land in the Town. The Master Plan notes that, by definition, use of this conservation land for commercial development is prohibited. The majority of this conservation land is in the western half of the Town where the Coverage Gap exists and where a new facility is needed.

23. In or about September 2024, with the Coverage Gap as well as the challenges presented for filling that Gap in mind, ITW began searching for a location for a new facility which could close the Coverage Gap. As part of this process, ITW utilized software known as EDX Signal, a tool which uses the industry-accepted Terrain Integrated Rough Earth Model (“TIREM”) to predict wireless telecommunications coverage. The tool generates propagation models that take into account key variables, including distances, terrain variations, vegetation, transmitter and receiver characteristics, and the wavelengths of radio transmissions at the frequencies used by the providers. Based on this modeling, ITW determined that the new facility would need to be located as close as practical to the center of the Town, and close to NH Route 123, a State highway which connects Hancock to communities to the northwest such as Stoddard.

24. After considering both network engineering requirements and the siting restrictions imposed by local law and federal law, ITW determined the general area where a facility would need to be located, referred to as a “search ring.” ITW further determined that there were no existing structures in that area which were tall enough to support the required antennas. ITW then attempted to contact several owners of the parcels in the area upon which a suitable facility might be built and who might be amenable to making their land available. Eleven owners were contacted but only two owners responded, one whose land was subject to a conservation easement that prohibited the proposed facility and the other who said he was not interested. ITW also determined

that approximately twenty parcels within its search ring were subject to conservation restrictions, making it essentially impossible to construct a wireless facility on those parcels.

25. ITW learned that a single parcel might be available within its search ring, near the intersection of 123 and Lee Farm Road, a little over a half mile from the Town Center (the “Property”). ITW confirmed that a tower of 150 feet in height at that location would allow all three Wireless Providers to close the Coverage Gap, and approached the owners of the parcel. ITW was able to negotiate an agreement with the owners which would allow it to construct a tower at that site.

ITW’s Application

26. ITW finalized its transaction with the landowner, and then developed and gathered plans and supporting materials for the proposed facility, including site plan drawings, construction drawings, structural specifications for the proposed tower, radio frequency emissions studies, and coverage models. ITW also conducted a preliminary balloon test to assess the likelihood of visual impact on the Town, including the Historic District, and engaged an environmental consultant, EBI, to work with the New Hampshire Department of Natural and Cultural Resources, Division of Historical Resources, with respect to Section 106 Review.

27. In addition, because the proposed facility would be accessed from Route 123, which is a State highway, ITW obtained approval for a new “curb cut” from the New Hampshire Department of Transportation.

28. ITW then assembled information and documentation, and on or about May 18, 2026, ITW filed its Application for the CUP and site plan approval required to construct a 150-foot-tall wireless facility on the Property (the “Application”). It also made a request for four waivers from specific requirements, two of which it later determined were not needed. The

remaining two waivers included a request that the requirement of a balloon test with a 20-mile radius be relaxed to a 2-mile radius, and a request that the setback of at least 125% of the tower height from all property lines be relaxed to 100% of the tower height.

29. ITW's consultant, EBI, then notified the Town's Historic District Commission of the Application and commenced the Section 106 Review process.

30. The Application identified the Coverage Gap and explained ITW's efforts to identify suitable sites for a facility which would allow all three Wireless Providers to close that Gap. The Application also described the proposed facility and included the site plans, structural information, construction drawings, engineering and technical data, and other relevant information which ITW had assembled.

31. News of ITW's proposal spread quickly through the Town, and a small but influential group of local citizens quickly began efforts to oppose it. According to an article which appeared in the June 1, 2026 edition of the Monadnock Ledger-Journal, even before the Planning Board had accepted the Application for review, let alone conducted a balloon test to study the potential visual impact, the Chair of the Historic District Commission announced that "[t]he proposed tower would introduce a modern, industrial element into a largely preserved 19th-century skyline." Upon information and belief, a few abutters and a few people interested in historic preservation began to organize efforts to oppose the ITW proposal.

32. At a public meeting held on June 17, 2026, the Board reviewed the Application, determined that it was complete, and opened the public hearing, all in accordance with NH RSA 676:4, I. ITW explained its Application, including the existence of the Coverage Gap, the fact that the proposed facility would allow the Wireless Providers to close that Gap, and the lack of alternatives to the proposed site. Several Town residents spoke in opposition to the proposal. The

Board granted a waiver allowing a balloon test to be limited to a 2-mile radius around the proposed tower site, an area of more than 12.5 square miles, and a balloon test was scheduled for July 11, 2026. The Board reserved decision on ITW's other waiver requests, and the hearing was continued until July 1, 2026.

33. Following the hearing on June 17, the opponents submitted voluminous written materials covering a range of topics, including a nearly thirty-year old study regarding the structural integrity of towers from that era, concerns about health effects, concerns about visual impacts, and the possibility of a "better" location. ITW responded to many of these concerns by letter on June 24, explaining it had investigated other properties beyond the 11 specifically mentioned in its Application. ITW also forwarded a 2020 Property Values study, prepared by a NH licensed appraiser, which concluded that a 175-foot-tall tower in the Town of Richmond, NH would not negatively affect property values.

34. On June 30, the Board requested that ITW agree to a review of the structural integrity of the proposed facility to be conducted by All-Points Technology, at a cost to ITW of \$1,050. ITW agreed to this proposal in a letter on July 1, and requested that the process begin "as soon as possible." ITW's July 1 letter also explained that ITW would install a tower that met or exceeded all current engineering requirements, and that the data regarding structural integrity which had been submitted by opponents to the proposal referred to towers that were built decades earlier with outdated structural specifications and which, in some cases, were 2,000 feet tall.

35. At the July 1 hearing, the same group of residents opposed to the tower appeared and reiterated their opposition to it, for the most part repeating concerns that had already been expressed. Emotions were running high, and the Board Chair tried to have the proceedings remain orderly so that ITW as well as the opponents had a fair opportunity to make their points. The issue

of alternative locations was raised again. Specific areas of the Town were mentioned, and ITW agreed to investigate those areas. The issue of waivers was raised, and ITW agreed to submit more information. Following discussion of these and various other issues, the hearing was continued until August 5, in order to allow time for the balloon test to be conducted and for ITW to prepare and submit a report regarding the results of that test to the Board.

36. After the July 1 hearing, the opponents continued to submit written materials, which now amounted to hundreds of pages. The Board contacted ITW and explained that it felt further inquiry was warranted with respect to property values. In addition, ITW also learned that a memorandum, apparently prepared by one or more members of the Historic Commission had been submitted to the Board, suggesting that ITW should expand its research into alternatives including the possibility of deploying a different technology referred to as “small cells” in Hancock.

37. On July 17, ITW responded by letter to the issues raised during and after the July 1 hearing. The letter explained that ITW had retained a NH licensed appraiser to conduct more research regarding potential impacts on property values; that it had investigated the additional areas mentioned at the July 1 hearing as possible alternative locations and found that none of them were suitable, for specific reasons; that a 150-foot tall tower was necessary to accommodate the three Wireless Providers; that ITW had an excellent track record of leasing its facilities to these three providers, including its Hancock I facility and its two facilities in the neighboring town of Peterborough; and that “small cell” technology was not a feasible alternative to a single 150-foot-tall tower. ITW also addressed the waiver issues mentioned at the July 1 hearing and explained that it actually had made a drafting error when it made two of those waiver requests; its construction plans already contained details of stormwater management and erosion controls sufficient to meet the Town’s requirements, so no waivers were required for these items. Since the

Board had already granted the waiver regarding the scope of the balloon test, this left only the waiver of the 125% setback requirement. The decision on that request remained in limbo until the results of the structural review by All-Points Technology were known.

38. On July 30, 2026, ITW submitted photo simulation reports from the balloon test which ITW had conducted on July 11, 2026, demonstrating potential visual impact from places in the Town from which the proposed facility might be visible. ITW also submitted the second Property Values Report, as it had agreed to do in its July 17 letter (hereinafter, the “Correnti Report”).

39. As of July 30, the structural review, which the Board had requested in order to evaluate the setback issue, and to which ITW had agreed on July 1, had still not been completed

40. On or about July 30, a local attorney who resides and operates an “agritourism” business more than two miles away from the proposed facility and has never claimed that the facility would be visible from her properties, began an aggressive letter writing campaign which included various attacks on the integrity of numerous individuals involved in the case, including the Board Chair. The attorney also submitted information regarding radio interference issues which she knew or should have known was improper, in that local consideration of radio frequency interference issues is within the exclusive jurisdiction of the Federal Communications Commission, completely preempted by federal law, and not subject to local regulation.

41. At the Board’s August 5, 2026, meeting, the local attorney insisted that she be allowed to speak during the abutter comment portion of the meeting, although she was not an abutter, because she asserted that she was an “agent” for an abutter. The Board relented to this demand. She proceeded to attack the Board Chair in a raised voice, and demanded that he recuse himself. The Chair responded that there was no basis for recusal, but nevertheless asked the Board

to vote on the issue. The Board unanimously voted that there was no basis for recusal. Despite this, the vituperative speech by the attorney had what appeared to be the desired effect: no doubt emboldened by the tone and content of the attorney's speech, other residents whose emotions were already running high echoed some of the attorney's more outrageous claims and accusations. The Chair struggled to control the decorum and the process in the face of shouted interruptions by the attorney and others.

42. Largely because of criticisms and accusations raised by the same attorney regarding the Correnti Report which ITW had submitted on July 30, the Board asked ITW if it would agree to pay for a "peer review" of that Report. ITW hesitated, because under applicable state law, the 65-day period for the Board to decide the Application expired on August 16. *See* NH RSA 676:4, I (c)(1). ITW wanted to make sure that, if it agreed to extend this deadline, the parameters of a review would be limited to a discussion of the methodology and data used in the Correnti Report, and specifically objected to any peer reviewer being informed about the criticisms that the local attorney and other opponents had already made, because such information was unreliable, biased and neither necessary nor appropriate for an independent review of the Correnti Report. With the understanding that this was agreed to by the Board, ITW agreed to extend the 65-day period and to pay for the peer review. ITW also agreed that it would have the appraiser who had prepared the Property Values Report available at a subsequent hearing. The meeting was then continued until September 2, 2026.

43. Two days after the August 5 hearing, the Chair submitted his resignation letter, stating that "[t]he contentious nature of these proceedings, including personal attacks, has impacted my wife's health and I am choosing to prioritize her...I have also been impacted by a

lack of support to mitigate this issue.” Another Board member resigned a short time thereafter, leaving the Board – which is supposed to have seven members -- with only four members.

44. The remaining members of the Board then engaged an appraiser named Louis Manias to review the Correnti Report, despite ITW’s concerns that Mr. Manias might be biased. In addition, upon information and belief, the Board alerted Mr. Manias to the critiques of the Report that had now become part of the Board record, even though he did not ask for this information and even though it would be inappropriate for an appraiser to consider such information in determining valuation issues.

45. On August 25, 2026, nearly eight weeks after ITW had agreed to an independent structural review, All-Points delivered the results of that review to the Board, in which it concluded that ITW’s proposed facility reflected “sound design practices in accordance with industry standards.”

46. On August 28, 2026, Mr. Manias submitted his critique of the Correnti Report, (hereinafter the “Manias Report”). The Manias Report explained that it was an evaluation of the “credibility” of the Correnti Report and then proceeded to offer various criticisms. The major criticism was that Correnti should have used “paired sales” rather than “grouped data” to support his conclusion. However, Manias went further, offering his own analysis based on what he claimed were “paired” sales, and offered concluded with an opinion that “even a partial view of a cell tower will produce an impact to property values.” This opinion was not specific to Hancock, let alone to the specific location of the proposed ITW facility. In fact, neither the Correnti Report nor the Manias Report used any data from Hancock because none was available.

47. At the beginning of the September 2 hearing, ITW offered to reduce the height of its proposed facility from 150 feet to 120 feet, thereby eliminating the need for a setback waiver.

ITW explained that this not only eliminated the setback issue, which had been discussed extensively over the past several months, but also undoubtedly would reduce any potential visual impacts on abutting properties and on the Historic District. ITW further explained that reduced height also meant that the proposed facility would only be useable by one carrier. ITW then disclosed that it had just received an oral commitment from one of the Wireless Providers to locate on a 120-foot-tall tower at the location in question, and that it was 99% certain that this commitment would be documented in writing. The Board, after consulting with its counsel, voted to accept ITW's offer and also voted that the reduced height would meet the setback requirement and that it did not trigger a requirement for a new application or a new round of hearings under applicable state law.

48. The local attorney who had attacked the Board Chair at the August 5 hearing then demanded that one of the four remaining Board members recuse herself. She declined to do so, and the other Board members agreed that recusal was unwarranted.

49. Mr. Correnti then defended his opinions and the use of the group data method. He also explained that Mr. Manias had not properly used the paired sales method, because he compared properties that were not "pairs," which is contrary to the requirements for a paired sales analysis, as explained in professional treatises. Mr. Correnti further explained that, in one instance, Mr. Manias compared one property to a second property that did not even exist. In another instance, Mr. Manias improperly used a residence with a view of the White Mountains and compared it to a residence on a corner lot with no view. Mr. Manias then offered a rebuttal which included references to a pair of new homes that were not mentioned in his Report at all, and which also were not a proper pair because one property had never been sold and was listed for sale for

approximately \$45,000 more than the house which did sell. Both of these facts made a “paired sale” analysis impossible.

50. Despite the obvious deficiencies, mistakes and bias of the Manias Report, the Board deliberated and concluded that it was more reliable than the Correnti Report. The Board then voted 3 to 1 to deny the Application on the grounds that ITW had not demonstrated that the “proposed use would not adversely affect property values of neighboring properties” as required by the CUP provisions in the HZO. It also decided that it would not deliberate or vote on any of the remaining criteria.

51. On September 9, 2026, the Board issued a written decision, confirming that the Board’s sole basis for denial was the impact to property values and that it “did not [consider] the remaining CUP standards, nor ... consider the corresponding site plan application for the same project.” *See* Exhibit D.

52. The Planning Board’s Decision thus relies entirely upon an opinion which is so severely flawed as to both methodology and data that it cannot amount to “substantial evidence” as required by the TCA. *See* 47 U.S.C. § 332(c)(7)(B)(iii). Even more important, because the opinion itself would apply to any cell tower that can even be “partially” viewed anywhere in Hancock, it cannot be considered to be “substantial evidence.”

53. In addition, as a result of the final action by the Planning Board, all three Wireless Providers will continue to have gaps in their wireless network coverage in Hancock, which they will have no feasible way to close. This amounts to an effective prohibition of wireless services in violation of the TCA, *see* 47 U.S.C. § 332(c)(7)(B)(i)(II).

54. Because of the Town’s violations of applicable federal law, ITW is entitled to a judgment that the Town has violated the TCA and other applicable law and to an injunction

directing the Town to issue all permits necessary for construction of the proposed facility, so that such construction can begin without further delay.

**AS AND FOR A FIRST CLAIM AND FOR RELIEF –
VIOLATION OF TCA’S “SUBSTANTIAL EVIDENCE” TEST**

55. ITW repeats, realleges and incorporates herein with reference each allegation contained in paragraphs 1 through 54 of this Complaint as if fully set forth herein.

56. Because the denial of ITW’s Application is not supported by substantial evidence contained in a written record, the denial violates the TCA. *See* 47 U.S.C. § 332(c)(7)(B)(iii). In particular, the sole basis relied upon by the Town was not specific to the location in question or to the specific 120-foottall tower proposed by ITW.

57. ITW is aggrieved by this violation of federal law, and is entitled to an injunction directing the Town to issue all permits necessary for construction of the proposed facility to proceed, without further delay.

AS AND FOR A SECOND CLAIM AND FOR RELIEF – EFFECTIVE PROHIBITION

58. ITW repeats, realleges and incorporates herein by reference each allegation contained in paragraphs 1 through 57 of this Complaint as if fully set forth herein.

59. The Wireless Providers will continue to have gaps in their wireless network coverage, in that taking into account all existing and permitted wireless facilities in the area, they will still be unable to provide adequate wireless service throughout the western half of Hancock. This is a “significant gap” within the meaning of applicable law.

60. There are no other feasible locations in Hancock from which the Coverage Gap can be closed.

61. Hancock has regulated wireless facilities in a manner which amounts to an effective prohibition of wireless services in violation of the TCA, 47 U.S.C. § 332(c)(7)(B)(i)(II).

62. ITW is aggrieved by this violation of federal law, and is entitled to an injunction directing the Town to issue all permits necessary for construction of the proposed facility to proceed, without further delay.

WHEREFORE, plaintiff Industrial Tower and Wireless, LLC, prays for relief as follows:

A. Judgment on the first claim for relief in favor of ITW, declaring that the Town has violated the “substantial evidence” provision of the TCA, 42 U.S.C. 332(c)(7)(B)(iii), and issuing an injunction directing the Town to issue all permits necessary for construction of the proposed facility to proceed, without further delay;

B. Judgment on the second claim for relief in favor of ITW, declaring that the Town has violated the “effective prohibition” provision of the TCA, 42 U.S.C. 332(c)(7)(B)(i)(II), and issuing an injunction directing the Town to issue all permits necessary for construction of the proposed facility to proceed, without further delay; and

C. Granting ITW such other and further relief as the Court deems just and proper.

Respectfully submitted,

INDUSTRIAL TOWER AND WIRELESS,
LLC

By its attorneys,

BOUTIN LOWMAN PLLC

Dated: October 2, 2026

By: /s/Steven E. Grill

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Adopted March 2006, Amended to March 2025

TOWN OF HANCOCK ZONING ORDINANCE

*Note: This Ordinance contains the
Town of Hancock Historic District Regulations*

Adopted March 2006, Amended to March 2025

ARTICLE 3. GENERAL PROVISIONS

The following provisions shall apply to lots in all zoning districts.

3.1. Uses of Land

- 3.1.1. All uses permitted in any district are enumerated in this Ordinance. Any use which is not expressly permitted is hereby prohibited.
- 3.1.2. There shall be permitted only one (1) principal building and one (1) principal use on a lot.

3.2. Building Codes & Permits

Pursuant to the authority granted in NH RSA 674:51-a, the Town of Hancock hereby adopts the Hancock Building Code. This adoption supersedes and shall take precedence over any inconsistent provision of any prior Hancock Building Code or Ordinance. The Hancock Building Ordinance was originally adopted in March 1969 and was amended in March of 1987, 1989, 1990 and 1994. All development shall conform to the Hancock and State Building Codes.

3.3. Subdivision Regulations

Development of tracts of land for residential purposes or for a change or expansion of said uses may be subject to the additional requirements contained in the Town of Hancock Subdivision Regulations, as administered by the Planning Board. The Planning Board may, by regulation, require preliminary review of subdivisions.

3.4. Site Plan Regulations

All development of tracts of land for non-residential or multi-family purposes or for a change or expansion of said uses shall be subject to the additional requirements contained in the Town of Hancock Site Plan Review Regulations, as administered by the Planning Board.

3.5. Parking

- 3.5.1. Unless otherwise stated in this Ordinance, all development shall comply with the parking requirements specified by the Town of Hancock Subdivision and Site Plan Review Regulations, as administered by the Planning Board.
- 3.5.2. Required off-street parking spaces shall be provided on the same lot as the principal use they are required to serve.

3.6. Waste Disposal & Water Supply

- 3.6.1. All habitable structures shall be served by a potable water supply and a sewage disposal system constructed and maintained in accordance with the standards established by the New Hampshire Department of Environmental Services, Water Supply and Pollution Control Division.
- 3.6.2. No person shall permit wastewater or sewage to run free into any public water or otherwise discharge the same in a way which may be offensive or detrimental to the health of others. All such waste shall be conveyed away underground through the use of a sanitary system designed and constructed in accordance with NH RSA 485-A:29 and in a way which shall not be offensive or

Adopted March 2006, Amended to March 2025

ARTICLE 20. CONDITIONAL USE PERMITS

The Planning Board shall have the power, upon application and hearing, to grant a Conditional Use Permit under this Ordinance upon the following terms and conditions and upon such additional terms and conditions as may be set out in Site Plan Regulations adopted from time to time pursuant to RSA 674. The Planning Board shall have the further power to waive such conditions in individual cases.

20.1. General Conditions

20.1.1. No Conditional Use Permit shall be granted unless the Planning Board finds the following:

- 20.1.1.1. The specific site is an appropriate location for the proposed use;
- 20.1.1.2. The proposed use would not adversely affect property values of neighboring properties;
- 20.1.1.3. The proposed use and the associated plans for parking, access and egress would not create a nuisance or serious hazard to pedestrian or vehicular traffic or excessive traffic congestion nor create excessive wear and tear on public Streets;
- 20.1.1.4. The proposed use, following installation of visual and noise screening measures by natural or structural means to the extent and in the manner as may be specifically determined by the Planning Board, would not create a nuisance to neighboring properties by reason of noise, odors, fumes, smoke, dust, vibrations, light, sound, or electromagnetic or communications interference or the storage or dissemination of hazardous materials or otherwise be injurious, obnoxious or offensive;
- 20.1.1.5. Adequate and appropriate facilities will be provided for the proper operation of the proposed use, including (where applicable) facilities for potable water and disposal of waste;
- 20.1.1.6. The proposed use is consistent with the purposes and intent of the Zoning Ordinance and the Hancock Master Plan; and
- 20.1.1.7. The proposed use falls within and meets all of the use provisions listed in Article 8 for a specific use and other sections of this Ordinance.
- 20.1.1.8. In making such determinations in this Section, the Planning Board may also consider whether a proposal in an individual case meets those standards set out in RSA 674:44, II.

20.1.2. Conditional Use Permits may be approved by the Planning Board subject to specific operating or physical conditions in order to provide reasonable and necessary protection for surrounding property owners and otherwise implement the intent of this Ordinance.

20.1.3. The conditions imposed by this Ordinance and otherwise shall be continuing conditions of use. Any permission granted pursuant to a Conditional Use shall lapse if relevant conditions are materially violated.

20.1.4. The Planning Board may, by regulations adopted under provisions relating to Site Plan Review,

Adopted March 2006, Amended to March 2025

adopt further provisions consistent with this Ordinance.

20.2. Combined Site Plan Review

Hearings on Conditional Use Permits may be consolidated with Site Plan Review public hearings which relate to the same properties.

Adopted March 2006, Amended to March 2025

APPENDIX A. TABLE OF PERMITTED USES

P= Permitted, CUP = Permitted by Conditional Use Permit, SE = Permitted by Special Exception

*= Use is subject to additional standards in either Article 8 or Article 16 of the Zoning Ordinance

TABLE OF PERMITTED USES	ZONING DISTRICT				Use Standards
	R	VC (West)	VC (East)	RA	
Residential Uses					
Single-Family Dwelling	P	P	P	P	
Two-Family Dwelling	P	P	P	P	
Multifamily Dwelling		CUP*	CUP*		Sec. 8.11
Manufactured Housing				P*	Sec. 8.10
Temporary Use of Trailer as a Dwelling	SE*	SE*	SE*	SE*	Sec. 8.16
Housing for Older Persons	SE*	SE*	SE*	SE*	Sec. 8.2
Workforce Housing Multi Family Units				CUP*	Sec. 8.17
Commercial					
Bed and Breakfast	SE*	SE*	SE*	SE*	Sec. 8.3
Business Offices		CUP*	CUP*		Sec. 8.4
Campground				CUP*	Sec. 8.5
Day Care Facility	SE*	SE*	SE*	SE*	Sec. 8.6
Excavation of Earth Material				SE*	Sec. 8.7
Vehicle Fueling Station			CUP		
Vehicle Repair Garage			CUP		
Hotel and Inn		CUP	CUP		
Parking Lot			CUP		
Kennel	SE*			SE*	Sec. 8.13
Restaurant		CUP	CUP		
Retail		CUP	CUP		
Institutional					
Place of Religious Assembly	CUP*			CUP*	Sec. 8.12
Rural Learning Center				CUP*	Sec. 8.14
School	CUP*			CUP*	Sec. 8.15
Other					
Farming	P* on lots > 5 ac.	P* on lots > 5 ac.	P* on lots > 5 ac.	P*	Article 16
Animal Husbandry on Lots < 5 Acres	CUP*	CUP*	CUP*	P*	Article 16
Other Agricultural Operations on Lots < 5 acres	CUP*	CUP*	CUP*	P*	Article 16
Plant Cultivation	P*	P*	P*	P*	Article 16
Forestry				P	
Telecommunications				CUP	

Notice: These regulations may be amended from time to time. Applicants and others should not rely on this internet version of these regulations (April 15, 2009) without confirming through the Hancock Planning Board that they are current and unamended.

TELECOMMUNICATIONS FACILITIES REGULATIONS

SECTION I: AUTHORITY

These Regulations are adopted by the Town of Hancock Planning Board (“the Board”) on April 15, 2009, in accordance with the authority granted by the New Hampshire Revised Statutes Annotated 674:44 and pursuant to the authority vested in the Board to adopt Site Plan Review Regulations voted on at the March 14, 1987 Town Meeting in accordance with the provisions of New Hampshire Revised Statutes Annotated (RSA) Chapter 674: Sections 43 and 44.

SECTION II: PURPOSE

These regulations have been enacted in order to inform the Planning Board and other parties interested in Conditional Use Permits and Site Plan Review of any proposed Telecommunications Facility and to establish general regulations for the siting of towers and antennas and to enhance and fulfill the following goals:

:

Preserve the authority of the Town of Hancock to regulate and provide for reasonable opportunity for the siting of Telecommunications Facilities.

Enhance the ability of providers of telecommunications services to provide such services to the community effectively and efficiently.

Reduce the adverse impacts such facilities may create on, including, but not limited to: migratory bird flight corridors, impacts on aesthetics, environmentally sensitive areas, historically significant locations, health and safety by injurious accidents to person and property, and diminution of property values.

Preserve unique viewsheds and scenic values, in particular those associated with the Hancock Historic District.

SECTION III: DEFINITIONS

Antenna: Means any exterior apparatus designed for telephonic, radio, television, personal communications service, pager network, or any other communications through the sending and/or receiving of electromagnetic waves of any frequency and bandwidth.

Average Tree Canopy Height: Means the average height found by inventorying the height above ground level of all trees over 20 feet in height for a radius of 150 feet.

Personal Wireless Service Facility: See 47 USC 332 (7)(C).

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Tower: Means any structure that is designed and constructed primarily for the purpose of supporting one or more antennas.

Telecommunications Facilities: Means any antenna, tower, or other structure intended for use in connection with the transmission or reception of radio or television signals or any other electromagnetic transmission/receptions which comprises a Personal Wireless Service Facility.

SECTION IV: LOCATION OF TELECOMMUNICATIONS FACILITIES

Telecommunications Facilities may be permitted as a Conditional Use in the Rural and Agricultural District, provided that they are camouflaged, hidden or disguised, but are not permitted in any other District on in any location were they would have a visual impact upon locations within the Hancock Historic District which would contravene these Regulations..

SECTION V: PERMITTED USES

Principal or Secondary Use. Telecommunications Facilities may be considered either a principal or a secondary use. Having an existing-permitted use on site shall not preclude the addition of facilities as a Secondary Use as long as all other provisions of these Regulations are met. A different existing use or an existing structure on the same lot shall not preclude the installation of facilities on such lot. For purposes of determining whether the installation complies with district development regulations, including but not limited to setback and lot coverage requirements, the dimensions of the entire lot shall control, even though the facilities may be located on leased parcels within such lots. Facilities that are installed in accordance with the provisions of these Regulations shall not be deemed to constitute the expansion of a nonconforming use or structure.

Any alteration of the original permitted use and device configuration of the facility will require a new approval.

Limitations on Scope of Regulations; Height; Amateur Radio; Receive-Only Antennas; Astronomy. These Regulations shall not govern (i) any tower, or the installation of any antenna that is under 70 feet in height and is owned and operated by a federally-licensed amateur radio station operator or (ii) is used exclusively for receive-only antennas or (iii) is used exclusively for astronomical observations . These Regulations adopt the provisions and limitations as referenced in RSA 674:16,IV.

Essential Services & Public Utilities. Telecommunication facilities shall not be considered infrastructure, essential services, or public facilities, as defined or used elsewhere in the Town's ordinances and regulations. Siting for telecommunications facilities is a use of land, and is addressed by these Regulations.

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SECTION VI: CONSTRUCTION PERFORMANCE REQUIREMENTS

Federal Requirements. All facilities must meet or exceed current standards and regulations of the FAA, FCC, and any other agency of the federal government with the authority to regulate such facilities. If such standards and regulations are changed, the owners of facilities governed by these Regulations shall bring these into compliance within six (6) months of the effective date of the changes, unless a more stringent compliance schedule is mandated by the controlling federal agency. Failure to bring facilities into compliance with any changes shall constitute grounds for the removal of the tower or antenna at the owner's expense, in accordance with Section X through the execution of the posted security.

Building Codes/Safety Standards. To ensure the structural integrity of towers and antennas, all facilities will be inspected every three years by an engineer approved by the Selectboard, with the cost to be paid by the owner. The engineer will submit a report to the Town. If the report concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, the owner will receive notice that he/she has 30 days to bring such tower into compliance with the standards. If the owner fails to comply within 30 days, such action shall constitute an abandonment and grounds for the removal, in accordance with Section X, of the tower or antenna, at the owner's expense through execution of the posted security.

Height. All efforts should be made to keep tower height at a minimum; in no case shall a tower exceed 180 feet.

Setbacks and Separation. In addition to compliance with the minimum zoning district setback requirements for all structures, towers shall be set back a distance equal to 125% of the height of the tower from all property lines.

Security Fencing. Towers shall be enclosed by security fencing not less than six (6) feet in height and shall also be equipped with an appropriate anti-climbing device.

Landscaping. A buffer shall be provided that effectively screens the view of the compound from any adjacent residential property. The standard buffer shall consist of a landscaped strip at least 10 feet wide outside the perimeter of the compound. Natural vegetation is preferred.

In locations where the visual impact of the compound would be minimal or non-existent, the landscaping requirement may be reduced or waived entirely.

Existing mature tree growth and natural landforms on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited on large wooded lots, natural growth around the property may be deemed a sufficient buffer.

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Camouflaging.

- a. At a tower site, the design of the buildings and related structures shall, to the maximum extent possible, use materials, colors, textures, screening, and landscaping that will blend the tower facilities with the natural setting and built environment.
- b. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment visually unobtrusive.

Use of Existing Structure.

Where a proposed Telecommunications Facility will be wholly within an existing structure and shall not require any changes to the external appearance of such structure, it shall be deemed to be adequately camouflaged for purposes of this Regulation.

Balloon Test. Following agreement between the applicant and the Board as to the date, time and duration of a test, the applicant shall publish notice of the time and date on which a balloon (or balloons) will be floated at the proposed site, and provide pictures from all locations around town and within 20 miles from which the balloon(s) is visible.

Visual Impact on Historic District: In cases where there are issues concerning the potential visual impact of a proposed Telecommunications Facility on the Hancock Historic District, it is the policy of the Board to abide resolution of such issues using the standards and procedures set out in a certain agreement between the Federal Communications Commission, the Advisory Council on Historic Preservation and the National Conference of State Historic Preservation Officers dated September 2004 (the so-called "Nationwide Agreement") (FCC 04-222) as it may be revised from time to time. Where a determination under the Nationwide Agreement is necessary or desirable, applicants should seek such a determination in advance of making an application to the Board.

SECTION VII: CONDITIONAL USE PERMITS

General. Telecommunications Facilities are permitted only after obtaining a Conditional Use Permit from the Planning Board. All such uses must comply with the Hancock Zoning Ordinance and with other applicable Ordinances and Regulations adopted by the Town of Hancock. To the extent, if at all, that such regulations are in conflict, the provisions of these Regulations shall govern.

Issuance of Conditional Use Permits. In granting the Conditional Use Permit, the Planning Board may impose conditions to the extent the Board concludes such conditions are necessary to minimize any adverse effect of the proposed tower on adjoining properties, and preserve the intent of this Regulation.

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Procedure on Application.

Site Plan Review of any application relating to Telecommunications Facilities shall normally be considered together with an application for a Conditional Use Permit involving the same facility. The Planning Board shall act upon the application in accordance with the procedural requirements of the Site Plan Review Regulations and RSA 676:4 and shall consider the substantive requirements of both Conditional Use Permits and Site Plan Review.

Regional Notification. All towns within 20 miles of the proposed location will be notified of the public hearing, by certified mail, to be paid by the applicant. A notice will also be posted in the newspaper customarily used for legal notices by these municipalities. Such notice shall be published not less than 10 days nor more than 21 days prior to the public hearing date.

Decisions. All decisions shall be rendered in writing. A denial must be based upon substantial evidence contained in the written record.

Plan Requirements. Each applicant requesting a Conditional Use Permit and Site Plan Review under these Regulations shall submit a scaled plan showing or accompanied by the following information:

Title block that shows the name of the development or project.

North arrow, date of plat, scale; name, address and seal of all persons preparing the plat.

Signature block for Planning Board endorsement.

Vicinity sketch and zoning district(s).

Total area of the parcel in acres and square feet.

Lot frontage.

Boundary lines and approximate dimensions and bearings.

Tax map and lot numbers.

Locations and descriptions of any existing or proposed easements, deed restrictions, or covenants.

Physical features on the site and within 200 feet of the site.

Soil information based on the Hillsborough County Soil Survey (Western Half).

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All natural features, such as streams, ponds, wetlands, etc.

Existing and proposed grades and contours, and base flood elevations.

Shape, size, height, location and use of existing and proposed structures on the site.

Existing buildings and structures within 500 feet of the site.

Access to the site, with location and width of existing and proposed driveways.

A notation that a driveway permit been granted by either the NH DOT or the Town of Hancock.

Locations, names, right-of-way and travel widths of any existing and proposed roads on the property and within 200 feet of the site.

Final road profiles and cross sections for any new roads.

Locations and sizes of all electric and telephone lines on the site.

Existing and proposed fire hydrants and/or fire ponds.

Existing and proposed methods of handling stormwater runoff, and the direction of the flow indicated by arrows.

Sizes and locations of all stormwater drainage lines, catch basins, drywells, drainage ditches, retention basins, and culverts.

Location, types, and sizes of all existing and proposed landscaping and screening.

Location of any proposed lighting.

Other Information Required. In order to assess compliance with these Regulations, the Planning Board shall require the applicant to submit the following prior to any approval by the Board:

Propagation map showing proposed radio frequency coverage.

Photographic documentation of the balloon test(s).

The applicant shall submit written proof that the proposed use/facility complies with the FCC regulations on radio frequency (RF) exposure guidelines.

The applicant shall submit written proof that it has conducted an evaluation of any requirements of the National Environmental Policy Act (NEPA) pertaining to the

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proposed facility, as may be required under applicable FCC rules, and the results of any such evaluation. If an Environmental Assessment (EA) or an Environmental Impact Statement (EIS) is required under the FCC rules and/or NEPA, the applicant shall submit the EA or EIS to the Board prior to the beginning of the federal 30-day comment period; the Town proceedings with respect to the proposed facility shall become part of the FCC application requirements.

The applicant shall submit written proof that it has complied with the requirements of section 106 of the National Historic Preservation Act of 1966 (16 USC § 470f) as implemented through a certain agreement approved by the Federal Communications Commission in September 2004 (the so-called “Nationwide Agreement”) and, in particular, that in any case in which the proposed Telecommunications Facility would be visible from the Hancock Historic District or from the grounds of any structure listed on the National Register of Historic Places, that it has consulted with the NH Division of Historical Resources as to the appropriate Area of Potential Effects and resolved any disagreement on that subject in accordance with Article VI C of the Nationwide Agreement. The applicant shall also submit a copy of any determination made by the NH Division of Historical Resources relating to the proposed Telecommunications Facility.

The applicant will provide the Board with the following information:

The number of sites for telecommunication facilities each provider will require;

Sites outside of the Town for the particular coverage area that are being considered;

How the siting of Telecommunications Facilities will affect the ability to allow a competitor’s antennas on the same property;

The applicant will provide the Board with studies of alternative sites in Town that have been considered for siting.

The applicant shall submit an agreement with the Town that allows for the maximum allowance of co-location upon the new structure. Such statement shall, at a minimum, require the applicant to supply available co-location for reasonable fees and costs to other wireless telecommunication providers. An opportunity for co-location is not to be considered a justification for excessive height of towers. Co-location opportunities shall also not exclude the investigation of alternative sites.

The applicant will provide the Board with any copies of the federal license from the FCC proving that they, or their contracted client, are eligible to deploy their systems under the Federal Telecommunications Act of 1996.

Upon request, the applicant will provide:

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Detailed maps showing all of the carrier's current externally visible tower and monopole locations in the state within a 20-mile radius, both active and inactive; and

Site descriptions for each of the above locations showing the antenna height and diameter, and all externally visible structures.

Test results of radio frequency emissions at the house site of any abutter or other aggrieved person who requests the same (i) prior to the installation of a Telecommunications Facility and (ii) when such facility is in operation.

Reports; Peer Review: Whenever a plan, report or analysis is required by these Regulations, it shall be filed by the Applicant in accordance with the following:

- The report shall be prepared, signed and sealed by an individual having relevant professional qualifications. Where such a person is subject to licensing requirements, the person signing the report shall have a valid, current license to practice within the State of New Hampshire.
- The report shall contain sufficient detail to permit peer review. The Board shall, on notice to Applicant, have discretion to commission peer review of any such report at Applicant's expense and to require Applicant to provide security for the cost of such expenses.
- If the Applicant is required to submit two or more reports having duplicative or overlapping requirements, the Applicant may submit a consolidated report.
- The Board shall have discretion, in appropriate circumstances, to waive or modify requirements relating to such reports. In exercising such discretion, the Board may conduct a public hearing limited to the issue of the propriety of requiring such report or reports.

Hold Harmless Agreement. The applicant will submit an agreement to the Town to the effect that the Town will be held harmless for any extraordinary fire or safety events.

SECTION VIII: WAIVERS

Any portion of these regulations may be waived or modified when, in the opinion of the Board, strict conformity would pose an unnecessary hardship to the applicant and such waiver would not be contrary to the spirit and intent of these regulations.

Conditions. In approving waivers, the Board may impose such conditions as it deems appropriate to substantially secure the objectives of the standards or requirements of these regulations.

Procedures. A petition for any such waiver shall be submitted in writing by the applicant for Board review. The petition shall state fully the grounds for the waiver and all of the facts relied upon by the applicant.

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SECTION IX: BONDING AND SECURITY INSURANCE

The applicant shall provide a bond to the Town in an amount that would be sufficient to cover the costs of removal and disposal of the facility components. The Selectboard shall set the form and amount of the security after receiving advice from the Planning Board and the Director of Public Works. The Selectboard shall also require the applicant to submit proof of appropriate liability insurance with respect to the proposed facilities prior to construction.

The term of the bond shall be negotiated with and administered by the Selectboard. In addition, if the Board requires an engineering assessment in order to set the amount of the bond, the cost shall be borne by the applicant.

SECTION X: REMOVAL OF ABANDONED ANTENNAS AND TOWERS

If any antenna or tower is not operated for a continuous period of 12 months it shall be considered abandoned and hazardous to the public health and safety, unless the owner of said tower provides proof of quarterly inspections. The owner shall remove the abandoned structure within 90 days of receipt of a declaration of abandonment from the Town. A declaration of abandonment shall only be issued following a public hearing, noticed per Town regulations, with notice to abutters and the last known owner/operator of the tower. If the abandoned tower is not removed within 90 days, the Town may execute the security and have the tower removed. If there are two or more users of a single tower, this provision shall not become effective until all users cease using the tower.

SECTION XI: ADMINISTRATION AND ENFORCEMENT

It shall be the duty of the Board of Selectmen, and they are hereby given the power and authority, to enforce the provisions of these Regulations. The Selectmen may appoint an agent to enforce these Regulations.

Upon any well-founded information that these Regulations are being violated, the Selectmen shall take immediate steps to enforce the provisions of these Regulations by seeking an injunction in the Superior Court or by any other legal action.

SECTION XII: SEVERABILITY

The invalidity of any provision of these Regulations shall not affect the validity of any other provision.

SECTION XIII: APPEALS

Pursuant to RSA 676:5, any decision made under these Regulations cannot be appealed to the Board of Adjustment, but may be appealed to the superior court as provided by RSA 677:15.

TOWN *of* HANOVER
NEW HAMPSHIRE

Site Plan Regulations

2024

Adopted by the Planning Board: April 27, 1982

Amended:

June 24, 1986

May 15, 1990

October 29, 1991

May 2, 1995

March 19, 1996

January 14, 1997

December 8, 2009

September 28, 2010

April 28, 2015

June 25, 2019

June 6, 2023

November 12, 2024

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APPENDIX 35

ARTICLE I. AUTHORITY

The Hanover Planning Board hereby adopts these Site Plan Regulations as authorized and required by New Hampshire Revised Statutes Annotated (“RSA”), Chapter 674:43 and 674:44 and pursuant to authorization from the Town of Hanover by Town Meeting action on March 4, 1975, (Article XII, Non-Residential Use) March 10, 1981, (Article XIX, Multi-Family Use), and May 12, 2009 (Article V, Minor Projects Review Committee).

ARTICLE II. PURPOSE

The purpose of site plan review is to provide for all the purposes set forth in RSA 674:44 II.

ARTICLE III. COMPLIANCE

The site plan review procedure shall in no way relieve an applicant from compliance with the Hanover Zoning Ordinance, the Hanover Subdivision Regulations, or any other regulation, ordinance or by-law which pertains to the proposed project. No site plan shall be approved unless such plan complies with all applicable local ordinances and regulations.

ARTICLE IV. DEFINITIONS

For the purpose of these Site Plan Regulations, and unless otherwise defined herein, the meaning of terms used herein shall conform to the definitions found in Article III of the Hanover Zoning Ordinance and in Article 18 of the Hanover Subdivision Regulations. In the case of conflicting definitions as between the Hanover Zoning Ordinance and the Hanover Subdivision Regulations, the definition in the Hanover Zoning Ordinance shall apply.

berm or other elevated grade conditions

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

candela (aka cd)

A basic unit of luminous intensity in the International System of Units (SI), formally defined as the luminous intensity of a source that emits monochromatic radiation of frequency 540×10^{12} hertz and that has a radiant intensity of 1/683 watt/steradian; adopted in 1979 as the international standard of luminous intensity.

cut off angle (of a luminaire)

The angle formed by a line drawn from the direction of the direct light rays at the light source with respect to the vertical, beyond which no direct light is emitted.

direct light

Light emitted directly from the lamp, off the reflector or reflector diffuser or through the refractor or diffuser lens, of a luminaire.

fixture

The assembly that houses the lamp or lamps and can include all or some of the following parts: a housing, a mounting bracket or pole socket, a lamp holder, a ballast, a reflector or mirror, and/or a refractor or lens.

floodlight or spotlight

Any light fixture or lamp that incorporates a reflector or a refractor to concentrate the light output into a directed beam in a particular direction.

foot-candle

A unit of illuminance amounting to one lumen per square foot. One foot-candle is equal to the amount of light generated by one candle shining on a one-square-foot surface one foot away.

fully shielded luminaire

A luminaire constructed or shielded in such a manner that all light emitted by the luminaire, either directly from the lamp or indirectly from the luminaire, is projected below an angle of 80° below the horizontal plane through the luminaire's lowest light-emitting part as determined by photometric test or certified by the manufacturer. A fully shielded luminaire will perform as a full cut-off light.

glare

Light emitting from a luminaire with an intensity great enough to reduce a viewer's ability to see and, in extreme cases, causing momentary blindness.

height of luminaire

The vertical distance from the ground directly below the centerline of the luminaire to the lowest direct-light-emitting part of the luminaire.

illuminance

The quantity of light arriving at a surface divided by the area of the illuminated surface, measured in foot-candles.

kelvin

A temperature scale. Each unit on this scale, called a Kelvin rather than a degree, is equal to a degree on the Celsius scale. The lowest number is 0 K, water freezes at 273.16 K and boils at 373.16K. Light bulb color temperature is a way to describe the light appearance provided by a light bulb. It is measured in degrees of Kelvin (K) on a scale from 1,000 to 10,000.

Less than 2000K: gives off a dim glow of light, similar to candlelight; best for low light areas where ambient illumination is appropriate.

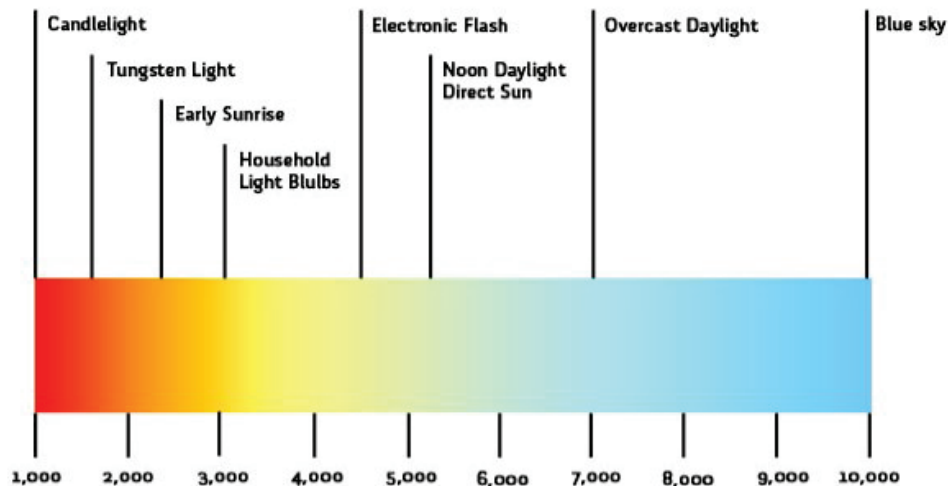
2000K-3000K: gives off a soft white glow, often yellow in appearance; often used in living rooms, dining rooms, bedrooms and outdoor spaces.

3100K-4500K: gives off a bright amount of white light; best for kitchens, offices, work spaces and vanities where task lighting is needed.

4600K-6500K: gives off a bright amount of blue-white light, similar to that of daylight; best for display areas and work environments where very bright illumination is needed.

6500K and up: gives off a bright bluish hue of light, often found in commercial locations; best for bright task lighting.

Kelvin Color Temperature Scale



lamp

The component of a luminaire that produces the actual light.

landscape buffer

A combination of physical space with vertical elements, such as plants, berms, fences, or walls, the purpose of which is to separate and screen incompatible land uses from each other.

landscaping

Landscaping shall consist of any of the following or combination thereof: living material such as, but not limited to, grass, ground covers, shrubs, vines, hedges, trees, and non-living durable material commonly used in landscaping, such as but not limited to rocks, pebbles, sand, walls or fences but excluding paving.

light trespass

The shining of light produced by a luminaire beyond the boundaries of the property on which it is located.

lumen

A measure of light energy generated by a light source. One foot-candle is one lumen per square foot. For the purposes of this regulation, the lumen output values must be the initial lumen output ratings of a lamp.

luminaire

A complete lighting system and includes a lamp or lamps and a fixture.

outdoor lighting

The illumination of an outside area or object by any man-made device located outdoors that produces light by any means.

project

Any man-made change to improved or unimproved real estate including but not limited to buildings and other structures, mining, dredging, filling, grading, paving, excavation or drilling occupations, or storage of equipment or materials.

reviewing authority

The entity, either the Planning Board or Minor Projects Review Committee, responsible for reviewing the application at issue.

screen

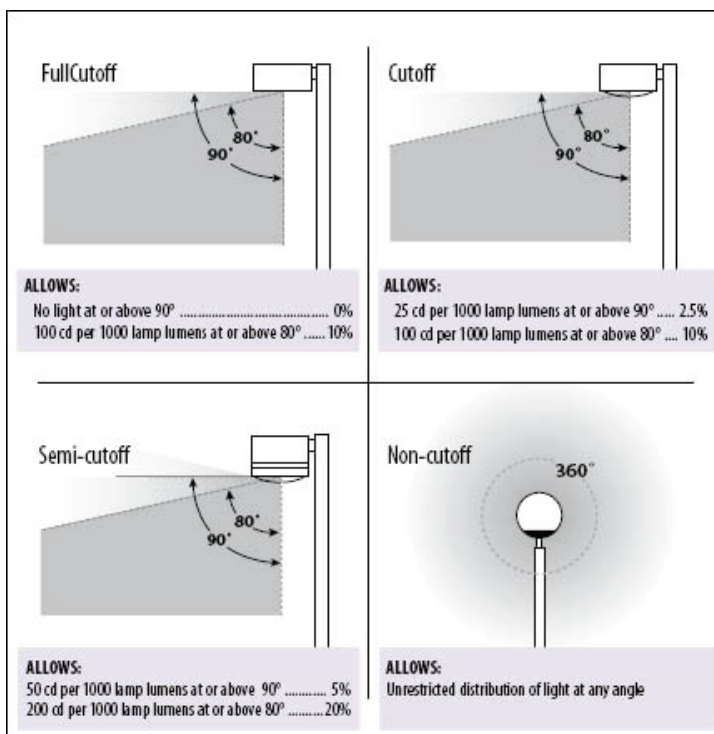
A method of reducing the impact of noise, air pollution and unsightly visual intrusions, using less offensive or more harmonious elements, such as plants, berms, fences, walls, or any appropriate combination thereof.

temporary outdoor lighting

The specific illumination of an outside area or object by any man-made device located outdoors that produces light by any means for a period of less than seven days, with at least 180 days passing before being used again.

up-lighting

Any light source that distributes illumination above a horizontal plane.



For the purpose of these Site Plan Regulations, “project” shall mean any man-made change to improved or unimproved real estate including but not limited to buildings and other structures, mining, dredging, filling, grading, paving, excavation or drilling occupations, or storage of equipment or materials.

Throughout these Site Plan Regulations, reference is made to the “Reviewing Authority” which shall refer to the entity, either the Planning Board or Minor Projects Review Committee, responsible for reviewing the application at issue.

ARTICLE V. DELEGATION OF POWERS

As authorized by RSA 674:43 III and by a vote of Town Meeting on May 12, 2009, the Planning Board hereby creates a Minor Projects Review Committee and delegates its site plan review and approval power to the Minor Projects Review Committee with respect to the projects listed in Article VI.B.1. Notwithstanding the foregoing, the Planning Board does not delegate its powers to waive any standards or requirements as set forth in Article IX of these regulations and the Minor Projects Review Committee may not grant such a request from an applicant. The Minor Projects Review Committee shall be governed by rules and regulations approved by the Planning Board, which rules and regulations may be amended by a majority vote of the Planning Board.

ARTICLE VI. PROJECTS SUBJECT TO SITE PLAN REVIEW

A. Review Process

1. The Director of Planning and Zoning or his or her designee shall review all site plan applications and shall assign each proposed project to one of three project levels: projects exempt from formal review, minor projects, and major projects. Assignment shall be based on the factors listed in VI.B, VI.C, and VI.D below.
2. An applicant may appeal a project level assignment to the Planning Board, which shall make a final determination of appropriate project level.

B. Exempt projects

1. One-family and two-family dwellings, including associated accessory uses, are exempt from site plan review, provided the dwellings are not part of a planned residential development or a continuing care retirement community that includes a multi-family dwelling.
2. A project so small in size and scope and so incidental in disturbance that it will have minimal impact on its environment both during installation and on completion shall be exempted from further review. Such incidental installations may include, but need not be limited to benches, streetscape amenities, bike racks, bubblers, bus shelters, emergency phones, fences, mail boxes, sculptures, signs, trails, sidewalks, retaining walls less than four feet high, and the following modifications to a site:
 - a. A project of any dimension that has minimal effect on its environment and

- neighborhood during construction and when complete leaves an area as it was before the project was undertaken;
- b. Minor relocation or replacement of existing outdoor light fixtures with sharp cutoff, direct down cast fixtures;
 - c. Installation of no more than 4 exterior lights conforming to the standards in Article IX.B.2.
 - d. Changes or additions to exterior waste receptacles or their screening provided the waste receptacle continues to be fully screened;
 - e. Burial of overhead utilities and changes, additions, or relocation of underground utilities;
 - f. Addition, replacement, or expansion of roof top, condensers, generators, or transformers and replacement, in-kind of condensers, generators, or transformers that are screened from public view; and
 - g. Addition, replacement, or expansion of roof top, on-the-ground, or wall mounted heat pump units.
 - h. Change, addition, or relocation of exterior doors or windows and changes or additions intended to create or improve barrier free access to a structure or to add an additional egress to a structure, so long as there is no significant resulting change in pedestrian or vehicular circulation.
 - i. Addition, replacement, or expansion of rooftop solar systems.
3. A project otherwise eligible for exemption from formal review under VI.B.2 may be determined to be subject to review and approval by the Minor Projects Review Committee if the proposed project may have a negative impact on public ways, lands, facilities, and services; on private properties; or to the integrity and character of the natural and built environment. In determining the potential for negative impact, the assignment may take into account the number of elements in a proposed project; the cumulative effects of various features of the proposal, either among themselves or in combination with existing features; peculiarities of related public infrastructure or of relevant public services; and Town experience with similar projects.

C. Minor Projects

1. Except as referred to the Planning Board pursuant to VI.C.2 below, any project subject to formal review that comprises one or more of the following shall be eligible for review and approval by the Minor Projects Review Committee:
 - a. Additions to existing buildings or structures that propose an additional aggregate building footprint of not more than 1,500 square feet; and
 - b. Regardless of square footage,
 - (1) Changes in the grading or required landscaping of an area; changes or additions to storm water controls; or changes in location of parking lots, parking facilities or parking areas, including changes to vehicular or pedestrian access to a site, that do not change the number of parking spaces and do not encroach into any required landscaped buffer area;
 - (2) Installation of screened, on-the-ground condensers, generators, or

- transformers; additions to, expansions of, or relocations of existing condensers, generators, or transformers;
 - (3) Addition of and changes to waste receptacles not exempted by VI.B.2.c; and
 - (4) Installation of ground-mounted solar panels and wind generators.
2. A project otherwise eligible for review and approval by the Minor Projects Review Committee shall be subject to review and approval by the Planning Board if:
- a. The project involves construction of a new building;
 - b. The applicant has requested a waiver from any standards or requirements set forth in Article IX of these Site Plan Regulations or incorporated by reference therein;
 - c. The project is construed as having a potential regional impact; or
 - d. At its sole discretion, the project is deemed by the Minor Projects Review Committee to be beyond the scope of minor project site plan review because the cumulative impact, proposed disturbance, or changes deemed disproportionate to existing conditions warrant review as a major project.

D. Major Projects

Except as expressly exempted by VI.B or delegated by VI.C, the following projects are subject to view by the Planning Board and require Planning Board approval:

- 1. New multi-family or non-residential projects or uses, including new buildings, structures, and disturbed area;
- 2. Changes or expansion of existing multi-family or non-residential projects or uses including additions to existing buildings or structures, new buildings or structures, or disturbed area;
- 3. New planned residential developments or continuing care retirement communities that include a multi-family dwelling;
- 4. Changes or expansions to planned residential developments or continuing care retirement communities that include a multi-family dwelling; and
- 5. Any other project not expressly exempted or assigned by these regulations.

ARTICLE VII. PROCEDURES FOR SITE PLAN REVIEW

A. General Provisions

- 1. Public Hearings:
All proceedings conducted by the Planning Board and the Minor Projects Review Committee, except informal discussions as set forth in section VII.B.1.a, shall be held as public hearings at which abutters and members of the public may speak about an application.
- 2. Notice:
 - a. General Notice Provisions:

Notice regarding a public hearing on the application shall be given by town staff as required in RSA 676:4 I(d).

- b. Additional Notice Requirements for Developments of Regional Impact:
Pursuant to RSA 36:56, the Planning Board shall determine whether or not the project 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 impact. Regional impact could result from a number of factors, such as, but not limited to those set forth in RSA 36:55.

Upon determination that a proposed development has a potential regional impact, the local land use board having jurisdiction 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 and shall follow the procedures set forth in RSA 36:57.

3. Procedure When Subdivision Approval Is Required:

When both subdivision and site plan approval are required on a proposed development, the Planning Board may hold the site plan review hearing at the same time as the hearing required by the Subdivision Regulations.

B. Procedures for Site Plan Review of Major Projects by the Planning Board

1. Overview of Phases:

Pursuant to RSA 674:43 and 676:4 II, site plan review shall be subject to up to three phases of review by the Planning Board: informal discussion, design review, and final plan review.

- a. Informal Discussion (Preliminary Conceptual Consultation Phase):

A potential applicant may request, through the Planning and Zoning Department, an informal meeting with the Planning Board to discuss a potential project and solicit guidance and concerns from the Board. The discussion will be directed at review of the basic concept of the proposed project, whether design review is required, and suggestions that might be of assistance in resolving problems with meeting requirements during final plan review.

- b. Design Review:

- (1) The purpose of design review is to provide a full understanding of the site's potential, to carefully evaluate natural constraints, aesthetic concerns and development options, to identify and consider concerns of the neighbors, to identify any municipal infrastructure limitations, and to facilitate effective exchange with the Planning Board.

- (2) Design review will be required if either the Planning Board or the applicant so elects and notifies the other party. Design review requires public notice as required in RSA 676:4 I(d).

Notwithstanding the above, design review is required and must be completed prior to submission of an application to the Zoning Board of Adjustment for any project requiring site plan approval and either a special exception or an administrative permit under Article XI of the Hanover Zoning Ordinance. Such application shall fully reflect the Planning Board's

recommendations.

- (3) During design review, the Board shall engage in nonbinding discussion with the applicant, which involves more specific design and engineering details than the conceptual and general discussions that may take place at the informal discussion. The applicant shall explain the results of the design process used to develop the design review plan. The Board may request additional information to assist in its review. The Board may solicit comments from abutters and other interested persons as it deems appropriate.

c. Final Plan Review:

- (1) The purpose of final plan review is to ensure the project is in conformance with the purposes referenced in Article II and in compliance with the standards in Article IX.
- (2) Final plan review must be conducted before site plan approval.
- (3) During final plan review, the Board and applicant engage in binding discussions about the project. This review consists of determination of the completeness of the application, a public hearing, deliberation by the Board on the merits of the project, and Board action to approve or disapprove the request. In addition to describing the project and its potential impacts, the applicant shall explain the design process used to develop the final site plan. The Board may request additional information to assist in its review. The Board may solicit comments from abutters and other interested persons as it deems appropriate.

2. Pre-Submission Staff Evaluation:

Prior to the submission of an application for design review and, if deemed necessary by the Planning Board, also prior to an application for final plan review, the applicant shall meet with town staff representative of relevant town departments, to discuss the project and impacts, in order that town staff may make recommendations about the project to the applicant and to the Board. Staff evaluation meetings shall be scheduled by the Senior Planner.

3. Submission of Application:

Application to the Planning Board shall be made through the Planning and Zoning Department. In accordance with RSA 676:4, the Board shall determine whether the application is complete. If the application is found incomplete, the Board shall so notify the applicant. If the application is found complete, the Board shall begin formal consideration of the application.

4. Site Visit:

The applicant may be required to arrange for one or more site visits to the property with the Planning Board. The purpose of the visit is to familiarize Planning Board members with the property's existing conditions and special features, to identify potential site design issues, and provide an opportunity to discuss site plan concepts, including the layout of the open space, locations for proposed buildings, and road alignments.

5. Action of the Board:

a. For Design Review:

After review of the design review plans and site visit, if required by the Board, the Board shall convey to the applicant its recommendations, reservations, and requirements with respect to the proposed site plan, the advisability of preparing a final site plan, and whether staff evaluation will be required for the final plan. The applicant may submit a revised design review plan for review by the Board prior to proceeding to development of a final plan.

b. For Final Plan Review:

- (1) The Board shall determine if the application is complete for the purposes of opening the public hearing. If the Board determines that the application is complete, further review of the project will take place. If the Board determines that the application is not complete, the Board may decide to continue the submission until missing elements of the application are submitted, or the Board may decide to disapprove the application.
- (2) The Board shall hold a public hearing on the project. The public hearing will include a presentation by the applicant, Planning Board and town staff questions of the applicant, question of the applicant or Planning Board from the public, and Planning Board dialogue with the applicant. After receiving testimony from the applicant, abutters, and other interested parties, the Board may decide that input sufficient for the Board to consider approval of the project has been given and will close the public hearing.
- (3) The Board shall consider receipt of submission requirements listed in Article VIII. A and B, waivers requested for submission requirements and for standards contained in Article IX, and the need for any additional information to assist the Board in its review of the project. The Board shall consider the applicant's request for waivers and make a determination regarding those requests. If the Board determines that certain waivers cannot be granted, the Board may decide to continue the review of the application until missing elements of the application are submitted, or the Board may decide to disapprove the application.
- (4) The Board shall consider the merits of the project and in accordance with RSA 676:4, the Board shall act to approve, approve with modifications, or disapprove the final plan within 65 days from the date the application was deemed to be complete, except that the Board may apply to the Selectboard for an additional 90 days within which to act upon the application. The applicant may waive the requirement for Board action within the time periods specified and consent to such extension as may be mutually agreeable. The Board shall notify the applicant in writing, by means of an official Notice of Action signed by the Chair of the Planning Board, of its action on the final site plan. In case of disapproval, the Board shall clearly set forth in the Notice of Action to the applicant the reasons for its action, with specific reference to standards contained in these Site Plan Regulations.

6. Appeals:

Any person aggrieved by a decision of the Planning Board concerning site plan review may appeal such decision as set forth in RSA 677:15.

7. If the Board fails to act within the time limits set forth above, the Selectboard shall,

upon request of the applicant, immediately issue an 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 Selectboard shall certify on the applicant's application that the site plan is approved pursuant to RSA 676:4, unless within those 40 days the Selectboard has identified in writing some specific regulation or ordinance provision with which the application does not comply. Such certification, citing this paragraph, shall constitute final approval for all purposes. The applicant may waive these time requirements.

C. Procedures for Site Plan Review by the Minor Projects Review Committee (the "Committee")

1. Review of the Minor Project Plan:

Once the application is deemed to be complete by the Committee pursuant to these regulations, the Committee shall review the minor project plan to assess the criteria as set forth in Article IX.

2. Action of the Committee:

The Committee's procedure used to review minor project plans shall be the same as that described in RSA 676:4 and 674:43, and above in VII.B.5.b, except that the Committee shall review the application with respect to the submission requirements listed in Article VIII.A and C. The Committee shall act to approve, approve with modifications or disapprove the proposed minor project plan within 60 days from the date the application was deemed to be complete, except that the Committee may apply to the Selectmen for an additional 90 days within which to act upon the application. The applicant may waive the requirement for Committee action within the time periods specified and consent to such extension as may be mutually agreeable. The Committee shall notify the applicant, in writing, by means of an official Notice of Action, signed by the Chair of the Committee, of its action on the minor project plan.

In case of disapproval, the Committee shall clearly set forth in the Notice of Action to the applicant the reasons for its action, with specific reference to standards contained in these site plan regulations.

3. Appeals:

Appeals from the decision of the Committee shall be made to the Planning Board pursuant to RSA 674:43 III. The 20-day time period shall be calculated in the same way the 30-day time period is calculated in RSA 677:15.

ARTICLE VIII. SUBMISSION REQUIREMENTS

A. General Submission Requirements

1. The following shall apply to all applications for site plan review:

- a. The application shall be made on the form prescribed by the town and shall include all requirements as set forth herein, and all required plans and supporting materials;

- b. The application shall include all requirements pursuant to RSA 676:4;
 - c. The application shall be signed by the property owner or authorized agent and shall include a completed submission requirements checklist; and
 - d. Along with the application, the applicant shall submit all filing fees, notice costs, and other applicable costs and fees as stated on the application form. In addition, the Reviewing Authority may require the applicant to pay additional reasonable fees to cover its administrative expenses and costs of special investigative studies, review of documents, and other technical or legal matters which the Reviewing Authority may determine to be necessary to its review of the application.
 - e. All forms, plans and other items submitted in support of an application shall be in both hard (paper) copy and in digital format acceptable to the Town.
2. Requests for Waiver of Submission Materials:
The applicant may request in writing a waiver of any of these submission requirements and, the Reviewing Authority may waive any submission requirement. However, if a waiver is requested by the applicant but not granted by the Reviewing Authority, the review of the project will be delayed for a period of time agreed so that the applicant may prepare and submit the relevant information.
3. Completeness of an Application:
The Reviewing Authority shall not consider or act on an application unless the Reviewing Authority has first found it to be complete. At minimum, a complete application shall contain all documents set forth in this Article, except those for which the applicant has requested and been granted a waiver. Moreover, the Reviewing Authority, at its sole discretion, may find an application incomplete if the informational content of any of the submitted documents is unclear, inadequate or inconsistent. In accordance with RSA 676:4, the Reviewing Authority by motion shall accept or reject the application as complete. If the Reviewing Authority finds an application to be incomplete, it shall so notify the applicant.
- If, during subsequent review of the application, the Reviewing Authority determines that additional information is necessary or desirable, the Reviewing Authority shall so inform the applicant, and the applicant shall supply such information within the timeframe agreed between the Reviewing Authority and the applicant.
4. All applications for site plan review shall include:
- a. A summary description of the project;
 - b. A vicinity sketch showing the location of the site in relation to the surrounding public street system;
 - c. A notification list prepared by the applicant that shall include:
 - (1) A list of the names of owners of the subject property and abutting property owners, together with their mailing addresses taken from the Town tax maps and verified in Town records not more than five days before the day of filing;
 - (2) A list of the names of every engineer, architect, land surveyor, or soil scientist whose professional seal appears on the plan, and their business

addresses; and

- (3) A list of the names of all holders of conservation, preservation or agricultural preservation restrictions as defined in RSA 477:45 and their mailing addresses; and

- d. The name and address of the preparer of the plan. The plan shall include the professional license stamp of the preparer.

B. Applications for Major Projects Reviewed by the Planning Board

In addition to the documents set forth in VIII.A above, all staff evaluation, design review, and final plan applications for major projects subject to review by the Planning Board shall include:

1. Number and Format:

Plans and plan notes shall be drawn at a scale not smaller than 1"=40', on sheets not smaller than 11"x17" or larger than 23"x36", with font size not less than six point, judged by the Senior Planner to be legible, and contain a north arrow, bar scale, original date and dates and descriptions of revisions. Other documents shall be typed or printed on 8.5"x11.0" paper, double-sided.

Number of copies to be submitted:

- a. For staff evaluation: 15 collated and stapled sets of application documents, three sets of which shall include plans that are full-size.
- b. For design review: 19 collated and stapled sets of application documents, three sets of which shall include plans that are full-size.
- c. For final plan review: 19 collated and stapled sets of application documents, three sets of which shall include plans that are full-size.

2. Content:

- a. Certification, dated within six months, of a currently valid boundary survey by a land surveyor licensed to practice in New Hampshire. The perimeter boundaries of the lot or lots on which the project is located, including compass bearings, distances, and lot areas;
- b. Existing and proposed grades, including topographic contours at intervals not exceeding five feet;
- c. The location of water resources, other significant natural features, and man-made features including, but not limited to, existing roads, structures, and man-made drainage features. The plan shall also indicate those natural and manmade features which are to be removed, retained or altered;
- d. The 100-year flood elevation, floodway and floodplain limit shall be included where applicable;
- e. The use of abutting properties within 100 feet of the site boundary; roads, streets, and driveways within 200 feet of the site boundary, and trail easements of abutting properties within 500 feet of the site boundary;
- f. All legal rights of ways and easements;
- g. The shape, size, and location of all existing and proposed structures, including typical elevations;

- h. The use of all rooms and areas;
- i. Proposed streets, driveways, parking spaces, and sidewalks, with indication of direction of travel, the inside radii of all curves, the width of the traveled way of all streets, driveways and sidewalks, and the total number of parking spaces and handicapped parking spaces;
- j. A circulation plan of the interior of the lot showing provisions for both vehicle and pedestrian circulation;
- k. All areas designated or intended for loading and unloading passenger or freight deliveries;
- l. Fire lanes, fire hydrants, and emergency access;
- m. The size and location of all existing and proposed public and private utilities;
- n. The location of any vents (intake or exhaust) and nature thereof (for example: emergency generator exhaust, lab waste pipe vent, etc., building ventilation supply air areaway, etc.);
- o. Mechanical equipment located exterior to, or on top of, any structures such as air handlers, generators, chillers, etc.;
- p. A plan for exterior lighting and signs must include but may not necessarily be limited to the following:
 - (1) Plans indicating the location on the premises of signs and lights and the type of illuminating devices, fixtures, lamps, supports, reflectors, and other devices;
 - (2) Description of the sign and the illuminating devices, fixtures, lamps, supports, reflectors, and other devices; and the description may include, but is not limited to, catalog cuts by manufacturers and drawings (including sections where required);
 - (3) Photometric data, such as that furnished by manufacturers or similar, showing the angle of cutoff or light emissions;
 - (4) A visual impact photometric plan using iso-lumen lines to demonstrate both light coverage and light spillage resulting from the proposed lighting; and
 - (5) A plan showing lighting operations over a 24-hour and seven-day period and indicating the use of regulating devices, if proposed.
 - (6) Additional submission. The above-required plans, descriptions and data must be sufficiently complete to determine whether compliance with the requirements of this regulation is met. If such plans, descriptions and data cannot enable this determination, by reason of the nature or configuration of the devices, fixtures, or lamps proposed, the applicant must submit certified reports of field tests, provided that these tests must have been performed and certified by a recognized testing laboratory.
- q. A separate landscaping and screening plan prepared by a landscape design professional shall be submitted including but not limited to the following:
 - (1) Location, general type, size, and quality of existing vegetation;
 - (2) Existing vegetation to be saved;
 - (3) Methods and details for protecting existing vegetation during construction and an erosion control plan;

- (4) Locations and labels for all proposed plants;
 - (5) Plant lists or schedules with the botanical and common name showing the required and proposed quantities, and size of all proposed landscape material at the time of planting;
 - (6) Location and description of other landscape improvements, such as earth berms, walls, fences, screens, sculptures, fountains, street furniture, lights, and courtyards, or paved areas;
 - (7) Planting and installation details as necessary to ensure conformance with all required standards, including a sight triangle analysis at each intersection of a drive and public street; and
 - (8) A maintenance plan for regular upkeep of landscaped area, including a) the requirement that severely injured, diseased, or dead plant material will be replaced in kind in perpetuity, and b) best practices to minimize environmental impacts such as the use of low phosphorus fertilizer, slow release nitrogen, alternatives to chemical control of pests, and proper methods for eradication and disposal of invasive plants.
- r. The zoning designation and dimensional requirements applicable to the site under the Hanover Zoning Ordinance and any special exception or variance granted by the Zoning Board of Adjustment.
 - s. The following zoning information indicating the zone designation, tax map and lot number and the following:
 - (1) Area of lot;
 - (2) Location and gross area of existing and proposed buildings;
 - (3) Off-street parking spaces;
 - (4) Handicap/Accessible spaces;
 - (5) Loading spaces;
 - (6) Height and number of stories of existing and proposed buildings, with indication of height from finished grade to highest elevation of building and height of any towers, spires, chimneys, penthouses, or other similar rooftop structures; and
 - (7) Front, side and rear setbacks;
 - t. Plans for snow removal and storage;
 - u. Paving, grading and drainage plans including but not limited to walks, steps, curbing and drainage structures;
 - v. All surface and subsurface storm drainage facilities, including town storm drainage facilities located immediately adjacent to the site;
 - w. An estimated timetable for construction and completion of buildings, parking facilities, and landscaping;
 - x. A copy of the approval(s) for any required special exception or variance for the proposed project;
 - y. The Planning Board may require such additional information as may be reasonably necessary for the purposes of these Site Plan Regulations. In the event additional information is so required, and if the Planning Board's request is not made to the applicant prior to the public hearing, the Planning Board shall

adjourn the public hearing to a specified date; and

z. Contents specific to review phases:

- (1) The application for design review and, if deemed necessary by the Planning Board, the application for final plan review shall fully address all comments and recommendations made by town staff at the staff evaluation meeting;
- (2) The application for final plan review shall contain a road and utility plan acceptable to and signed by the Director of Public Works. This road and utility plan shall be developed by the applicant with input from the Director of Public Works;
- (3) The application for final plan review shall fully address, to the satisfaction of the Planning Board, all comments and recommendations that were made by the Board at the design review hearings and reflected in the Board's design review action.

C. Applications for Minor Projects Reviewed by the Minor Projects Review Committee

In addition to the documents set forth in Article VIII.A above, all applications for minor projects subject to review by the Minor Projects Review Committee shall include:

1. Number and Format:

Seven collated and stapled sets of application documents:

- a. Plans and plan notes shall be drawn at a scale not smaller than 1"=40', on sheets not smaller than 11"x17" or larger than 23"x36", with font size not less than six point, judged by the Senior Planner to be legible, and contain a north arrow, bar scale, original date and dates and descriptions of revisions.
- b. Other documents shall be typed or printed on 8.5"x11.0" paper, double-sided.

2. Content:

Plans will be sufficiently accurate and detailed so as to:

- a. Indicate the site location within Hanover, the address and zoning classification of the subject property, and the uses of adjoining properties;
- b. Describe the size, shape, and use of the subject property, together with relevant information about existing site topography, drainage, hydrologic features, vegetation, and other natural features, and about proposed changes to these;
- c. Show the size, dimensions, location, and height of existing and proposed structures, expansions to existing structures, or other improvements, including landscaping, parking areas, ramps, walkways, driveways, lighting fixtures, signs, stormwater control devices, exterior waste receptacles, exterior equipment, utilities, solar panels, wind generators, condensers, transformers, or other;
- d. Demonstrate conformity with the standards and requirements for proposed developments set forth in Article IX; and
- e. Demonstrate full compliance with the Hanover Zoning Ordinance, including the conditions of approval of any special exception or variance granted by the Zoning Board of Adjustment.

ARTICLE IX. STANDARDS AND REQUIREMENTS FOR PROPOSED DEVELOPMENTS

The Reviewing Authority may approve a proposed project, including a minor project plan and a final site plan, only upon determination that the following requirements have been met:

A. Site Characteristics, and General Considerations and Requirements

1. Site Characteristics:

The development shall conform to the extent appropriate to the natural topography of the site. Site clearing shall be kept to the minimum required for the construction of buildings and improvements, taking into consideration the need for pedestrian and vehicular safety and the need for light and air. Natural cover shall be retained to supplement required landscaping to the extent possible and reasonable. Landscaping shall be provided in all projects and should be in keeping with the character of the area where the site is located, the purpose of the development, and the location of buildings, and improvements.

2. General Considerations:

In its review of the final site plan, the Planning Board shall assess:

- a. The character of the land proposed for development;
- b. Conformance with the Hanover Master Plan and local ordinances;
- c. The likely impact upon the abutters, neighborhood and others, public infrastructure, town services and fiscal health, and natural and cultural resources on the property and abutting properties;
- d. The adequacy of drainage and likelihood of flooding on the property or that of another;
- e. The possible impacts on the quality of groundwater;
- f. The extent to which the project guards against undesirable and preventable elements of pollution such as noise, smoke, soot, particulates or any other discharge into the environment that might prove harmful to persons, structures or adjacent properties;
- g. The adequacy of fire safety, prevention, and control;
- h. The relationship of the project to the harmonious and aesthetically pleasing development of the town and its environs;
- i. The provision of open spaces and green spaces of adequate proportions;
- j. The proper arrangement and coordination of streets within the site in relation to existing or planned streets; and
- k. The suitability of streets of sufficient width to accommodate existing and prospective traffic, to afford adequate light, air, and access for firefighting apparatus and equipment to buildings, which shall be coordinated so as to compose a convenient system.

B. Specific Requirements

1. Requirements for Trash Container Rooms or Enclosures:

All new buildings and expansions or changes of use of existing buildings that require site plan review, shall provide for a trash container room within the building or a trash container enclosure outside the building. The trash container room or enclosure shall be constructed according to the following provisions:

- a. Buildings located less than ten feet from the side lot line shall include a trash container room for the purpose of housing trash containers.
 - (1) The trash container room shall be located only in the rear or side of the building and shall be easily accessible for servicing.
 - (2) The trash container room shall be fully enclosed and include lockable doors;
- b. Buildings located ten feet or more from the side lot line shall include a trash container room as required above, or a trash container enclosure according to the following:
 - (1) The trash container enclosure may not be located in the front yard;
 - (2) The trash container enclosure shall be placed at least five feet from any property line;
 - (3) The trash container enclosure shall contain:
 - (a) A prepared surface such as hardpack, concrete, asphalt or pavers; and
 - (b) Enclosure walls as appropriate;
 - (4) A paved surface shall be provided between the trash container enclosure and the street from which the container will be serviced;
 - (5) Containers and enclosures shall be located so as to allow ease of access for collection trucks. No parking or other obstruction shall be permitted in the access area for enclosures. Trash collection trucks shall not block streets while servicing containers; and
 - (6) Containers and enclosures shall be situated so that they do not cause nuisance or offense to abutters;
- c. Businesses producing special waste, such as organic matter, shall provide:
 - (1) Sealed containers within the enclosures, or
 - (2) Containers as required by applicable regulations;
- d. Hazardous or noxious wastes must be contained and disposed in a safe and sanitary manner, in accordance with applicable regulations;
- e. For storage of recyclable materials, the enclosure area shall be large enough to accommodate the materials and their containers. Plans for disposing of recyclable materials shall be reviewed by the appropriate town offices; and
- f. Trash container enclosures may be shared upon evidence of the abutters agreement to do so. The enclosures shall comply with the requirements above.
- g. The Planning Board may, at its discretion, approve an alternative design that accomplishes the objectives set forth in this section.

2. Requirements for Exterior Lighting

The purpose of these regulations is to reduce the problems created by improperly designed and installed outdoor lighting. Specifically, these regulations are intended

to eliminate the problems of glare, light trespass, and obtrusive light, protect the quality of Hanover's night sky and rural character, and conserve energy. The community goals of protecting the dark night sky and enabling darkness to settle into places are balanced with maintaining safety, security, and productivity by establishing regulations which limit the area that certain kinds of outdoor light fixture can illuminate and by limiting the total allowable illumination of lots located in the Town of Hanover.

- a. Prohibited lighting
 - (1) Non-cutoff-wall-pack-type fixtures
 - (2) Laser source light
 - (3) Mercury vapor lamp fixtures and lamps
 - (4) The operation of searchlights
- b. General exterior lighting requirements
 - (1) All lighting including emergency lighting in the Town of Hanover is required to be fully shielded with a limit of intensity of light to 100 candela per 1,000 lamp lumens at or above 80° and below 90°.
 - (2) Up-lighting by any method is prohibited; however, the Planning Board may allow limited use of upward lighting for iconic buildings.
 - (3) In general façade lighting is prohibited. However the Planning Board may allow limited façade lighting for iconic buildings.
 - (4) Light-emitting diode (LED) lights must operate between 3,500 and 4,500 Kelvin.
 - (5) Decorative lighting, such as that used during holidays, is permitted without specific site plan approval. However, installation of such lighting for year-round use requires site plan approval.
- c. Control of glare; luminaire design factors
 - (1) Any luminaire must not emit any direct light above a horizontal plane through the lowest direct-light-emitting part of the luminaire and must not exceed 0.1-foot lumen at the property line.
 - (2) Any luminaire with a lamp or lamps rated at a total of more than 1,100 lumens must be mounted at a height of 15 feet or less.
 - (3) Lighting must not exceed the minimum illuminance recommended for that purpose as defined in the most recent Illuminating Engineering Society's "Lighting Handbook/Reference & Application."
 - (4) At the discretion of the Planning Board, an exception may be granted for (2), above in the case of roadway illumination. Luminaires used for public roadway illumination may be installed at a maximum height of 20 feet and may be positioned at that height up to the edge of any bordering property. Proposed streetlights or replacements for existing streetlights must be fully shielded.
 - (5) Signs shall be illuminated only by continuous indirect white light, with light sources so placed that they will not constitute a hazard to street or highway driving from the glare (See also Sections 715 of the Zoning Ordinance).
- d. Energy conservation

In the interests of energy conservation, the Planning Board may require:

- (1) Specific lighting fixture type, such as LED;
- (2) A device that regulates the period of operation; and/or
- (3) Installation of solar-powered lights.

3. Landscaping and Screening Requirements:

a. Objectives:

The goals of these landscaping and screening requirements are: to enhance and maintain the visual appearance of the town; to maintain and protect property values; to provide a better transition and reduce impacts between adjoining land uses and dissimilar activities, and improve the compatibility of abutting and nearby land uses, particularly as concerns residential neighborhoods and adjacent to or in the vicinity of non-residential districts; to provide, within and on the perimeter of parking areas, landscaping that facilitates safe movement of pedestrians and vehicles, breaks up large areas of impervious surfaces, provides shade, and opportunities for stormwater management; to preserve existing resources and features, particularly existing mature (and healthy) trees; to preserve, support and promote wildlife habitat; to further the establishment of complete streets where applicable for all users of the town rights of way; (see Hanover Complete Streets Guideline: hanovernh.org/sites/hanovernh/files/uploads/rh-completestreets.pdf); to ensure throughout the town, appropriate barriers to and relief from traffic, noise, heat, glare, and odor; to improve air quality; to continue to support a streetscape that is consistent with the designation as a Tree City USA municipality (arborday.org/programs/treecityusa/); and to promote energy efficiency and conservation in site design, building construction, and landscaping.

b. General Requirements for Landscaping:

(1) Preservation of Existing Vegetation:

- (a) Existing non-invasive vegetation should be preserved wherever possible. Existing natural features of special interest, must be delineated and located on the landscaping plan and should be preserved wherever possible. These features include: floodplains; wetlands, including vernal pools; riparian areas (land areas adjacent to water bodies) and surrounding uplands; habitat for threatened or endangered species; highest condition habitat areas defined by NH Wildlife Action Plan; wildlife corridors; cemeteries; historic sites; scenic viewsheds.
- (b) A note should be added to the site plan indicating that identified features must be protected during site clearing and construction through the use of chain link fence or other adequate protective barriers.
- (c) Maximum effort should be made to preserve small stands of trees, rather than individual trees, to minimize the potential for serious damage due to wind, grade changes and soil compaction. No construction materials, equipment, vehicles, or temporary material storage may be located within the dripline of existing trees. Before commencement of work, protective barriers must be installed and maintained around the vegetation to be preserved and are to remain on site until completion. Chain link fence installed around the drip line of the tree canopy is an

example of an acceptable barrier.

(2) Characteristics of Landscape Plants:

- (a) Vegetation planted must be non-invasive species selected for their adaptability to the climatic, geologic and topographical conditions of the site. Native species are preferred. All plant material shall be hardy for Zone 4 or less. Plants that will not be permitted are listed as the State of New Hampshire's prohibited and restricted plants:

agriculture.nh.gov/publications-forms/documents/prohibited-invasive-species.pdf;

agriculture.nh.gov/publications-forms/documents/restricted-invasive-species.pdf

Consistent with NH law, no person shall collect, transport, import, export, move, buy, sell, distribute, propagate or transplant any living and viable portion of any plant prohibited species, which includes all of their cultivars and varieties. Thus, if these plants are found on a site proposed for development, they must be eradicated in a manner consistent with best management practices.

- (b) Shrubs and hedges must be a minimum of 24 inches in height when measured immediately after planting. Groundcovers and perennials may be less.

(c) Trees

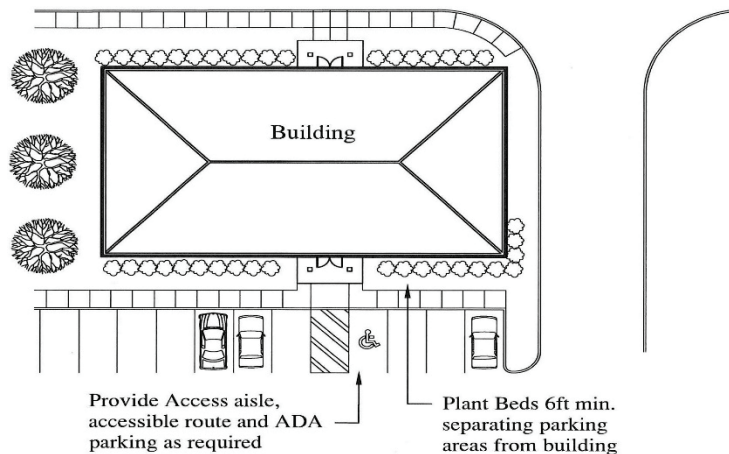
- i. Street trees will be salt and drought tolerant, non-invasive species.
- ii. For larger sites, attention will be given to increasing the diversity of species to avoid a monoculture.
- iii. Trees will have a structure and growth form which prevents them from obstructing sidewalks and driver visibility.
- iv. Trees located under utility wires should be low-growing.
- v. Trees should be located to avoid interference with underground utilities and access for maintenance of those utilities.
- vi. Trees will have a caliper of no less than three inches measured at 4.5 feet when planted and be placed in a mulched area with no less than a three-foot radius measured from the base of the tree.
- vii. Street trees in the public right of way will be installed by the applicant and maintained by the Town.

(3) Landscape Design

- (a) Deer-resistant landscape alternatives to turf grass lawns, such as native landscaping and meadows, edible landscaping, perennial groundcovers and plant communities that could populate stormwater management features (e.g. rain gardens), are encouraged.
- (b) To promote low impact development, on-site retention and filtration of storm water, landscaped areas will be designed to guide stormwater from on-site impervious surfaces to vegetated areas, swales, or appropriately designed retention areas. Where possible, the vegetated parts of the stormwater management system will provide for on-site infiltration. Gaps in curbing may allow stormwater to flow from

parking areas and driveways to vegetated treatment areas.

- (c) Where non-residential and residential uses are abutting, a combination of evergreen and deciduous trees, shrubs, perennials and vining plants must be used to form a landscape complementary to the landscape and vegetation on the residential lot.
- (d) Streetscapes will conform to and complement the Town's complete streets guidelines.
- (e) Planted beds at least six feet in width must separate parking areas from the portion of the building providing pedestrian access to the building, see diagram:



(4) Energy Conservation and Efficiency:

Earth berms and plant materials should be used where practical to assist in energy conservation and efficiency. Suggested alternatives are as follows: use earth berms and dense evergreens to protect buildings and exterior use spaces against winter winds; use deciduous trees to provide summer shade and allow winter sun; and use deciduous vines on fences, trellises and arbors to provide summer shade.

(5) Maintenance:

A watering plan/schedule will be developed and implemented for the first two growing seasons so that plants can become well established. The property owner shall be responsible for maintaining all landscaping within the boundaries of the property in good condition so as to present a healthy, neat, and orderly appearance. The property owner shall replace any unhealthy or dead plant materials required by the approved landscaping and screening plan. Such plant materials shall be replaced within the ensuing year by the property owner. Non-living durable material shall likewise be maintained in attractive condition.

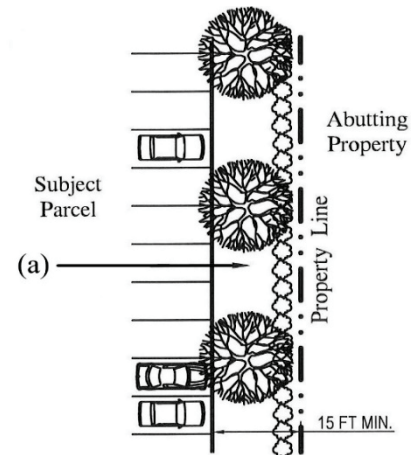
(6) Erosion Control:

- (a) Graded areas shall be re-vegetated to ensure erosion control by seeding, mulching and fertilizing. Disturbed areas shall be planted with suitable plant materials.
- (b) Best management practices will be implemented on slopes exceeding 2:1 while ground cover is being established.

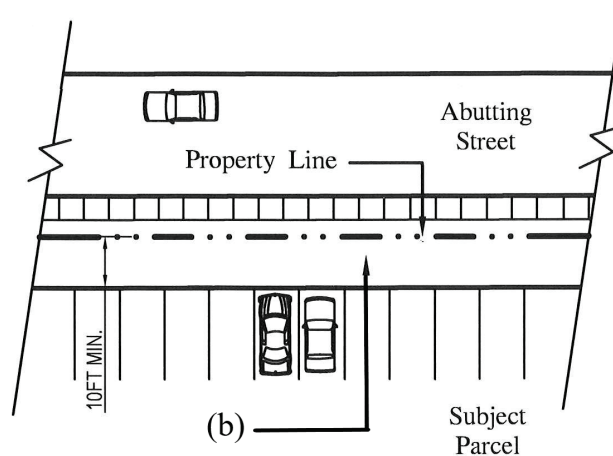
- (c) In order to minimize the risk of introducing invasive plants to development sites, hay products are prohibited. The use of straw products, erosion control fabric and other products is encouraged.
- (7) Sight Obscuring Plantings Prohibited:
All planting, fences, and/or walks necessitated by these landscaping and screening requirements must conform with the street intersection sight obstruction requirements provided in Section 511 of the Hanover Zoning Ordinance. All plant materials must be pruned as necessary to comply with Section 511 of the Hanover Zoning Ordinance and new plant materials within 25 feet of an intersection will be selected so that mature heights do not exceed a maximum of 30 inches high.
- (8) Encroachment on Landscaped Areas:
The storage, display or parking of vehicles, boats, recreational vehicles, travel trailers, or construction equipment within landscaped areas shown as such on the approved landscape or site plan is expressly prohibited, except during construction.
- (9) Protection of Landscaping:
In the Business Zoning District (B), Service, Business, and Limited Manufacturing (BM), Institution (I), and the Office and Laboratory (OL), granite curbing is required in all landscaping projects to protect landscape areas. Landscaped areas provided within and adjacent to all parking and maneuvering areas shall be protected through the installation of either curbing or wheel stops. Areas planted with shrubs or small trees will not be used for snow storage.
- (10) Adjustments to Landscaping and Screening Requirements:
Minor revisions to planting plans may be approved by the Director of Planning, Zoning and Codes if there is no reduction in the quality of plant material or no significant change in size or location of plant materials, and if the new plants are of the same general category (e.g. shade, ornamental, or evergreen trees) and have the same general design characteristics (mature height, crown spread) as the materials being replaced. Proposed materials must also be compatible with the area to ensure healthy tree growth. If these criteria are not fulfilled, changes to approved plans must be resubmitted to the Planning Board for review.
- c. Landscaping of Parking Areas:
Parking lot landscaping is required to fulfill the following functions: provides relief from the monotony of unbroken areas of pavement; supports stormwater management by incorporating stormwater systems and practices that restore and maintain hydrologic processes in order to reduce the volume and water quality impacts of parking area surfaces; offers shade and heat abatement; screens the view of parked cars from adjacent properties; minimizes light from vehicle headlights; assists in directing an orderly flow of pedestrians and vehicles.
- (1) Minimum size:
The minimum size of a parking area that requires landscaping is six spaces.

(2) Landscaping Requirements for the Perimeter of Parking Areas Containing Six or More Spaces:

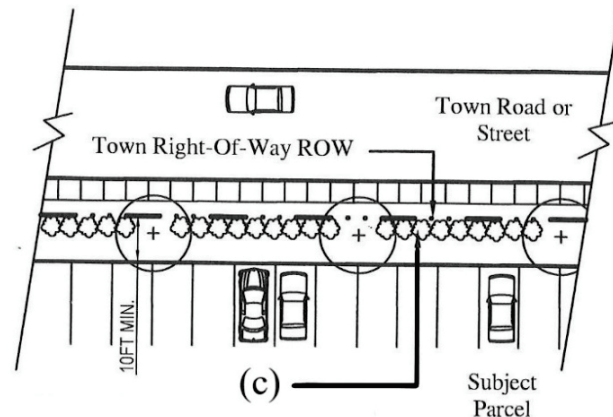
- (a) A landscaped strip at least fifteen feet wide is required on the perimeter adjacent to abutting properties. Trees and shrubs will be suitably placed to provide visual relief and buffer adjoining properties as necessary depending upon the use of the adjoining property.



- (b) A landscaped strip at least ten feet wide shall be provided on the perimeter of the parking area adjacent to abutting streets.



- (c) Along public rights-of way (ROW), perimeter landscaping is required along at least 75% of the length of the right of way. The design of this landscaping will be consistent and complementary with the Town's complete streets guidelines.



- (d) In addition to landscaping, the Planning Board may require screening (see IX.B.3.d. below) for parking areas containing six or more parking spaces; and
 - (e) The Planning Board may at its discretion approve an alternative landscaping design that accomplishes the objectives set forth in this Section.
- (3) Landscaping Requirements for the Interior of Parking Areas:
- (a) Interior Parking Lot Landscaping Standards
 - i. The interior of the parking lot will include landscaping covering not less than ten percent of the total area of parking and maneuvering spaces. Such landscaping will be in addition to any required landscaping on the perimeter of the parking lot.
 - ii. More than half of the planting areas shall be at least eight feet wide.
 - iii. Interior landscaped beds, at least 20 feet wide, are required for all parking lots with multiple adjacent rows of parking spaces, and will be installed at least every four rows of parking spaces.
 - iv. The maximum number of side by side parking spaces permitted with no landscape, pedestrian walkways or maneuvering drives is twenty spaces.
 - v. More than half of the required parking lot landscaping shall be either in continuous landscape strips or in large (greater than 400 square feet) planting islands located entirely within the paved area of the parking lot, in order to facilitate heat dissipation and provide visual relief.
 - (b) Bare soil is not acceptable as a surface treatment. Groundcovers and/or perennials planted en masse with the use of mulch as a soil covering is acceptable. However, no more than 20 percent of the landscaped area may be covered with non-living material such as bark mulch, wood chips, or leaf litter. At least one major deciduous tree, whose caliper is equal to or greater than three inches, shall be provided within each parking area for every 3,000 square feet of paved area or every ten parking spaces, whichever is greater. The trees will be spaced evenly throughout the lot interior to provide shade and reduce glare. Overall, there will be a mix of large canopy tree species.
 - (c) Parking lots with more than 50 parking spaces will have landscape island serving as end-caps to each row.
 - (d) The landscaped areas or islands required above shall be dispersed within the parking lot to provide maximum shading, shall divide parking areas and shall be located so as to guide traffic flow and direction;
 - (e) Depressed vegetated landscape beds should be designed to infiltrate stormwater. Landscape plantings within any depressed area shall be composed of species that can withstand periodic saturated soil conditions;
 - (f) Curbs, setbacks or other protection must be provided to prevent damage to trees and shrubs from vehicles; and

- (g) Snow storage areas must be specified and located in an area that does not disturb required landscaping and minimizes the potential for erosion and contaminated runoff into any adjacent or nearby water resources.
- d. Screening and Buffering Requirements and Methods:

Landscaping should be used whenever possible to screen loading areas, trash storage and transfer areas and other areas likely to generate noise, dust or other disruptive conditions. Landscaping should be designed to form a buffer between non-residential and residential uses and between single-family and multi-family projects, especially where multi-family projects are different in height, form or material than the adjacent single-family units; and to screen vehicular headlights from adjacent properties.

 - (1) Screening Requirements:

In all districts, in addition to landscaping, (see Section IX.B.3.c above) screening may be required to eliminate or reduce visual impacts, noise, odor, dust, and air pollution. Special consideration will be given to the buffering and screening between residential uses and institutional, commercial or industrial uses, and in visually sensitive areas. Among the areas and uses that will require screening are the following:

 - (a) Service areas and facilities, including garbage and waste disposal containers, recycling bins, and loading areas (see Section IX.B.1);
 - (b) Outdoor storage areas;
 - (c) On-grade and above-grade electrical and mechanical equipment such as transformers, heat pumps, air conditioners, and fuel tanks;
 - (d) Rooftop mechanical equipment that is visible from adjacent buildings or from public streets;
 - (e) All non-residential uses abutting other land uses in a residential district; and
 - (f) The Planning Board may at its discretion require screening for parking lots containing six or more contiguous parking spaces.
 - (2) Screening Methods and Materials:

Screening may be accomplished by the use of suitable sight-obscuring plant materials, earth berms, walls, fences, building parapets, proper siting of disruptive elements, building placement or other design techniques. The decision by the Planning Board on which screening technique is appropriate shall be governed by the screening height and density required in each situation. Examples of alternatives for adequate screening include:

 - (a) Berms or other elevated grade conditions:

Lawn and low-growing evergreen and/or deciduous shrubs covering the top and sides of the berm may be provided.
 - (b) Walls and Fences:
 - i. Walls and fences shall be erected where required for privacy, screening, separation, security, erosion control or to serve other necessary and reasonable functions.
 - ii. The design and materials used shall be functional and compatible with existing and proposed site architecture.

- iii. No fence or wall shall be so constructed or installed as to constitute a hazard to traffic, vehicular sight lines or safety.
 - iv. Chain link fencing with slats is unacceptable for screening purposes.
 - (c) The Planning Board may at its discretion approve an alternative screening design that accomplishes the screening and landscape objectives set forth in this section.
4. Coordination of Streets, Parking, Loading, and Safety:
- a. The public highways providing access to the site shall be sufficient and adequate for the safety of vehicles, pedestrians and bicycles. This will include not only the public highways on which the site fronts, but also public highways which constitute the main traffic arteries which must be used by traffic to and from the site. The site development will facilitate the implementation of the Town of Hanover Complete Streets Guidelines.
 - b. The traffic patterns on and at the site shall be coordinated so as to compose a convenient system.
 - c. There shall be proper arrangement of streets within the site and in relation to other existing and planned streets (or with the features of the official map of town) such that the proposed development of the site shall not endanger public safety or welfare and shall promote public convenience and prosperity.
 - d. There shall be adequate traffic access to and from town streets to ensure the safety of vehicles, pedestrians and bicycles.
 - e. Site plans for multi-family structures shall make adequate provision for the on-site recreational needs of the residents of the proposed development. The plan shall be designed to minimize the likelihood that public safety will be endangered by the extensive use of internal roads and parking areas for recreation.
 - f. There shall be adequate access from suitably located existing public streets of sufficient width to afford adequate light, air, and access to each structure for fire, police, and medical emergency vehicles and personnel. Adequacy shall be established by approval in writing from the town fire and police departments or as indicated in the report of the Planning Staff.
 - g. The Board at its discretion may require that parking areas and areas for internal circulation on the site shall be physically delineated (for instance, by curbing) so as to protect adjacent grass and plantings.
 - h. Parking spaces shall be a minimum of 8x18 feet. Aisles between parallel rows of spaces shall be a minimum of 24 feet apart with 26 feet preferred. Parking spaces for disabled people require an adjacent access aisle with a minimum width of five feet.
 - i. All loading areas shall be designed so as not to interfere with other planned circulation on the site and so as to provide adequate space and facilities.
 - j. No construction, contractors' or project employees' vehicles shall be parked in any public parking space.

- k. Intent and purpose of parking maximums:
To provide greater flexibility in determining the appropriate amount of parking for non-residential and residential uses subject to these regulations, the parking needs of each proposed use shall be determined on a case-by-case basis. The criteria listed below state a recommended maximum, with the minimum for each project being zero spaces, where zero spaces comply with the Americans with Disabilities Act.
- l. Determination of Required Parking Spaces:
As designee of the Planning Board, the Director of Planning, Zoning, and Codes shall determine compliance for a proposed use based on the parking table. For uses that are not listed, the Director must decide on a reasonable equivalent use and the number of required spaces. In this determination, the Director must refer to the professional standard used to make the determination. The Applicant may appeal a determination by the Director to the Planning Board for a final determination.
- 1) Applicants who request additional parking spaces above the quantity in the table or by the Director for uses not listed must submit an analysis of parking using criteria within Section 1001.6 of the Zoning Ordinance for consideration by the Planning Board.
- m. Off-street Parking Table:

Use category	Recommended Maximum number of off-street parking spaces required
Bed & breakfast	One (1) for each bedroom for guests.
Downtown civic, downtown commercial, retail sales, commercial services	One (1) for 500 square feet of gross floor area or One (1) for each one-and-a-half (1.5) employees, whichever is less.
Downtown lodging, Hotel, motel, rooming house	One (1) per lodging unit plus .5 per employee.
Eating and drinking establishments	One (1) for every 10 restaurant seats plus half (.5) for each employee.
Institutional dining facility	half (.5) for each employee.
Medical centers, hospitals, nursing, and convalescent homes	One (1) per four (4) beds and one (1) for each 1.5 employees.
Publishing, research facility, wholesale, industrial, manufacturing, storage	One (1) for eight hundred (800) square feet of gross floor area or one (1) for each one-and-a-half (1.5) employees, whichever is less.
Nursery, kindergarten, elementary, middle school, and high schools	One (1) for each one-and-a-half (1.5) employees.

Use category	Recommended Maximum number of off-street parking spaces required
Multi-family Residential and Downtown residential	half (.5) per dwelling unit.
Places of assembly, the capacity of which cannot be measured in terms of seats	One (1) for five hundred (500) square feet of gross floor area exclusive of storage areas.
Senior housing development, independent living, assisted living, affordable housing	half (.5) per dwelling unit and one (1) for each one-and-a-half (1.5) employees.
Student residence, residential institution	1 for each eight (8) beds and half (.5) for each employee.
Theater, auditoriums, and all places of assembly providing seats for the audience, including places of worship but excluding classrooms in educational institutions	1 for each ten (10) seats in D and I districts; 1 for each five (5) seats in all other districts.

- Round down to the nearest whole number for every half space.
- The Director of Planning, Zoning, and Codes shall determine the appropriate use category for uses not specifically listed within this table.
- The number of spaces allotted “per employee” in this chart shall be applied to the maximum number of employees expected to work at the site simultaneously.
- One (1) space assigned to a vehicle available for rent from a vehicle-sharing service may replace any four (4) required spaces.

5. Stormwater Management Standards:

a. Stormwater must be managed to:

- (1) Treat all stormwater to achieve 80% removal of Total Suspended Solids and at least 50% removal of both total nitrogen and total phosphorus; and
- (2) Reduce the post development peak rate so that it does not exceed the pre-development rate for the two, ten, and 25 year, 24 hour storm events. This reduction will be documented by a report with summary for each storm event.

b. Low impact development site planning and design must be used to maximum extent practicable to reduce the stormwater runoff volume for both new and re-development projects.

6. Groundwater Protection:

The quality of ground water shall not be adversely affected by the proposed development. This shall be established by the applicant showing that the proposed development will not violate the rules and regulations of the Water Supply and Pollution Control Commission with regard to ground water.

7. Provisions shall be made for snow storage or removal.

8. Upgrading Off-Site Public Facilities:

The Board may require as a condition precedent to the approval of a site plan, the extent to which, and the manner in which existing public streets providing access to the site shall be upgraded and improved as a result of the additional burdens placed on such streets and sidewalks by the proposed use of the site, including water, sewer and other utility mains, piping, connections or other facilities. The applicant's share of such costs for off-site improvements shall be allocated in a manner consistent with applicable New Hampshire law.

9. Exterior Seating at Eating and Drinking Establishments:

The intent is to permit accessory outdoor seating for eating and/or drinking for up to 50% of the establishment's allowed indoor seating consisting only of chairs, tables and umbrellas without any additional parking requirement. The following requirements must be met:

- a. The seating must be entirely on privately owned or leased property and outside the public right of way. The seating shall not require or be dependent upon any new structures not otherwise permitted in the Zoning Ordinance. No outdoor electrical lighting, space heating or food preparation shall be allowed in the accessory outdoor seating area;
- b. The additional outdoor seating shall be arranged in such a way as to be safe under all conditions for pedestrian and vehicular travel. It shall not inhibit the free circulation on public sidewalks or safe egress from buildings; and
- c. The property owner shall be responsible for maintaining the outdoor seating area in a clean, sanitary, and orderly manner.

10. Utility Line Placement

All utility lines (including but not limited to electric, telephone, data, fiber optic, cable television, alarm and electric service to street lighting) serving any portion of a project must be placed below ground.

ARTICLE X. COMPLIANCE WITH THE NOTICE OF ACTION

A. Period for Construction and Completion of the Work

The applicant shall construct and complete all structures and landscaping required in the Notice of Action prior to the issuance of a Certificate of Compliance, and within the time limits specified in the Notice of Action. Where no time limits are specified, the period shall be within three years from the date of acknowledgment and acceptance of the Notice of Action. Upon written request of the applicant and after a public hearing, when the Reviewing Authority finds that conditions beyond control of the applicant prevent compliance within the three year period or the time limit specified in the Notice of Action, the Board may grant additional time for compliance with the Notice of Action.

A Certificate of Compliance shall be issued by the Director of Planning and Zoning under the Site Plan Regulations when the applicant has complied with all requirements of the Notice of Action. The applicant shall not use or occupy the site, or occupy any building or unit therein in a multi-building development, until the Certificate of

Compliance has been issued. The Planning and Zoning Department shall not issue a Certificate of Occupancy under the Town Building Code, as provided in RSA 676:13, for any building, on a site plan which does not comply with the Notice of Action on the approved site plan. Any requirement of the Notice of Action to be performed in the future for which security has been provided under Article X will satisfy the condition for the issuance of the Certificate of Compliance.

B. Security

1. Security for Work to Be Performed:

When the Reviewing Authority agrees to accept security for work to be performed, the applicant shall submit security providing for and securing to the Town the completion of the actual construction and installation of all improvements and utilities within three years from the date of the Notice of Action. The security shall be in an amount determined by the Reviewing Authority in consultation with the Director of Public Works, and shall be in a form satisfactory to the Director of Planning and Zoning and to Town Counsel. Such determination shall occur during a duly noticed public hearing. The applicant shall pay all notice costs and other applicable costs and fees associated with the public hearing.

Security may not be accepted for incomplete streets or utilities unless explicitly permitted by the Reviewing Authority in its Notice of Action approving the site plan or at a subsequent public hearing.

2. Work Which Cannot Be Completed Because of the Season of the Year:

The Reviewing Authority may require the applicant to provide security as a condition of the issuance of a Certificate of Compliance, for work which cannot be completed because of the time of the year, for example, landscaping due to cold weather.

3. Amount of Security:

The Reviewing Authority shall determine the amount of security based on the estimated cost of completing the work or of constructing, repairing or replacing landscaping, structures or Town facilities. The applicant may be required to pay a surcharge to cover any costs of inflation.

4. Form of Security:

The applicant shall sign and deliver security in the form approved by the Director of Planning and Zoning and Town Counsel. The security shall be an irrevocable letter of credit drawn on a New Hampshire bank or cash. It is intended that all such security shall be as close to cash as possible. The Director of Planning and Zoning may require satisfactory evidence of financial ability of any financial institution to pay security.

5. Reduction of Security:

The security may be reduced during the course of construction of the work by the Director of Planning and Zoning in such amount as the Director of Planning and Zoning deems to be in the best interests of the Town, but on the condition that the remaining security shall be sufficient to complete all remaining work.

6. Release of Security:

The security shall be released when the Director of Planning and Zoning is satisfied

that the applicant has complied with all requirements set forth in the Notice of Action.

7. Default:

If the applicant has not complied within the period of time specified in the security with the requirements of the Notice of Action, the town shall enforce its rights under any form of security. In the event that the town is required to take any legal action to use the security to enforce the Notice of Action or conditions of approval, or to cause the project site to be completed as shown on the approved plan or to be completed according to town standards, the town shall be entitled to have reasonable attorney's fees paid by the applicant and awarded by the Court.

C. Changes and Alterations in an Approved Site Plan

The applicant shall implement the project in accordance with the plans and documents as approved by the Reviewing Authority. If at any time before or during the construction of the site plan unforeseen conditions make it necessary or desirable for the applicant to modify the location or design of any of the required work the Reviewing Authority may, after a duly noticed hearing, authorize such modifications which shall be set forth in writing and signed by the Chair of the Reviewing Authority. Field changes may be made during construction provided that the Senior Planner determines that such revisions are of such a limited nature that there would not be a significant impact either on or off the site.

D. Certification of Compliance

The town shall be notified when the applicant believes all requirements of the Notice of Action have been met. Upon confirmation by the appropriate town department the Director of Planning and Zoning shall issue the Certificate of Compliance. The applicant shall certify that the location of site features and the layout of the line and grade of all public improvements are in accordance with the approved site plan.

E. As-Built Plans

Improvements to the site shall be documented as updates to the Hanover GIS base maps. A plan of improvements shall be provided in a format acceptable to the Director of Public Works. The plan shall include all new utilities (water, sewer, communication, enunciation, power, etc.), buildings, hardscape features including curbs, and unique site features within four inches of actual location, and rim and invert elevations of sewer, drainage and vaults, water gate valves/curb stop and hydrant nuts to the nearest 0.1 vertical foot. Alternatively, the applicant may choose to provide funds to the Town in an amount adequate for the Town to update the base maps. In addition, engineering field notes of utility depths, crossings, measurements, a copy of contractor markups and a copy of the digital AutoCAD design drawings shall be provided in a format acceptable to the Director of Public Works.

F. Correction of Deficiencies

If the Director of Planning and Zoning determines that any of the required work has not been completed in accordance with the plans and specifications as filed by the

applicant and as required by the town, the Director of Planning and Zoning shall notify the applicant in writing of any such deficiencies. The applicant shall rectify all deficiencies at the expense of the applicant. If the applicant does not substantially rectify all deficiencies within a reasonable time as determined by the town, the town shall take all necessary action to protect and preserve the town's rights and interests including suspension or revocation of final site plan approval. In the event of legal action, the town shall be entitled to have reasonable attorney's fees paid by the applicant and awarded by the court.

G. Guarantee of Installation of Improvements

For a period of two years after completion of all work or two years after the correction of all deficiencies as described above, whichever occurs last, if the Director of Planning and Zoning determines that the work has failed for any reason or does not meet the specifications as filed by the applicant and as required by the town the Director of Planning and Zoning shall notify the applicant in writing of such failure and the applicant shall rectify all failures at the expense of the applicant. If the applicant does not substantially rectify all deficiencies within a reasonable time as determined by the town, the Director of Planning and Zoning shall take all necessary action to protect and preserve the town rights and interests. In the event of legal action, the town shall be entitled to have reasonable attorney's fees paid by the applicant and awarded by the Court.

H. Landscaping Guarantee

To ensure that newly planted landscaping is maintained so that the grounds of a site are in accordance with the final approved landscaping plan, a performance guarantee for plant materials will be provided in an amount determined by the Planning and Zoning staff. The guarantee covering two growing seasons will be submitted to the Director of Planning, Zoning and Codes following the final compliance inspection and held for two growing seasons. The guarantee may be released when the Director of Planning, Zoning and Codes is satisfied that the landscape improvements have been properly installed and have a good chance of thriving to fulfill their purpose on the site.

ARTICLE XI. RELAXATION OR WAIVER OF REQUIREMENTS OR STANDARDS

A. Relaxation or Waiver of Submission Requirements

Upon written request of the applicant, the Planning Board may relax or waive any of the submission requirements set forth in Article VIII in such cases where, in the opinion of the Board, such information is not needed to make an informed decision about the request for site plan review and where strict conformity would pose an unnecessary hardship to the applicant and waiver would not be contrary to the spirit and intent of these regulations.

B. Relaxation or Waiver of Design Standards or General Requirements

Upon written request of the applicant, the Planning Board may relax or waive any of the design standards or general requirements set forth in Article IX in such cases where, in the opinion of the Board, where strict conformity would pose an unnecessary hardship to the applicant and waiver would not be contrary to the spirit and intent of these regulations.

ARTICLE XII. SEPARABILITY

If any provision of these Site Plan 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 XIII. FINES AND PENALTIES

Any violation of these Site Plan Regulations may be punishable as provided under any applicable law, ordinance or regulation, including RSA 676, which statute includes a civil fine and a criminal penalty of a misdemeanor if the violation is committed by a natural person or a felony if the violation is committed by any other person. Enforcement may also include the institution of injunction, mandamus, abatement, or other appropriate action or proceeding to prevent or enjoin or abate or remove any unlawful erection, construction, alteration or reconstruction.

APPENDIX

New Hampshire Statutes Referenced in these Regulations:

36:55 Definition

In this subdivision "development of regional impact" means any proposal before a local land use board which in the determination of such local land use board could reasonably be expected to impact on a neighboring municipality, because of factors such as, but not limited to, the following:

- I. Relative size or number of dwelling units as compared with existing stock.
- II. Proximity to the borders of a neighboring community.
- III. Transportation networks.
- IV. Anticipated emissions such as light, noise, smoke, odors, or particles.
- V. Proximity to aquifers or surface waters which transcend municipal boundaries.
- VI. Shared facilities such as schools and solid waste disposal facilities.

Source. 1991, 300:1, eff. Jan. 1, 1992.

36:56 Review Required

- I. A local land use board, as defined in RSA 672:7, upon receipt of an application for development, 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 impact.
- II. Each regional planning commission may, with public participation following the public posting of notice of the intent to develop guidelines, including notice published in a newspaper of general circulation in the planning region, develop guidelines to assist the local land use boards in its planning region in their determinations whether or not a development has a potential regional impact. The regional planning commission may update the guidelines as needed and provide them, as voted by the regional planning commissioners, to all municipalities in the planning region.

Source. 1991, 300:1, eff. Jan. 1, 1992. 2009, 194:1, eff. Sept. 11, 2009.

36:57 Procedure

- I. Upon determination that a proposed development has a potential regional impact, the local land use board having jurisdiction 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.
- II. Not more than 5 business days after reaching a decision regarding a development of regional impact, the local land use board having jurisdiction 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. The local land use board shall, at the same time, submit an initial set of plans to the regional planning commission, the cost of which shall be borne by the applicant.

- III. At least 14 days prior to public hearing, the local land use 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.
- IV. Notwithstanding the foregoing, when the building inspector determines that a use or structure proposed in a building permit application will have the potential for regional impact and no such determination has previously been made by another local land use board, he or she shall notify the local governing body. The building inspector shall also notify by certified mail the regional planning commission and the affected municipalities, who shall be provided 30 days to submit comment to the local governing body and the building inspector prior to the issuance of the building permit.

Source. 1991, 300:1, eff. Jan. 1, 1992. 2003, 220:1, eff. Aug. 30, 2003. 2005, 39:1, eff. July 16, 2005. 2008, 357:5, eff. July 11, 2008. 2009, 49:1, eff. Jan. 1, 2010.

477:45 Definitions

- I. A conservation restriction shall mean a right to prohibit or require, a limitation upon, or an obligation to perform, acts on or with respect to, or uses of, a land or water area, whether stated in the form of a restriction, easement, covenant or condition, in any deed, will, or other instrument executed by or on behalf of the owner of the area or in any order of taking, which right, limitation, or obligation is appropriate to retaining or maintaining such land or water area, including improvements thereon, predominantly in its natural, scenic, or open condition, or in agricultural, farming, open space or forest use, or in any other use or condition consistent with the protection of environmental quality.
- II. A preservation restriction shall mean a right to prohibit or require, a limitation upon, or an obligation to perform, acts on or with respect to, or uses of, a structure or site historically significant for its architecture, archaeology or associations, whether stated in the form of a restriction, easement, covenant or condition, in any deed, will or other instrument executed by or on behalf of the owner of the structure or site or in any order of taking, which right, limitation or obligation is appropriate to the preservation or restoration of such structure or site.
- III. "Agricultural preservation restriction" means the restraint placed on the development rights of agricultural land whether stated in the form of a restriction, easement, covenant or condition, in any deed, will or other instrument executed by or on behalf of the owner of the land which is appropriate to retaining land or water areas predominantly in their agricultural use, to prohibit or limit construction or placement of buildings except those used for agricultural purposes or for dwellings used for family living by the land owner, his immediate family or employees; excavation, dredging or removal of loam, sod, peat, gravel, soil, rock or other mineral substance in such a manner as to adversely affect the land's future agricultural potential; or other acts or uses detrimental to such retention of the land for agricultural use.

Source. 1973, 391:1. 1979, 301:4, eff. Aug. 21, 1979.

672:3 Abutter

"Abutter" means any person whose property is located in New Hampshire and adjoins or is directly across the street or stream from the land under consideration by the local land use board. For purposes of receiving testimony only, and not for purposes of notification, the term "abutter" shall include any person who is able to demonstrate that his land will be directly affected by the proposal under consideration. For purposes of receipt of notification by a municipality of a local land use board 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, as defined in RSA 356-B:3, XXIII. For purposes of receipt of notification by a municipality of a local land use board hearing, in the case of an abutting property being under a manufactured housing park form of ownership as defined in RSA 205-A:1, II, the term "abutter" includes the manufactured housing park owner and the tenants who own manufactured housing which adjoins or is directly across the street or stream from the land under consideration by the local land use board.

Source. 1983, 447:1. 1986, 33:2. 2002, 216:1, eff. July 15, 2002.

674:43 Power to Review Site Plans

- I. A municipality, having adopted a zoning ordinance as provided in RSA 674:16, and where the planning board has adopted subdivision regulations as provided in RSA 674:36, may by ordinance or resolution further authorize the planning board to require preliminary review of site plans and to review and approve or disapprove site plans for the development or change or expansion of use of tracts for nonresidential uses or for multi-family dwelling units, which are defined as any structures containing more than 2 dwelling units, whether or not such development includes a subdivision or resubdivision of the site.
- II. The ordinance or resolution which authorizes the planning board to review site plans shall make it the duty of the city clerk, town clerk, village district clerk or other appropriate recording official to file with the register of deeds of the county in which the municipality is situated a certificate of notice showing that the planning board has been so authorized, giving the date of such authorization.
- III. The local legislative body of a municipality may by ordinance or resolution authorize the planning board to delegate its site review powers and duties in regard to minor site plans to a committee of technically qualified administrators chosen by the planning board from the departments of public works, engineering, community development, planning, or other similar departments in the municipality. The local legislative body may further stipulate that the committee members be residents of the municipality. This special site review committee may have final authority to approve or disapprove site plans reviewed by it, unless the local legislative body deems that final approval shall rest with the planning board, provided that the decision of the committee may be appealed to the full planning board so long as notice of appeal is filed within 20 days of the committee's decision. All provisions of RSA 676:4 shall apply to actions of the special site review committee, except that such a committee shall act to approve or disapprove within 60 days after submissions of applications, subject to extension or waiver as provided in RSA 676:4, I(f). If a municipality authorizes a site review committee in accordance with this paragraph, the planning

board shall adopt or amend its regulations specifying application, acceptance and approval procedures and defining what size and kind of site plans may be reviewed by the site review committee prior to authorizing the committee.

IV. The local legislative body of a municipality may by ordinance or resolution establish thresholds based on the size of a project or a tract below which site plan review shall not be required. If a municipality establishes a size limit below which site plan review shall not be required, the planning board shall adopt or amend its regulations to clearly reflect that threshold. Nothing in this paragraph shall preclude the planning board from establishing such thresholds in the absence of action by the legislative body.

V. Site plan review shall not be required for a collocation or a modification of a personal wireless service facility, as defined in RSA 12-K:2.

Source. 1983, 447:1. 1987, 256:2. 1988, 9:1. 1995, 303:3. 2005, 33:1. 2013, 267:10, eff. Sept. 22, 2013.

674:44 Site Plan Review Regulations

- I. Before the planning board exercises its powers under RSA 674:43, it shall adopt site plan review regulations according to the procedures required by RSA 675:6.
- II. The site plan review regulations which the planning board adopts may:
 - (a) 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:
 - (1) Inadequate drainage or conditions conducive to flooding of the property or that of another;
 - (2) Inadequate protection for the quality of groundwater;
 - (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 adjacent properties; and
 - (4) Inadequate provision for fire safety, prevention, and control.
 - (b) Provide for the harmonious and aesthetically pleasing development of the municipality and its environs.
 - (c) Provide for open spaces and green spaces of adequate proportions.
 - (d) 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 municipality;
 - (e) 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;
 - (f) Require, in proper cases, that plats showing new streets or narrowing or widening of such streets be submitted to the planning board for approval;
 - (g) 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;

- (h) Include such provisions as will tend to create conditions favorable for health, safety, convenience, and prosperity;
- (i) Require innovative land use controls on lands when supported by the master plan; and
- (j) Require preliminary review of site plans.
- (k) As a condition of site plan approval, require that the applicant protect or document archeological resources in areas of archeological sensitivity that have been identified in the master plan in accordance with RSA 674:2, III(h).

III. The site plan review regulations which the planning board adopts shall:

- (a) Provide the procedures which the board shall follow in reviewing site plans;
- (b) Define the purposes of site plan review;
- (c) Specify the general standards and requirements with which the proposed development shall comply, including appropriate reference to accepted codes and standards for construction;
- (d) Include provisions for guarantees of performance, including bonds or other security; and
- (e) Include provision for waiver of any portion of the regulations. The basis for any waiver granted by the planning board shall be recorded in the minutes of the board. The planning board may only grant a waiver if the board finds, by majority vote, that:
 - (1) Strict conformity would pose an unnecessary hardship to the applicant and waiver would not be contrary to the spirit and intent of the 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 the regulations.

IV. The site plan review regulations of the planning board may stipulate, as a condition precedent to the approval of the plat, the extent to which and the manner in which streets shall be graded and improved and to which water, sewer, and other utility mains, piping, connections, or other facilities shall be installed. The regulations or practice of the planning board:

- (a) May provide for the conditional approval of the plat before such improvements and installations have been constructed, but any such conditional approval shall not be entered upon that plat.
- (b) Shall provide that, in lieu of the completion of street work and utility installations prior to the final approval of a plat, the planning board shall accept a performance bond, irrevocable letter of credit, or other type or types of security as shall be specified in the site plan review regulations. The planning board shall have the discretion to prescribe the type and amount of the bond or other security, require satisfactory evidence of the financial ability of any surety or financial institution to pay such bond or other type of security, and specify a period for completion of the improvements and utilities to be expressed in the bond or other security, in order to secure to the municipality the actual construction and installation of such improvements and utilities. The municipality shall have the power to enforce such bonds or other securities by all appropriate legal and equitable remedies.

- V. The planning board may, as part of its site plan review regulations, require an applicant to pay all costs for notification of abutters and may provide for the assessment of reasonable fees to cover the board's administrative expenses and costs of special investigation and the review of documents and other matters which may be required by particular applications.

Source. 1983, 447:1. 1985, 103:21. 1986, 200:3. 1987, 256:3. 2004, 71:5. 2005, 33:2. 2009, 292:2. 2013, 76:3, eff. Jan. 1, 2014.

676:4 Board's Procedures on Plats

- I. The procedures to be followed by the planning board when considering or acting upon a plat or application submitted to it for approval under this title shall be as set forth in the board's subdivision regulations, subject to the following requirements:
- (a) An application for approval filed with the planning board under this title, other than an application for subdivision approval, shall be subject to the minimum requirements set forth in this section and shall be governed by the procedures set forth in the subdivision regulations, unless the planning board by regulation specifies other procedures for that type of application.
 - (b) The planning board shall specify by regulation what constitutes a completed application sufficient to invoke jurisdiction to obtain approval. A completed application means that sufficient information is included or submitted to allow the board to proceed with consideration and to make an informed decision. A completed application sufficient to invoke jurisdiction of the board shall be submitted to and accepted by the board only at a public meeting of the board, with notice as provided in subparagraph (d). An application shall not be considered incomplete solely because it is dependent upon the submission of an application to or the issuance of permits or approvals from other state or federal governmental bodies; however, the planning board may condition approval upon the receipt of such permits or approvals in accordance with subparagraph (i). The applicant shall file the application with the board or its agent at least 21 days prior to the meeting at which the application will be accepted, provided that the planning board may specify a shorter period of time in its rules of procedure. The application shall include the names and addresses of the applicant, all holders of conservation, preservation, or agricultural preservation restrictions as defined in RSA 477:45, and all abutters as indicated in the town records for incorporated towns or county records for unincorporated towns or unorganized places not more than 5 days before the day of filing. Abutters shall also be identified on any plat submitted to the board. The application shall also include the name and business address of every engineer, architect, land surveyor, or soil scientist whose professional seal appears on any plat submitted to the board.
 - (c) (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 subparagraph (b), determine if a submitted application is complete according to the board's regulation and shall vote upon its acceptance. Upon determination by the board that a submitted application is incomplete according to the board's regulations, the board shall notify the applicant of the determination in accordance with RSA 676:3, which shall describe the information, procedure, or other requirement necessary for the

application to be complete. 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 as provided in subparagraph (i), or disapprove within 65 days, subject to extension or waiver as provided in subparagraph (f). Upon failure of the board to approve, conditionally approve, or disapprove the application, the selectmen or city council shall, upon request of the applicant, immediately issue an 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 or city council shall certify on the applicant's application that the plat is approved pursuant to this paragraph, unless within those 40 days the selectmen or city council has 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.

- (2) Failure of the selectmen or city council to issue an order to the planning board under subparagraph (1), 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.
- (d) (1) Notice to the applicant, holders of conservation, preservation, or agricultural preservation restrictions, abutters, and the public shall be given as follows: The planning board shall notify the abutters, the applicant, holders of conservation, preservation, or agricultural preservation restrictions, and every engineer, architect, land surveyor, or soil scientist whose professional seal appears on any plat submitted to the board by verified mail, as defined in RSA 21:53, of the date upon which the application will be formally submitted to the board. Notice shall be mailed at least 10 days prior to submission. Notice to the general public shall also be given at the same time by posting or publication as required by the subdivision regulations. 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 proposal. For any public hearing on the application, the same notice as required for notice of submission of the application shall be given. If notice of public hearing has been included in the notice of submission or any prior notice, additional notice of that hearing is not required nor shall additional notice be required of an adjourned session of a hearing with proper notice if the date, time, and place of the adjourned session was made known at the prior hearing. All costs of notice, whether mailed, posted, or published, shall be paid in advance by the applicant. Failure to pay such costs shall constitute valid

grounds for the planning board to terminate further consideration and to disapprove the plat without a public hearing.

- (2) For those proposals in which any structure or proposed building site will be within 500 feet of the top of the bank of any lake, pond, river, or stream, the planning board shall also notify the department of environmental services by first class mail at the same time that notice is provided to abutters, cost to be paid in advance by the applicant consistent with subparagraph (d)(1). The sole purpose of notification to the department shall be to provide information to the department for dam hazard classification. This requirement shall not confer upon the department the status of an abutter. Failure by the municipality to notify the department shall not be considered a defect of notice.
- (e) Except as provided in this section, no application may be denied or approved without a public hearing on the application. At the hearing, any applicant, abutter, holder of conservation, preservation, or agricultural preservation restriction, or any person with a direct interest in the matter may testify in person or in writing. Other persons may testify as permitted by the subdivision regulations or the board at each hearing. Public hearings shall not be required, unless specified by the subdivision regulations, when the board is considering or acting upon:
 - (1) Minor lot line adjustments or boundary agreements which do not create buildable lots, except that notice to abutters and holders of conservation, preservation, or agricultural preservation restrictions shall be given prior to approval of the application in accordance with subparagraph (d) and any abutter or holder of conservation, preservation, or agricultural preservation restrictions may be heard on the application upon request; or
 - (2) Disapprovals of applications based upon failure of the applicant to supply information required by the regulations, including identification of abutters or holders of conservation, preservation, or agricultural preservation restrictions; or failure to meet reasonable deadlines established by the board; or failure to pay costs of notice or other fees required by the board.
- (f) The planning board may apply to the selectmen or city council for an extension not to exceed an additional 90 days before acting to approve or disapprove an application. The applicant may waive the requirement for planning board action within the time periods specified in subparagraph (c) and consent to such extension as may be mutually agreeable.
- (g) Reasonable fees in addition to fees for notice under subparagraph (d) may be imposed by the board to cover its administrative expenses and costs of special investigative studies, review of documents and other matters which may be required by particular applications.
- (h) In case of disapproval of any application submitted to the planning board, the ground for such disapproval shall be adequately stated upon the records of the planning board.
- (i) A planning board may grant conditional approval of a plat or application, which approval shall become final without further public hearing, upon certification to the board by its designee or based upon evidence submitted by the applicant of satisfactory compliance with the conditions imposed. Such conditions may

include a statement notifying the applicant that an approval is conditioned upon the receipt of state or federal permits relating to a project, however, a planning board may not refuse to process an application solely for lack of said permits. Final approval of a plat or application may occur in the foregoing manner only when the conditions are:

- (1) Minor plan changes whether or not imposed by the board as a result of a public hearing, compliance with which is administrative and which does not involve discretionary judgment; or
- (2) Conditions which are in themselves administrative and which involve no discretionary judgment on the part of the board; or
- (3) Conditions with regard to the applicant's possession of permits and approvals granted by other boards or agencies or approvals granted by other boards or agencies, 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 as provided in subparagraph I(d), 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.

II. A planning board may provide for preliminary review of applications and plats by specific regulations subject to the following:

- (a) Preliminary conceptual consultation phase. The regulations shall define the limits of preliminary conceptual consultation which shall be directed at review of the basic concept of the proposal and suggestions which might be of assistance in resolving problems with meeting requirements during final consideration. Such consultation shall not bind either the applicant or the board and statements made by planning board members shall not be the basis for disqualifying said members or invalidating any action taken. 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. Such discussion may occur without the necessity of giving formal public notice as required under subparagraph I(d), but such discussions may occur only at formal meetings of the board.
- (b) Design review phase. The board or its designee may engage in nonbinding 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 identification of and notice to abutters, holders of conservation, preservation, or agricultural preservation restrictions, and the general public as required by subparagraph I(d). The board may establish reasonable rules of procedure relating to the design review process, including submission requirements. At a public meeting, the board may determine that the design review process of an application has ended and shall inform the applicant in writing within 10 days of such determination. Statements made by planning board members shall not be the basis for disqualifying said members or invalidating any action taken.

- (c) Preliminary review shall be separate and apart from formal consideration under paragraph I, and the time limits for acting under subparagraph I(c) shall not apply until formal application is submitted under subparagraph I(b).
- III. A planning board may, by adopting regulations, provide for an expedited review and approval for proposals involving minor subdivisions which create not more than 3 lots for building development purposes or for proposals which do not involve creation of lots for building development purposes. Such expedited review may allow submission and approval at one or more board meetings, but no application may be approved without the full notice to the abutters, holders of conservation, preservation, or agricultural preservation restrictions, and public required under subparagraph I(d). A hearing, with notice as provided in subparagraph I(d), shall be held if requested by the applicant, abutters, or holders of conservation, preservation, or agricultural preservation restrictions any time prior to approval or disapproval or if the planning board determines to hold a hearing.
- IV. Jurisdiction of the courts to review procedural aspects of planning board decisions and actions shall be limited to consideration of compliance with applicable provisions of the constitution, statutes and regulations. The procedural requirements specified in this section are intended to provide fair and reasonable treatment for all parties and persons. The planning board's procedures shall not be subjected to strict scrutiny for technical compliance. Procedural defects shall result in the reversal of a planning board's actions by judicial action only when such defects create serious impairment of opportunity for notice and participation.

Source. 1983, 447:1. 1985, 159:1. 1986, 57:1, 2; 229:1, 2. 1989, 266:30. 1990, 275:1. 1995, 117:1, 2. 1997, 142:1-4; 249:1. 1998, 274:1. 2004, 71:6. 2005, 33:3, 4. 2008, 229:2. 2009, 31:2, 3. 2010, 39:1, 2. 2011, 164:1, 2. 2013, 270:2, eff. Sept. 22, 2013. 2016, 81:1, eff. July 18, 2016. 2017, 59:3, eff. Aug. 1, 2017. 2019, 6:1, eff. July 9, 2019; 242:3, eff. Oct. 10, 2019.

676:13 Building Permits Restricted

- I. The building inspector shall not issue any building or occupancy permit for any proposed construction, remodeling, or maintenance which will not comply with any or all zoning ordinances, building codes, or planning board regulations which are in effect.
- II. If any building inspector is prosecuted for violation of RSA 643:1 and found guilty of issuing any permit contrary to the provisions of this section, it shall be prima facie evidence that the building inspector has knowingly refrained from performing a duty imposed on the building inspector by law.
- III. The building inspector shall adopt a form or set of standards specifying the minimum contents of a completed application for any building permit. Upon the submission of a completed application, the building inspector shall act to approve or deny a building permit within 30 days; provided, however, that nonresidential applications or residential applications encompassing more than 10 dwelling units shall be approved or denied within 60 days.
- IV. The time for the building inspector to act upon building permits for collocation applications and modification applications for personal wireless service facilities shall be governed by RSA 12-K:10. In the event that the form or set of standards for a building permit application conflicts with any of the limitations under RSA 12-K:11

for a collocation application or a modification application for a personal wireless service facility, the limitations in RSA 12-K:11 shall control.

Source. 1983, 447:1. 1986, 150:1. 1996, 226:3. 2013, 267:11, eff. Sept. 22, 2013.

676:15 Injunctive Relief

In case any building or structure or part thereof is or is proposed to be erected, constructed, altered, or reconstructed, or any land is or is proposed to be used in violation of this title or of any local ordinance, code, or regulation adopted under this title, or of any provision or specification of an application, plat, or plan approved by, or any requirement or condition of a permit or decision issued by, any local administrator or land use board acting under the authority of this title, the building inspector or other official with authority to enforce the provisions of this title or any local ordinance, code, or regulation adopted under this title, or the owner of any adjacent or neighboring property who would be specially damaged by such violation may, in addition to other remedies provided by law, institute injunction, mandamus, abatement, or any other appropriate action or proceeding to prevent, enjoin, abate, or remove such unlawful erection, construction, alteration, or reconstruction.

Source. 1983, 447:1. 1988, 19:5, eff. Jan. 1, 1989.

676:17 Fines and Penalties; Second Offense

- I. Any person who violates any of the provisions of this title, or any local ordinance, code, or regulation adopted under this title, or any provision or specification of any application, plat, or plan approved by, or any requirement or condition of a permit or decision issued by, any local administrator or land use board acting under the authority of this title shall be guilty of a misdemeanor if a natural person, or guilty of a felony if any other person; and shall be subject to a civil penalty of \$275 for the first offense, and \$550 for subsequent offenses, for each day that such violation is found to continue after the conviction date or after the date on which the violator receives written notice from the municipality that the violator is in violation, whichever is earlier. Each day that a violation continues shall be a separate offense.
- II. In any legal action brought by a municipality to enforce, by way of injunctive relief as provided by RSA 676:15 or otherwise, any local ordinance, code or regulation adopted under this title, or to enforce any planning board, zoning board of adjustment or building code board of appeals decision made pursuant to this title, or to seek the payment of any fine levied under paragraph I, the municipality shall recover its costs and reasonable attorney's fees actually expended in pursuing the legal action if it is found to be a prevailing party in the action. For the purposes of this paragraph, recoverable costs shall include all out-of-pocket expenses actually incurred, including but not limited to, inspection fees, expert fees and investigatory expenses.
- III. If any violation of a local ordinance, code or regulation, or any violation of a planning board, zoning board of adjustment or building code board of appeals decision, results in the expenditure of public funds by a municipality which are not reimbursed under paragraph II, the court in its discretion may order, as an additional civil penalty, that a violator make restitution to the municipality for such funds so expended.

- IV. The superior court may, upon a petition filed by a municipality and after notice and a preliminary hearing as in the case of prejudgment attachments under RSA 511-A, require an alleged violator to post a bond with the court to secure payment of any penalty or remedy or the performance of any injunctive relief which may be ordered or both. At the hearing, the burden shall be on the municipality to show that there is a strong likelihood that it will prevail on the merits, that the penalties or remedies sought are reasonably likely to be awarded by the court in an amount consistent with the bond sought, and that the bond represents the amount of the projected expense of compliance with the injunctive relief sought.
- V. The building inspector or other local official with the authority to enforce the provisions of this title or any local ordinance, code, or regulation adopted under this title may commence an action under paragraph I either in the district court pursuant to RSA 502-A:11-a, or in the superior court. The prosecuting official in the official's discretion may, prior to or at the time of arraignment, charge the offense as a violation, and in such cases the penalties to be imposed by the court shall be limited to those provided for a violation under RSA 651:2 and the civil penalty provided in subparagraph I(b) of this section. The provisions of this section shall supersede any inconsistent local penalty provision.

Source. 1983, 447:1. 1985, 103:25; 210:4. 1988, 19:6, 7. 1996, 226:5, 6. 1997, 92:4, 5. 2004, 242:1. 2006, 101:1. 2009, 173:1, eff. Sept. 11, 2009.

677:15 Court Review

- I. Any persons aggrieved by any decision of the planning board concerning a plat or subdivision may present to the superior court a petition, duly verified, setting forth that such decision is illegal or unreasonable in whole or in part and specifying the grounds upon which the same is claimed to be illegal or unreasonable. Such petition shall be presented to the court within 30 days after the date upon which the board voted to approve or disapprove the application; provided however, that if the petitioner shows that the minutes of the meeting at which such vote was taken, including the written decision, were not filed within 5 business days after the vote pursuant to RSA 676:3, II, the petitioner shall have the right to amend the petition within 30 days after the date on which the written decision was actually filed. This paragraph shall not apply to planning board decisions appealable to the board of adjustment pursuant to RSA 676:5, III. The 30-day time period shall be counted in calendar days beginning with the date following the date upon which the planning board voted to approve or disapprove the application, in accordance with RSA 21:35.
 - (a) If an aggrieved party desires to appeal a decision of the planning board, and 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 under this section. If any party appeals any part of the planning board's decision to the superior court before all matters appealed to the board of adjustment have been resolved, the court shall stay the appeal until resolution of such matters. After the final resolution of all such matters appealed to the board of adjustment, any aggrieved party may appeal to the superior court, by petition, any or all matters concerning the subdivision or site plan decided by the planning board or the board of adjustment. The petition

shall be presented to the superior court within 30 days after the board of adjustment's denial of a motion for rehearing under RSA 677:3, subject to the provisions of paragraph I.

- (b) If, upon an appeal to the superior court under this section, the court determines, on its own motion within 30 days after delivery of proof of service of process upon the defendants, or on motion of any party made within the same period, that any matters contained in the appeal should have been appealed to the board of adjustment under RSA 676:5, III, the court shall issue an order to that effect, and shall stay proceedings on any remaining matters until final resolution of all matters before the board of adjustment. Upon such a determination by the superior court, the party who brought the appeal shall have 30 days to present such matters to the board of adjustment under RSA 676:5, III. Except as provided in this paragraph, no matter contained in the appeal shall be dismissed on the basis that it should have been appealed to the board of adjustment under RSA 676:5, III.
- II. Upon presentation of such petition, the court may allow a certiorari order directed to the planning board to review such decision and shall prescribe therein the time within which return thereto shall be made and served upon the petitioner's attorney, which shall not be less than 10 days and may be extended by the court. The allowance of the order shall stay proceedings upon the decision appealed from. The planning board shall not be required to return the original papers acted upon by it; but it shall be sufficient to return certified or sworn copies thereof, or of such portions thereof as may be called for by such order. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.
- III. If, upon the hearing, it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a referee to take such evidence as it may direct and report the same to the court with the referee's findings of fact and conclusion of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made.
- IV. The court shall give any hearing under this section priority on the court calendar.
- V. The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review when there is an error of law or when the court is persuaded by the balance of probabilities, on the evidence before it, that said decision is unreasonable. Costs shall not be allowed against the municipality unless it shall appear to the court that the planning board acted in bad faith or with malice in making the decision appealed from.

Source. 1983, 447:1. 1991, 231:14. 1995, 243:7, 8. 2000, 144:4. 2005, 105:2. 2009, 266:4. 2013, 179:1, eff. Aug. 31, 2013.

TOWN OF HANCOCK PLANNING BOARD

NOTICE OF DECISION

Issued September 9, 2026

Notice is hereby given that at the September 2, 2026, meeting, the Hancock Planning Board voted 3-1 to DENY the application for a conditional use permit (“CUP”) seeking approval to operate a Telecommunications Facility on the parcel owned by Brandon & Mary Pulido located at NH Route 123 (Stoddard Road) and Lee Farm Road (Map R11, Lot 11-1) in the Rural and Agricultural Zoning District, as presented by applicant Industrial Tower & Wireless, LLC (“ITW”). ITW submitted an application for a CUP dated May 18, 2026. The Planning Board held public hearings to consider the application on June 17, 2026, July 1, 2026, August 5, 2026, and September 2, 2026. ITW initially sought approval to construct a 150’ lattice tower structure; during the September 2nd hearing, that tower height was reduced to 120’.

Issuance of a CUP requires the applicant to satisfy each of the standards set forth in the Town Zoning Ordinance Section 20.1.1(1-8). Telecommunications Facilities Regulations, Section VII. One of those standards, at Town Zoning Ordinance Section 20.1.1.2, requires that the Planning Board make a finding that “[t]he proposed use would not adversely affect property values of neighboring properties”. To satisfy its burden, ITW provided a market study dated July 24, 2026 prepared by Mark Correnti (NH Certified Residential Appraiser, NHCR-460) of FairMarket Advisors, LLC (“the Correnti Report”). For the reasons stated in his report, Mr. Correnti opined that “the construction at the proposed location identified in this report will have no measurable impact on the price paid for surrounding property.” Correnti Report, pg. 43.

Prior to the August 5, 2026 hearing, the Planning Board received numerous submissions critical of the Correnti Report. At the Planning Board’s August 5, 2026 hearing, the Planning Board initially considered the Correnti Report and voted to have it subjected to a peer review, and following the August 5th hearing retained the services of Louis Manias (NH Certified General Appraiser, NHCG-5) of Capital Appraisal Associates, Inc.. Mr. Manias prepared a peer review report dated August 28, 2026 (“the Peer Review”).

At its September 5, 2026 hearing, the Planning Board heard testimony from Mr. Correnti, Mr. Manias, and members of the public regarding both the Correnti Report and the Peer Review. After considering the submissions and testimony of the public, Mr. Correnti, and Mr. Manias on the question of potential impact to property values, the Planning Board took the following actions:

- Board Member Jim Callihan stated that in his experience in real estate, nuanced, judgment-based analysis is often more accurate than purely numeric approaches, particularly with the diverse and unique housing stock of New England. He said that he

believed Mr. Manias' report was the most accurate. He also cited the data in the Correnti report as too old and the grouped pair approach used as too narrow. He also expressed concern about the inconsistencies in Correnti the report.

- Acting Chair Cummings stated his concurrence with the Manias report, citing the age of the Correnti data, the errors in the report, and the significance of Mr. Manias having identified a local Hancock example—the 437-day listing at 7 Spring Hill Road—that directly illustrated a potential cell tower impact was compelling. He also noted that the paired sales methodology was more persuasive to him.
- Selectboard Liaison Webster felt that Mr. Manias had a better handle on the situation and his approach of using paired analysis is more persuasive.
- Board Member MacNeely expressed a different view, stating she found the use of raw data more reliable. She also said that she was "tied up on the number of adjustments in Mr. Manias' work." She indicated she found the Correnti report more convincing on the methodology question.

Motion that ITW failed to satisfy the burden of Telecommunications Regulation Section 20.1.1.2—that the proposed use would not adversely affect property values—was made by Acting Chair Cummings and seconded by Board Member Jim Callihan.

Motion Passed 3 to 1, with Member MacNeely dissenting.

Motion that the Board deny the Conditional Use Permit application submitted by ITW for the installation of a cell tower along Route 123 and Lee Farm Road, based on ITW's failure to satisfy the requirement under Telecommunications Regulation Section 20.1.12 that the proposed use would not adversely affect property values, with factual findings as adopted, and that the Board would not proceed to consider the site plan review in light of that denial, was made by Acting Chair Cummings and seconded by Board Member Jim Callihan.

Motion passed 3 to 1, with Board Member MacNeely dissenting.

Motion was made by Board Member Jim Callihan and seconded by Selectboard Liaison Webster to adopt the following factual findings in support of denial of the Conditional Use Permit:

- (1) the data in the Correnti report was too old;
- (2) the Correnti report contained errors;
- (3) the Board preferred the paired sales analysis methodology used in the Manias peer review over the grouped data analysis methodology used in the Correnti report; and
- (4) the Board preferred the market value approach over the market price methodology.

Motion passed 3 to 1, with Board Member Rebecca MacNeely dissenting.

Following those votes, the Planning Board did not continue consideration of the remaining CUP standards, nor to consider the corresponding site plan application for the same project.

Joseph Cummings, Acting Chair
Hancock Planning Board

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

INDUSTRIAL TOWER and WIRELESS, LLC

Type text here

(b) County of Residence of First Listed Plaintiff Plymouth County, MA
(EXCEPT IN U.S. PLAINTIFF CASES)(c) Attorneys (Firm Name, Address, and Telephone Number) Steven E. Grill, Esq.
BOUTIN LOWMAN PLLC
PO Box 1013
118 Main Street
Meredith NH 03253
603.279.6192

Type text here

DEFENDANTS

TOWN OF HANCOCK, NEW HAMPSHIRE

Type text here

County of Residence of First Listed Defendant Hillsborough
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known) Steven M. Whitley, Esq.
Drummond Woodsum
670 Commercial Street
Manchester NH 03101
603.433.3317

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question
(U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity
(Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | ☐ 1 | ☐ 1 | Incorporated or Principal Place of Business In This State | ☐ 4 | ☐ 4 |
| Citizen of Another State | ☐ 2 | ☐ 2 | Incorporated and Principal Place of Business In Another State | ☐ 5 | ☐ 5 |
| Citizen or Subject of a Foreign Country | ☐ 3 | ☐ 3 | Foreign Nation | ☐ 6 | ☐ 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
☐ 110 Insurance	PERSONAL INJURY	☐ 625 Drug Related Seizure of Property 21 USC 881	☐ 422 Appeal 28 USC 158	☐ 375 False Claims Act
☐ 120 Marine	☐ 310 Airplane	☐ 690 Other	☐ 423 Withdrawal 28 USC 157	☐ 376 Qui Tam (31 USC 3729(a))
☐ 130 Miller Act	☐ 315 Airplane Product Liability		INTELLECTUAL PROPERTY RIGHTS	☐ 400 State Reapportionment
☐ 140 Negotiable Instrument	☐ 320 Assault, Libel & Slander		☐ 820 Copyrights	☐ 410 Antitrust
☐ 150 Recovery of Overpayment & Enforcement of Judgment	☐ 330 Federal Employers' Liability		☐ 830 Patent	☐ 430 Banks and Banking
☐ 151 Medicare Act	☐ 340 Marine		☐ 835 Patent - Abbreviated New Drug Application	☐ 450 Commerce
☐ 152 Recovery of Defaulted Student Loans (Excludes Veterans)	☐ 345 Marine Product Liability		☐ 840 Trademark	☐ 460 Deportation
☐ 153 Recovery of Overpayment of Veteran's Benefits	☐ 350 Motor Vehicle	LABOR	☐ 880 Defend Trade Secrets Act of 2016	☐ 470 Racketeer Influenced and Corrupt Organizations
☐ 160 Stockholders' Suits	☐ 355 Motor Vehicle Product Liability	☐ 710 Fair Labor Standards Act	SOCIAL SECURITY	☐ 480 Consumer Credit (15 USC 1681 or 1692)
☐ 190 Other Contract	☐ 360 Other Personal Injury	☐ 720 Labor/Management Relations	☐ 861 HIA (1395ff)	☐ 485 Telephone Consumer Protection Act
☐ 195 Contract Product Liability	☐ 362 Personal Injury - Medical Malpractice	☐ 740 Railway Labor Act	☐ 862 Black Lung (923)	☐ 490 Cable/Sat TV
☐ 196 Franchise		☐ 751 Family and Medical Leave Act	☐ 863 DIWC/DIWW (405(g))	☐ 850 Securities/Commodities/Exchange
		☐ 790 Other Labor Litigation	☐ 864 SSID Title XVI	☒ 890 Other Statutory Actions
REAL PROPERTY	CIVIL RIGHTS	☐ 791 Employee Retirement Income Security Act	☐ 865 RSI (405(g))	☐ 891 Agricultural Acts
☐ 210 Land Condemnation	☐ 440 Other Civil Rights	IMMIGRATION	FEDERAL TAX SUITS	☐ 893 Environmental Matters
☐ 220 Foreclosure	☐ 441 Voting	☐ 462 Naturalization Application	☐ 870 Taxes (U.S. Plaintiff or Defendant)	☐ 895 Freedom of Information Act
☐ 230 Rent Lease & Ejectment	☐ 442 Employment	☐ 465 Other Immigration Actions	☐ 871 IRS—Third Party 26 USC 7609	☐ 896 Arbitration
☐ 240 Torts to Land	☐ 443 Housing/Accommodations			☐ 899 Administrative Procedure Act/Review or Appeal of Agency Decision
☐ 245 Tort Product Liability	☐ 445 Amer. w/Disabilities - Employment			☐ 950 Constitutionality of State Statutes
☐ 290 All Other Real Property	☐ 446 Amer. w/Disabilities - Other			
	☐ 448 Education			
	PRISONER PETITIONS			
	Habeas Corpus:			
	☐ 463 Alien Detainee			
	☐ 510 Motions to Vacate Sentence			
	☐ 530 General			
	☐ 535 Death Penalty			
	Other:			
	☐ 540 Mandamus & Other			
	☐ 550 Civil Rights			
	☐ 555 Prison Condition			
	☐ 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 47 U.S.C. 332 (c)(7)

Brief description of cause:

Appeal from denial of permits necessary to construct a personal wireless telecommunications facility.

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

Declaratory and Injunctive Relief

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE _____ DOCKET NUMBER _____

DATE

October 2, 2026

SIGNATURE OF ATTORNEY OF RECORD

/S/ Steven E. Grill (NH Bar No. 7896)

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

UNITED STATES DISTRICT COURT

for the
District of New Hampshire

INDUSTRIAL TOWER AND WIRELESS, LLC

Plaintiff

v.

TOWN OF HANCOCK, NEW HAMPSHIRE

Defendant

Civil Action No.

WAIVER OF THE SERVICE OF SUMMONS

To: Steven E. Grill, Esquire

(Name of the plaintiff's attorney or unrepresented plaintiff)

I have received your request to waive service of a summons in this action along with a copy of the complaint, two copies of this waiver form, and a prepaid means of returning one signed copy of the form to you.

I, or the entity I represent, agree to save the expense of serving a summons and complaint in this case.

I understand that I, or the entity I represent, will keep all defenses or objections to the lawsuit, the court's jurisdiction, and the venue of the action, but that I waive any objections to the absence of a summons or of service.

I also understand that I, or the entity I represent, must file and serve an answer or a motion under Rule 12 within 60 days from 10/02/2026, the date when this request was sent (or 90 days if it was sent outside the United States). If I fail to do so, a default judgment will be entered against me or the entity I represent.

Date: _____

Signature of the attorney or unrepresented party

TOWN OF HANCOCK, NEW HAMPSHIRE

Printed name of party waiving service of summons

Steven M. Whitley, Esq.

*Printed name*Drummond Woodsum
670 N. Commercial Street
Manchester NH 03101*Address*

swhitley@dwmlaw.com

E-mail address

(603) 433-3317

Telephone number

Duty to Avoid Unnecessary Expenses of Serving a Summons

Rule 4 of the Federal Rules of Civil Procedure requires certain defendants to cooperate in saving unnecessary expenses of serving a summons and complaint. A defendant who is located in the United States and who fails to return a signed waiver of service requested by a plaintiff located in the United States will be required to pay the expenses of service, unless the defendant shows good cause for the failure.

"Good cause" does *not* include a belief that the lawsuit is groundless, or that it has been brought in an improper venue, or that the court has no jurisdiction over this matter or over the defendant or the defendant's property.

If the waiver is signed and returned, you can still make these and all other defenses and objections, but you cannot object to the absence of a summons or of service.

If you waive service, then you must, within the time specified on the waiver form, serve an answer or a motion under Rule 12 on the plaintiff and file a copy with the court. By signing and returning the waiver form, you are allowed more time to respond than if a summons had been served.

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UNITED STATES DISTRICT COURT

for the
District of New Hampshire

INDUSTRIAL TOWER AND WIRELESS, LLC

Plaintiff

v.

TOWN OF HANCOCK, NEW HAMPSHIRE

Defendant

Civil Action No. 1:26-cv-00808-JL-TSM

NOTICE OF A LAWSUIT AND REQUEST TO WAIVE SERVICE OF A SUMMONS

To: Town of Hancock, New Hampshire, c/o Steven M. Whitley, Esquire

*(Name of the defendant or - if the defendant is a corporation, partnership, or association - an officer or agent authorized to receive service)***Why are you getting this?**

A lawsuit has been filed against you, or the entity you represent, in this court under the number shown above. A copy of the complaint is attached.

This is not a summons, or an official notice from the court. It is a request that, to avoid expenses, you waive formal service of a summons by signing and returning the enclosed waiver. To avoid these expenses, you must return the signed waiver within 30 days (*give at least 30 days, or at least 60 days if the defendant is outside any judicial district of the United States*) from the date shown below, which is the date this notice was sent. Two copies of the waiver form are enclosed, along with a stamped, self-addressed envelope or other prepaid means for returning one copy. You may keep the other copy.

What happens next?

If you return the signed waiver, I will file it with the court. The action will then proceed as if you had been served on the date the waiver is filed, but no summons will be served on you and you will have 60 days from the date this notice is sent (see the date below) to answer the complaint (or 90 days if this notice is sent to you outside any judicial district of the United States).

If you do not return the signed waiver within the time indicated, I will arrange to have the summons and complaint served on you. And I will ask the court to require you, or the entity you represent, to pay the expenses of making service.

Please read the enclosed statement about the duty to avoid unnecessary expenses.

I certify that this request is being sent to you on the date below.

Date: 10/02/2026/s/Steven E. Grill, Esquire*Signature of the attorney or unrepresented party*Steven E. Grill*Printed name*

BOUTIN LOWMAN, PLLC
PO Box 1013, 118 Main Street
Meredith, NH 03253

*Address*sgrill@boutinlaw.com*E-mail address*603-279-6192*Telephone number*

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