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For Public Hearing on October 15, 2015

City of Manchester, New Hampshire Subdivision and Site Plan Regulations



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TABLE OF CONTENTS

	Page
I. GENERAL PROVISIONS	
1.1 Authority and Jurisdiction	1
1.2 Applicability	1
1.3 Policy and Objectives	1
1.4 Interpretation, Conflict and Separability	2
1.5 Saving Provision	2
1.6 Waivers and Modifications	3
1.7 Enforcement, Penalties and Appeals	3
1.8 Amendment	4
II. DEFINITIONS	4
III. PRE-APPLICATION PROCESS	
3.1 Preliminary Review and Submission	9
3.2 Design Review and Submission	9
IV. FORMAL APPLICATION PROCESS	
4.1 Formal Application Required	10
4.2 Formal Application Not Required	11
4.3 Submission of Complete Application	11
4.4 Acceptance of Application	12
4.5 Technical Review	12
4.6 Conservation Commission	12
4.7 Postponed Applications	13
4.8 Submission of Revised Application Materials	13
4.9 Hearing	13
4.10 Extension of Time	13
4.11 Board Consideration and Action	14
4.12 Notice of Decision	14
4.13 Conditions of Approval	14
4.14 Financial Guarantees	15
4.15 Recording and Filing of Plans	17
V. GENERAL REQUIREMENTS FOR SUBDIVISIONS	
5.1 Board Review and Findings	17
5.2 Streets	18
5.3 Lots	20
5.4 Area of Special Flood Hazard	20
5.5 Natural Features and Amenities	21
5.6 Wetlands and Vernal Pools	21
VI. DESIGN CRITERIA AND SPECIFICATIONS FOR SUBDIVISION IMPROVEMENTS	
6.1 General	22
6.2 Street Construction and Design	22
6.3 Sanitary Sewers	22
6.4 Storm Drainage	23
6.5 Pedestrian Walks and Curbing	23
6.6 Survey Monuments and Bounds	23

6.7	Easements	24
6.8	Land Grading, Slope Control, and Surface-Water Drainage	24
6.9	Street Dedication	24
6.10	Street Lighting	25
6.11	Non-Municipal Utilities	25
6.12	Public Sites and Open Spaces	25
6.13	Other Improvements	25
6.14	Conditions During Construction	25
VII.	GENERAL REQUIREMENTS FOR SITE PLANS	
7.1	Review and Findings	26
7.2	Occupancy Permit	27
7.3	Driveway Permit	28
7.4	Department of Health	28
VIII.	DESIGN CRITERIA FOR SITE PLANS AND PLANNED DEVELOPMENTS	
8.1	Building and Site Design Standards	28
8.2	Pedestrian Walks and Curbing	29
8.3	Landscaping, Screening and Buffer Area Requirements	29
8.4	Land Grading, Slope Control, and Surface-Water Drainage	32
8.5	Tree Removal	33
8.6	Off-Street Parking and Loading Requirements	33
8.7	Outdoor Lighting	34
8.8	Signage	35
8.9	Wetlands and Vernal Pools	36
8.10	Area of Special Flood Hazard	36
8.11	Refuse Removal and Containers	37
8.12	Off-Site Improvements	37
8.13	Utility Boxes, Condensers, Generators, Etc.	37
8.14	Certified Sites	38
IX.	SPECIAL STUDIES REQUIRED	
9.1	General	38
9.2	Traffic Impact Studies	38
9.3	Soil Samples and Core Studies	42
9.4	Additional Studies	43
	APPENDICES	
A.	Planning Board Application Fees	44
B.	Application Checklist for Subdivision Review	47
C.	Application Checklist for Residential and Non-residential Site Plan Review	52
D.	Street Dedication	57
E.	Landscape Planting Reference Lists	58
F.	Application Checklist for Conditional-Use Permit Review	65
G.	Application Checklist for Notices of Merger	69

I. GENERAL PROVISIONS

- 1.1 **Authority/Jurisdiction.** By authority of City and State enabling legislation, including RSA's 674:35 and 674:43, the Manchester Planning Board does hereby exercise the power and authority to enact regulations for the approval and disapproval of plans for the subdivision of land and development of non-residential and multi-family sites within the City of Manchester.
- 1.2 **Applicability.** These regulations shall apply to all subdivisions of land within the City, including the merger of lots and lot-line adjustments. These regulations shall also apply to the development or change or expansion of use of tracts for non-residential uses or for multi-family buildings, as well as all applications for conditional use permits or planned developments.
- 1.3 **Policy and Objectives.** The objective of these regulations is to protect the public health, safety, and welfare by ensuring the orderly, safe, aesthetically pleasing, and sustainable development of the City of Manchester. The subdivision and site-plan regulations provided herein, along with the City's zoning ordinance and master plan, are the primary tools for implementing the vision that Manchester's citizens have for their city and protecting the public's interest in the development of land. As such, these regulations are adopted in conformity with RSA's 674:36, 674:44, and other applicable laws for the purposes authorized therein, including:
 - (A) To ensure that land to be merged, subdivided or developed is of such character that it can be used safely for building purposes without danger to public health and safety and is accessible for fire, police and other emergency services.
 - (B) To promote a high standard of design that will result in aesthetically pleasing buildings, sites, and streetscapes that are harmonious with their surroundings and consistent with the goals of the City's master plan.
 - (C) To minimize adverse impacts on abutting interests and on the general public through proper site design, including lighting, signage, landscaping, and screening.
 - (D) To coordinate new development with public policy as reflected in codes, ordinances and other documents relating to the future development of the City.
 - (E) To coordinate public and private actions in providing for adequate and efficient multi-modal transportation, water, sewerage, drainage, schools, parks and other necessary public facilities.
 - (F) To promote safe pedestrian, multi-modal, and vehicular circulation within the development site and onto the adjacent street system by providing

streets, walkways, sidewalks, and access points of adequate width, grade, alignment and visibility.

- (G) To promote adequate off-street parking and loading and internal circulation in site plans to meet the needs of the proposed uses and to prevent on-street traffic congestion; to insure that all parking spaces, fire lanes and access points are properly designed and identified and that parking areas are provided with suitable islands, crosswalks and similar safety devices.
- (H) To ensure that an equitable share of costs of public facilities that are of primary benefit to new developments are provided for as part of those developments and are not imposed as a cost on the community at large.
- (I) To minimize the pollution of air, streams, ponds and groundwater by ensuring that all utilities are properly designed and installed and to encourage the wise use of natural resources.
- (J) To promote the use of sustainable design practices in new development by encouraging that buildings be designed and built in an energy conscious manner.
- (K) To promote proper legal description and monumentation of subdivided land and provide land records adequate for future use.
- (L) To avoid scattered or premature development that requires an excessive expenditure of public funds to provide services (including schools, transportation, or fire protection) to the development due to its inefficient location or use of land.

1.4 ***Interpretation, Conflict and Separability.*** The provisions herein shall be considered the minimum requirements for the protection of public health, safety and welfare. These regulations are not intended to interfere with the application of other laws or regulations or privately imposed restrictions. Where these regulations may differ from other applicable laws or regulations, whichever provisions are more restrictive or impose higher standards shall govern. If any part of these regulations is determined to be invalid, that determination will be construed applicable to that part only and the remainder of these regulations will be construed to continue in full force.

1.5 ***Saving Provision.*** These regulations amend the previous versions of the Subdivision Regulations and Non-residential Site Plan provisions of the Board. Adoption of these regulations is not intended to invalidate any approval or requirement of approval under those former regulations. The provisions of the former regulations shall be considered applicable to any matters currently before

the Board unless determined otherwise by agreement of the applicant and the Board.

- 1.6 ***Waivers and Modifications.*** Where extraordinary hardships or practical difficulties may result from strict application of these regulations, the Board may waive certain requirements provided the Board makes a finding that such a hardship exists, that substantial justice would be done by granting a waiver and the purpose and objectives of these regulations are not diminished. In addition, where an applicant can demonstrate to the Board's satisfaction that alternative or modified general design criteria and/or public improvement specifications would better serve to carry out the purpose and objectives of these regulations, the Board may approve such modifications in lieu of the specific requirements herein. The Board may consult with other departments which may be involved in alternate design specifications. All applications for waivers must be in writing. In approving a waiver or modification, the Board may require such conditions as it deems appropriate, and shall include in the approval action the reasons for approval as well as any conditions attached. The provisions of this Subsection shall not apply to the requirements of Subsection 5.4(A), nor shall they apply to the requirements of Subsection 8.10(A), both of which pertain to Special Flood Hazard Areas. [Amend: 9/26/91]

1.7 ***Enforcement, Penalties and Appeals.***

- (A) ***General.*** The Board shall enforce these regulations under the authority of NH RSA 676:15-17 and such other authorities as may be available to it.
- (B) ***Penalties.*** Any person who fails to comply with, or violates, any requirement of these regulations shall be subject to a fine of two hundred seventy-five (275) dollars for the first offense, and five hundred and fifty (550) dollars for any subsequent offense, for each day that such violation continues after the date on which notice of the violation is delivered to the property at which the violation has occurred or, if different, the address used by the City for tax billing on the property. In addition, any applicant or successor in interest who violates a condition of an approved site plan or subdivision shall be subject to the above fines and a revocation of the Planning Board's approval, pursuant to RSA 676:4-a and 676:17.
- (C) ***Civil Enforcement.*** Appropriate actions may be taken by law or in equity to prevent any violation of these regulations in order to prevent unlawful construction, to recover damages, to restrain, correct or abate a violation, or to prevent illegal occupation of a structure or premises. These remedies shall be in addition to the penalties described above.
- (D) ***Appeals.*** Any person aggrieved by any decision of the Board may appeal therefrom to the Superior Court as provided for in NH RSA 677:15, signed and notarized statement on a form available in the office of the Board.

- 1.8 ***Amendment.*** These regulations may be amended by the Board in accordance with applicable State laws, including RSA 675. Prior to amendment, a public hearing shall be held on the proposed amendment. Amendments shall only be enacted by an affirmative vote of a majority of the Board. The Chairman of the Board or his designee shall provide the City Clerk with a copy of the revised regulations that has been signed by the Board members who voted on its approval. A copy of the amended regulations should be provided to the New Hampshire Office of Energy and Planning.

II. DEFINITIONS

For the purpose of these regulations, certain abbreviations, terms and words used herein shall be interpreted and defined as set forth in this section. Unless the context clearly indicates to the contrary, words used in the present tense include the future tense; words used in the plural include the singular; and the word herein means in these regulations. A "person" includes a corporation, partnership, and an incorporated association of persons. "Shall" is always mandatory. A "building," "structure," or "lot" includes any part thereof. "Used" or "occupied," as applied to any land or building, shall be construed to include the words intended, arranged, or designed to be used or occupied.

Abutter - Shall be as defined in NH RSA 672:3 and as may be amended which is currently as follows: any person whose property adjoins or is directly across the street or stream from the land under consideration.

Adjoining - Abutting or contiguous

Alteration - Any change, addition or modification in construction, use or occupancy of the existing structure

Alley - A way, either public or private, that is less than thirty feet in right-of-way width and that provides secondary access to a parcel with frontage on a public or private street.

Applicant/Developer - The owner of land to be subdivided or otherwise improved or his agent or representative as he may authorize in writing

Area of Special Flood Hazard - The land in the flood plain within the City of Manchester subject to a 1 percent or greater chance of flooding in any given year. The area is designated as Zones A or AE on the Flood Insurance Rate Map

Board - Shall mean the City Planning Board of the City of Manchester, New Hampshire

Buffer or Buffer Strip - A strip of land along a property line or zoning district boundary line which shall be free of any building or use other than natural woody growth, landscaping or screening

Building - Any structure built for the purpose of support, shelter, or enclosure of persons, animals, or movable property of any kind

Cul-de-Sac - A local street closed at one (1) end by building lots and is not planned for extension in the future

Dedication - A gift, by the owner, of his property to another party without any consideration being given for the transfer. Since a transfer of property is involved, the dedication is made by written instrument and is completed with an acceptance.

Development - Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations

Drip line - The outer edge of a tree or shrub, the point where water would drip to the ground from the outer leaves of a plant. The ground within the drip line is known as the drip zone

Driveway - An access for vehicles from a parking space, a garage, or other structure on a lot to a public or private street

Dwelling - A building or portion thereof used exclusively for residential occupancy, including single family, two family, and multifamily dwellings, but not including hotels, lodging facilities, or rooming houses

Dwelling, Two Family - A detached building used exclusively for occupancy by two (2) families living independently of one another

Dwelling Unit - One or more rooms containing private bath, cooking and kitchen facilities, and sleeping quarters for the use of one or more individuals living as a single housekeeping unit

Easement - Restriction by a property owner for the use by another, and for a specific purpose, or any designated part of his property

Engineer - A person currently registered and licensed by the New Hampshire Board of Professional Engineers to practice civil engineering

Flood Insurance Study (FIS) - An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e. mudflow) and/or flood-related erosion hazards

Foot-Candles - A unit of measure for illuminance, the illumination level is equal to the amount of light generated by one candle shining on one square foot of surface, one foot away. Also equal to one lumen per square foot on a surface

Frontage - The linear distance of any one property line of a lot, which abuts a legally accessible accepted public street, as classified by RSA 229:5

Full Cut-off Type Fixture - A luminaire or light fixture that, by design of the housing, does not allow any light dispersion or direct glare to shine above a 90-degree horizontal position

Landscaping - The improvement of a lot, parcel, or tract of land with living materials such as grass, shrubs, flower beds, or trees. Landscaping may also include, as accessories to the living materials, pedestrian walks, decorative hardscapes (not including asphalt or plain concrete), furniture, and statuary.

Light Trespass - The shining of light beyond the subject property boundary

Lot - A tract, plot, or portion of a subdivision or other parcel of land intended as a unit for the purpose, whether immediate or future, of transfer of ownership or for building development

Lot Coverage - The area within a lot that is covered by impervious surface, expressed as a percentage of the total lot area

Lot-Line Adjustment - A type of subdivision in which a lot boundary is moved, but no new lots are created and no existing lots change from unbuildable to buildable

lumens - A measurement of light equaling one foot-candle per square foot

Multi-Family - A type of building containing four (4) or more dwelling units

Open Space, Usable - That area of a lot exclusive of the portions encumbered by steep slopes (25% or more), delineated wetlands, water bodies or regulatory floodways and those portions occupied by buildings or impervious surfaces, except where such surfaces compromise recreational amenities

Owner - Any person, group of persons, firm or firms, corporation or corporations, or other legal entity having title to or sufficient propriety interest in the land sought to be subdivided or developed

Ownership, Same - Ownership by the same person, corporation, firm, entity, partnership, or unincorporated association, or ownership by different corporations, firms, partnerships, entities, or unincorporated associations

Planned Development - Any development involving the construction or creation of two or more principal buildings on a single lot, developed as a whole in a single development operation, or in a series of planned development phases

Sign - Any device that is sufficiently visible to persons not located on the lot where such device is located, and designed to attract the attention of such persons or communicate information to them about products, accommodations, services, or activities on the lot where the device is located

Single-Family Dwelling - A type of building having one dwelling unit

Site Plan - A plan for the development of non-residential and multi-family residential projects

Standard Specifications - The specifications for public improvements prepared by the Manchester Highway Division of DPW

Street, Private - A way that affords access to site development but does not meet the definition of "public street." Private streets shall be of suitable location, width, grade, and improvement to accommodate prospective traffic and afford satisfactory access to police, fire-fighting, emergency equipment, snow-removal, sanitation, and road-maintenance equipment.

Street, Public - A way that is over thirty feet in right-of-way width that is dedicated or devoted to public use by legal mapping by the user, or by any other lawful procedure, and includes any avenue, boulevard, parkway, road, land, public square, highway, and similar public ways that afford principal access to an abutting lot.

Street Tree - Any tree located along or within a public right-of-way

Structure - Any combination of materials for occupancy or use constructed, erected or installed which requires location on the ground or attachment to something having a location on the ground such as a building, bridge, tower, framework, tank, tunnel, tent, stadium, platform, shelter, pier, wharf, bin, sign, fences and retaining walls over six (6) feet in height, or the like

Subdivider - Any person, firm, or corporation who, having an interest in land, causes it, directly or indirectly, to be divided

Subdivision - Shall be as defined in NH RSA 672:14, as may be amended, which is currently as follows: the division of a lot, tract, or parcel of land into two or more lots, plats, sites, or other divisions of land for the purpose, whether immediate or future, of sale, rent, lease, condominium conveyance or building development. It includes re-subdivision and, when appropriate to the context, relates to the process of subdividing or to the land or territory subdivided. The division of a parcel of land held in common and subsequently divided into parts among the several owners shall be deemed a subdivision.

Subdivision Plat - A map of a subdivision prepared in a form suitable for filing under these regulations and in the Hillsborough County Registry of Deeds

Surveyor - A person currently registered and licensed by the New Hampshire Board of Land Surveyors to practice land surveying

Through Lots - A lot other than a corner lot which has frontage on two or more streets

Traffic-Impact Letter - A simple analysis of the traffic impacts of a proposed development, as further defined in Subsection 9.2(B)

Traffic-Impact Study - An analytical document prepared by a professional traffic operations engineer (PTOE) to measure the impact of a proposed development on the existing and future transportation network, as further defined in Subsection 9.2(C)

Uplighting - Any light source that distributes illumination above a 90-degree horizontal plane

Vernal Pool - For a complete definition, please see New Hampshire Department of Environmental Services regulations Env-Wt 101.106, 75, and 86. In summary, a vernal pool is a surface water or wetland that provides breeding habitat for amphibians and invertebrates that have adapted to such environments and cycles from flooded to dry conditions.

Wetland - As defined in RSA 482-A:2, a wetland is an area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal conditions does support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include, but are not limited to, swamps, marshes, bogs, and similar areas.

Yard - The entire open space that lies between the principal building or buildings and the lot or street lines

III. PRE-APPLICATION PROCESS (OPTIONAL)

The pre-application process is available for all proposed applications, including site plans, subdivisions, and planned developments.

3.1 *Preliminary Review and Submission.*

- (A) *Preliminary Concept Review.* Board staff is available to meet with an applicant to review the concept of any anticipated submission. Such meetings are encouraged prior to any investment in planning or engineering of the proposal. Meetings are intended to aid the applicant in developing a project proposal that is consistent with city standards and regulations. These meetings are not before the Planning Board, and therefore do not require public notice.
- (B) *Preliminary Plan Submission.* Applicants are encouraged to submit a preliminary plan for review and comment. The intent of a preliminary plan submission is to enable the applicant and staff to review, discuss and evaluate a proposed application at a time when modifications will not result in substantial loss of engineering or surveying costs. When meeting with staff for a preliminary concept review, applicants should bring a preliminary plan that shows all pertinent details, including square footage of existing and proposed lots, existing and proposed structures, adjacent streets and property boundaries, and all significant natural features. The requirements for formal applications shall not apply.

3.2 *Design Review and Submission.*

- (A) *Design Review.* An applicant may request a nonbinding consultation with the Planning Board to discuss a potential subdivision. These discussions may involve design and engineering specific to the site, although surveys and plans are not required to be at finished levels with stamps of surveyors, scientists, or design professionals. Statements made by planning board members shall not be the basis for disqualifying said members or invalidating any action taken.
- (B) *Submission for Design Review.* Requests for design discussions with the Planning Board must be made in writing and must be accompanied by fifteen (15) copies of any plans or drawings that the applicant intends to discuss with the Board. These plans or drawings should include pertinent details of the plan, such as the square footage of all existing and proposed lots, existing structures, adjacent streets, property boundaries, building envelopes, zoning districts, and all significant natural features. Submissions must also include a list of all abutters to the property and a check to cover the cost of legal notice to all abutters, as required by Appendix A. All materials must be submitted at least fifteen (15) days

prior to the meeting at which the discussion will occur. No fees, other than for abutter notice, shall be required for design review.

IV. FORMAL APPLICATION PROCESS

This section applies to all activities listed in Subsection 4.1, unless otherwise noted.

4.1 *Formal Application Required*

Formal applications to the Planning Board, and final approval by the Board, are required prior to proceeding with any of the following activities:

- (A) Subdivision applications shall be required for the following activities:
 - (1) Subdivisions, as defined in these regulations
 - (2) Lot-line adjustments
- (B) Site-plan applications shall be required for the following activities:
 - (1) New construction of non-residential buildings or uses.
 - (2) New construction of multi family structures.
 - (3) Additions, renovations, or changes of use to existing non-residential or multi-family structures that result in one or more of the following:
 - (a) A net gain of more than 1,000 square feet or two dwelling units;
 - (b) An increase in impervious area of greater than ten percent (10%);
 - (c) An increase of greater than ten percent (10%) of the minimum required parking spaces; or
 - (d) An increase in traffic on or around the site of more than 50 vehicles during peak hour or 100 vehicles per day, based on the most recent edition of the Trip Generation Manual of the Institute of Transportation Engineers.
 - (4) Modification of a previously approved site plan.
 - (5) Any other multi-family or non-residential project which, in the determination of the Planning Board, warrants site plan review due to change or expansion of use of a site including but not limited to changes in use which may affect traffic and other public safety issues, changes in grading which may affect storm water runoff, expansion of asphalt pavement, impacts to abutting properties, or alteration of access to public streets.
- (C) Planned developments, as defined and codified in the City of Manchester Zoning Ordinance
- (D) Conditional uses, as defined and codified in the City of Manchester Zoning Ordinance

4.2 ***Formal Application Not Required***

Formal applications to the Planning Board are not required prior to proceeding with the following activities:

- (A) Voluntary lot mergers -- See Appendix G for submission requirements
- (B) Activities that do not meet any of the criteria listed in Subsection 4.1.

4.3 ***Submission of Complete Application.***

- (A) The submission of a formal application shall include all materials required by Appendix B for subdivisions or Appendix C for site plans and planned developments. A complete application shall be submitted by the applicant to the Planning and Community Development Department consistent with the Department calendar as adopted by the Planning Board each year to permit adequate time for review and compliance with notice requirements. The applicant and abutters shall be notified of the placement of the application on the Board agenda in accordance with NH RSA 676:4.
- (B) An application must comply with the Zoning Ordinance by the business meeting on which the Planning Board rules on completeness of the application. If an application requires a variance or other ruling from the Zoning Board of Adjustment to comply with the Ordinance, the applicant must receive a favorable ruling from the ZBA prior to the business meeting at which the Planning Board will determine completeness. It is the responsibility of the applicant to notify the Planning Board's staff of any pending applications before the ZBA.
- (C) The Planning Board shall rule on an application's completeness within 30 days of the applicable submission deadline or at the next regular meeting for which notice can be adequately provided, unless the applicant requests postponing completeness review.
- (D) If the Planning Board determines that the application is incomplete, the Board shall provide the applicant with a written decision that describes the information that is necessary to complete the application. Once the applicant provides all information required for a complete application, the application shall be placed on the next regularly scheduled meeting of the Board that is at least 5 business days from the date of submission. Upon a ruling from the Board that an application is incomplete, the applicant shall have 90 days to file a completed application. If a completed application is not filed within 90 days of the Board's ruling, the application shall be withdrawn without further review from the Board and without prejudice. The applicant may re-file a new application subsequent to withdrawal, but it will require new fees.

4.4 ***Acceptance of Application.*** Upon a determination by the Planning Board that an application is complete, the Board will then rule on the acceptance of the application. The determination of completeness and decision to accept may occur at separate meetings, so long as they occur within 30 days of the applicable submission deadline, as shown on the PCD Calendar. In addition to other reasons for not accepting an application, the Board will not accept an application when:

- (A) It is incomplete.
- (B) The property is involved in litigation and the outcome of such litigation may materially affect the decision of the Board.
- (C) The proposed application does not meet the requirements of the Zoning Ordinance of the City of Manchester. The Board may accept the application if a variance request is pending before the Board of Adjustment, and such Board has requested that the Planning Board act first on an application. Any Planning Board action in these instances would be conditioned upon Board of Adjustment action.

After acceptance, the Board or staff may determine that additional information is necessary, such as special studies.

4.5 ***Technical Review.*** The staff shall transmit copies of the application and supplemental materials to applicable city and state review agencies requesting review and recommendations. The City departments and divisions usually involved in review are Planning and Community Development, Fire, Highway, and Water Works. As may be warranted depending on the scope of the project, representatives of the Traffic, Airport Authority, Health Department, Public Building Services, School District, Police Department, Parks, Recreation and Cemeteries or other departments or commissions may be invited to participate in the review.

4.6 ***Conservation Commission.*** In addition to appearing before the Planning Board, an application for a subdivision, site plan, or planned development may also require an appearance before the Manchester Conservation Commission. At the business meeting at which the Board determines whether an application is complete or has regional impact, the Board shall also note whether an application requires comment from the Commission. The Board shall request such comment if the property in question has any of the following characteristics:

- (A) A wetland, vernal pool, or the 25-foot buffer of a wetland exists on the property;
- (B) The property contains, or lies within 100 feet of, a river, brook, lake, or pond; or

- (C) The application has the potential for significant environmental impacts, as determined by the Board.

Unless the Board votes otherwise, the Board shall not render a decision on a subdivision, site-plan, or planned-development application until the Board has received comment from the Commission on an application with any of the above-listed characteristics.

Applicants are welcome to meet with the Commission earlier than required by the Board. Please refer to the Commission's bylaws for submission requirements. Notwithstanding the Commission's standard deadline for submissions, applicants required to appear before the Commission by the provisions herein need only submit application materials to the Commission two Mondays prior to the Commission's meeting.

- 4.7 ***Postponed Applications.*** An application that has been postponed prior to the public hearing at the request of the applicant shall be withdrawn automatically, without further review from Planning Staff or the Planning Board, after six months from the date of requested postponement. A new application, and new fees, shall be required for any further consideration of the application.
- 4.8 ***Submission of Revised Application Materials.*** All information that an applicant wishes the Planning Board to consider at a meeting shall be submitted to staff by the Thursday prior to the meeting (1 week before), to provide sufficient time for the Board staff and to review the new information. The Planning Board shall not consider any subsequently submitted material or information at the next meeting.
- 4.9 ***Hearing.*** No application shall be acted upon by the Board without a public hearing, except applications for voluntary mergers of lots, which are handled by the Board's staff designee. The public hearing may be held at the meeting at which the application is accepted. The applicant and abutters shall be notified not less than ten (10) days prior to the date of the hearing in accordance with NH RSA 676:4. If the completed application is approved with one or more conditions which are to be fulfilled prior to approval and that may, in the opinion of the Board, pertain to abutting interests, the Board may hold a subsequent compliance hearing to determine whether the applicant has complied with the conditions. The Board shall specify whether such a hearing will be held as part of their action in any Conditional approval. Notice and time limitations prescribed herein shall apply to any such compliance hearing.
- 4.10 ***Extension of Time.*** The applicant may seek in writing an extension of time for Board action on an application. The Board may grant an extension of time mutually agreeable to the applicant and the Board. If the Board does not receive a written request for an extension of time, the Board shall render a decision in accordance with the time provision of NH RSA 676:4.

- 4.11 ***Board Consideration and Action.*** Within sixty-five (65) days of the Board's determination that the application is complete, the Board shall take one of the following actions: (1) grant final approval of the application, (2) grant conditional approval of the application with such conditions as the Board may deem consistent with the purposes herein, or (3) disapprove the application.
- 4.12 ***Notice of Decision.*** Upon ruling on an application, the Board or its designee shall mail a written notice of its decision to the applicant's agent, or the applicant, if no agent was listed on the application. If the Board approves the application, the notice shall specify the conditions, conveyances, dedications, or other requirements of final approval. Following final approval, the Board shall provide written notice of the action to the applicant, and notify the relevant departments of pertinent information, such as lot numbers and street addresses. If the Board disapproves an application, the Board shall notify the applicant of such action and shall state the reasons for such action in accordance with NH RSA 676:4.
- 4.13 ***Conditions of Approval.***
- (A) The Board may grant approval of an application subject to conditions that the applicant must meet either before or after final approval. The completion of both conditions precedent and conditions subsequent may be certified by the Board's designee without a public hearing, unless otherwise stated. If the applicant fails to meet the conditions of approval in the time specified herein or specified by the Board, then approval for the application shall expire.
 - (B) For conditions precedent to final approval, the conditions must be met within one year of the date on which the Board conditionally approved the application, unless otherwise stated.
 - (C) For conditions subsequent to final approval, the conditions must be met within 24 months of the date of final approval, unless otherwise stated.
 - (D) For phased developments, the Board may grant additional time for the completion of each phase. Unless otherwise agreed to by the Board, no proposed development shall take longer than 6 years to meet all conditions of approval.
 - (E) Upon expiration of the period in which conditions shall be met, the Board shall hold a public revocation hearing. The purpose of the revocation hearing shall be to determine whether circumstances beyond the control of the applicant led to the applicant's noncompliance. Absent such a finding by the Board, the Board shall revoke its approval of the application. Upon revocation, the property owner may submit a new application.

- (F) No final certificate of occupancy shall be issued until all conditions of approval have been met. For phased developments, certificates of occupancy may be issued upon the completion of the conditions applicable to each phase, unless otherwise stated.
- (G) Applicants may request amendments to conditions of approval, including extensions for the completion of conditions of approval. Requests for amendments to conditions shall be heard by the Board at a public hearing. Requests shall be submitted in writing to staff by the submission deadline posted on the Planning and Community Development Department Calendar. The Board shall base its decision regarding the request to amend a condition on whether circumstances surrounding the fulfillment of the condition have significantly changed since the condition was imposed. Regarding extensions, any single extension for conditions precedent shall not exceed 3 months, and any single extension for conditions subsequent shall not exceed 12 months. The number of extensions shall not exceed 4 per application.

4.14 **Financial Guarantees.** The Board may grant final approval to an application prior to the installation of all improvements shown on the plan or otherwise made conditions of approval. For final approval to occur in such a manner, the applicant is required to submit a financial guarantee securing the installation of any outstanding improvements in conformity with the plan and conditions of approval. The financial guarantee shall ensure the installation of improvements without cost to the City and in accordance with these regulations and conditions of final approval.

- (A) **Amount of Financial Guarantee.** The amount of the financial guarantee shall be the estimated cost of satisfactory completion of all outstanding, required, on- and off-site improvements shown on the plan proposed for final approval. For proposed streets or work within the public right-of-way, the estimate shall be prepared by the Highway Division and other relevant City Departments. For all other improvements, such as on-site improvements, the applicant shall provide estimates for review by Planning and other staff.
- (B) **Type of Financial Guarantee.** The Board will accept the following types of financial guarantees:
 - (1) Cash, which shall be deposited with the City in an interest-bearing escrow account;
 - (2) An irrevocable letter of credit drawn on a federally insured bank, chartered under the laws of New Hampshire or the United States, with a branch within the State of New Hampshire. The letter of credit shall be signed by the applicant or property owner and a bank representative, written on the bank's letterhead, and made payable to City of Manchester; or

- (3) A surety bond issued by a surety company authorized to do business in New Hampshire and with an office in New Hampshire. The surety bond shall be signed by the applicant or property owner and the surety company's representative, written on the surety company's letterhead, and made payable to the City of Manchester.

Prior to the acceptance of any financial guarantee, the Finance Department and other City agencies may determine whether the issuer of the guarantee is sufficiently solvent and an acceptable credit risk. If the City, in its discretion, determines that the issuer of the guarantee is not an acceptable credit risk, the applicant shall be required to provide a financial guarantee from a different issuer.

- (C) *Legal Review.* All financial guarantees shall comply with all statutory requirements and shall meet the satisfaction of the City Solicitor's Office if legal review is requested by the Planning and Community Development Department.
- (D) *Description of Work to be Completed.* All financial guarantees shall specifically state the work necessary to be performed to satisfactorily complete the on- and off-site improvements shown on the plan proposed for final approval or otherwise made conditions of approval. Such description may be incorporated by reference to another document, such as a subdivision improvement agreement.
- (E) *Duration of Financial Guarantee.* All financial guarantees shall extend automatically, without amendment, for one-year periods after their expiration dates, if any. The extensions shall renew until all work described or referenced in the financial guarantee is completed.
- (F) *Release of Financial Guarantee.* Financial guarantees may be released, in whole or in part, following notice from relevant City Departments that required improvements have been installed in a satisfactory manner. Partial release of a financial guarantee shall be considered following receipt and approval of a revised estimate of the cost of the remaining improvements. The applicant shall submit as-built construction drawings to the Highway Division prior to release of the financial guarantee.
- (G) *City's Use of Financial Guarantee.* If the City finds that the developer has not installed improvements satisfactorily, has not completed those improvements within the approved time of completion, or has not maintained those improvements in a satisfactory condition, the City may provide notice to the developer and may take such further action or make such use of the financial guarantee as may be appropriate in the judgment of the City to complete those improvements.

4.15 *Recording and Filing of Plans.*

- (A) *Subdivisions.* Pursuant to RSA 676:3, all conditions subsequent to approval shall be noted on any plan to be recorded. Alternatively the Notice of Decision issued by the Board shall be recorded separately. The applicant shall record the approved plat at the Hillsborough County Registry of Deeds, notify the Board of the filing date within 30 days of signing, and provide staff with the plan number and book-and-page number of all recorded documents. The number of required copies for plans and mylars are stated in Appendix B.
- (B) *Site Plans and Planned Developments.* For final approval of plans and filing with the Planning and Community Development Department, applicants shall submit plans in accordance with Appendix C.

V. **GENERAL REQUIREMENTS OF SUBDIVISIONS**

The following provisions apply in addition to all others in these regulations, except Sections VIII and IX.

- 5.1 *Board Review and Findings.* In reviewing a subdivision application, the Board shall consider the criteria generally outlined in NH RSA 674:36 and shall consider the policies and purposes of these regulations. The Board may deny an application based on one or more of the following findings.
- (A) The land is undesirable for development purposes because of topography or flooding potential or adverse man-made development features.
 - (B) The subdivision as proposed would be scattered or premature insofar as it would involve danger or injury to health, public safety, or prosperity by reason of the lack of water supply, drainage, transportation, schools, fire and emergency services, or other public services, or necessitate an excessive expenditure of public funds for the supply of such services, pursuant to RSA 674:36.
 - (C) The proposed streets within the subdivision are not coordinated with other existing or planned streets or with the street map of the City of Manchester. The proposed streets are not suitably located and of sufficient design to accommodate access of emergency equipment.
 - (D) The proposed subdivision is not in conformance with the Zoning Ordinance and other ordinances that may apply.
 - (E) The method of ownership and maintenance of proposed usable open spaces is not adequate to protect the public interests.

- (F) The proposed subdivision would have a significant impact on the environment of the site or surrounding area in terms of water quality, storm drainage and air quality or other adverse physical impact (such as erosion, sedimentation and similar impacts).
- (G) The application is incomplete or requested materials necessary for review have not been submitted or the means of avoiding potential adverse effects has not been identified in a timely manner.
- (H) The proposal is inconsistent with the policies and objectives of these regulations or the criteria outlined in NH RSA 674:36 or is otherwise inconsistent with the spirit and intent of these regulations.

5.2 **Streets.** A well-planned street system should promote safety, help prevent congestion, and encourage walking, transit, and bicycling within the city. Good street design can promote community livability by emphasizing local travel needs and creating a safe, inviting space for community activity. All parts of a streetscape, including the street, sidewalks, street trees, signage system, street parking, utility structures, benches and other street furniture, street and pedestrian lighting, and cross walks shall be designed in a cohesive, attractive manner that blends with the project's surroundings and conforms to the Master Plan.

- (A) **Classification.** All existing and proposed streets and vehicular rights-of-way shown on the subdivision plan shall be classified by the Board into one of the following classifications:
 - (1) **Arterial Street.** A street of considerable length, designed primarily to carry high volumes of through traffic at higher speeds, to serve major traffic centers of activity and to interconnect the City.
 - (2) **Collector Street.** A street of medium length, primarily designed to carry some through traffic at medium speeds, to serve traffic between arterial and local streets and to connect adjacent neighborhoods.
 - (3) **Local Street.** A street of generally shorter length, primarily designed to carry local traffic at lower speeds and to provide access to abutting properties.
- (B) **Street Planning.** Proposed streets shall be planned in such a manner as to provide safe and convenient access to proposed lots and with due consideration for accomplishing an attractive layout and development of the land within the subdivision. Proposed local streets shall be planned to discourage through traffic, but also to provide a safe and convenient system for traffic and pedestrians in the subdivision. Local streets shall be planned where appropriate to provide for continuation of existing streets in adjoining areas and for projection into adjoining properties when subdivided. Proposed streets or rights-of-way which terminate in

temporary dead-ends may be projected into adjoining properties, but shall be carried to the boundary line. No reserve strips shall be permitted.

- (C) *Vertical and Horizontal Curves.* All changes in grade shall be connected by vertical curves of sufficient length to provide a smooth transition and proper sight distance. All horizontal curves shall be designed according to acceptable engineering standards and the Standard Specifications.
- (D) *Sight Distances.* Sight distances at intersections and at changes in grade shall be designed to be consistent with acceptable engineering standards. Sight distance calculations may be required when deemed necessary by the Planning Board or by the Standard Specifications.
- (E) *Cul-de-Sacs.* A permanent cul-de-sac street shall be no longer than one thousand (1,000) feet, subject to review by the Department of Public Works and the Fire Department. If a dead end street is of a temporary nature, a temporary facility for turn-around shall be provided and provisions made for future extension of the street. The cul-de-sac and temporary turnaround shall be designed according to the Standard Specifications.
- (F) *Intersections.* The following standards shall apply to street intersections:
 - (1) No more than two (2) proposed streets shall intersect at any one (1) point.
 - (2) Generally, arterial and collector street shall intersect at an angle of ninety (90) degrees, except that no local street shall intersect with another local street at an angle of less than sixty (60) degrees.
 - (3) Street jogs with centerline offsets of less than 150 feet shall not be permitted, except where the intersected street has separated dual drives without median breaks at either intersection.
 - (4) All intersecting street lines shall be rounded at the corner with a minimum radius of twenty-five (25) feet to the curb lines.
- (G) *Street Names and Street Address Numbers.* All streets, serving more than one (1) lot, shall be named, and shall bear names which are appropriate to the character of the City, and which do not duplicate or too closely approximate in spelling or sound existing street names. The continuation of an existing street shall have the same name. All proposed lots will be assigned a street address number by the Highway Division. All street names shall be reviewed and approved by the E-911 Coordinator at the Fire Department.

- 5.3 *Lots.* The area and frontage of proposed lots shall conform to the Zoning Ordinance and shall be of such shape, size, location, topography and character that buildings can be reasonably constructed.

- (A) Lots shall be of such character that they can be occupied and used for building purposes without danger to the health and safety of the occupants and the public. Any lot which is found to be unsuitable for building by reason of wetlands, water or flooding conditions, unsuitable soil, topography, ledge rock or other physical conditions shall be combined with another lot that is suitable, unless the developer demonstrates a solution to the specific problem that is acceptable to the Board. For purposes of this section, wetlands shall be as defined by State statutes and regulations. "Topography" shall include steep slopes where the average slope of the lot is over 25% or where specific areas of the lot have a slope over 25% which would limit the usefulness of required yard areas or limit ability to provide safe access to the street.
- (B) *Lot Dimensions.* In general, side lot lines shall be at right angles to street lines (or radial to curving street lines) unless a variation from this rule will give a better street or lot plan. Dimensions of corner lots shall be large enough to allow for erection of buildings, observing the minimum front yard setback from both streets. Depth and width of properties reserved or laid out for non-residential purposes shall be adequate to provide for the off-street parking and loading facilities required for the type of use and development contemplated, as established in the Zoning Ordinance. When lots equal or exceed by less than 15% the minimum dimensional standards of the Zoning Ordinance, the Board may prohibit lot configurations which do not conform to a standard square, rectangular or trapezoidal design and would reduce the usefulness of the lots required usable open space and yards.
- (C) *Through Lots.* Through lots should be avoided except where necessary to provide separation of residential development from traffic arterials or to overcome specific disadvantages of topography and orientation.
- (D) *Lots Near Interstate Rights-of-Way.* No lot shall be platted that allows for the construction of a residence within 100 feet of the property line of an Interstate Highway.

5.4 *Area of Special Flood Hazard.*

- (A) *Area of Special Flood Hazard.* All subdivisions having lands identified as special flood hazard areas in the "Flood Insurance Study for the county of Hillsborough, NH," dated September 25, 2009, or as amended, together with the associated Flood Insurance Rate Maps bearing the effective date of September 25, 2009, or as amended, which are hereby declared to be part of these Regulations by reference, shall meet the following requirements:
 - (1) The Board shall review the proposed subdivision to assure that all necessary permits have been received from those governmental

agencies from which approval is required by federal or state law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.

- (2) The Board shall require that all subdivision proposals greater than fifty (50) lots or over five (5) acres, whichever is lesser, include flood elevation data. Sufficient evidence (construction drawings, grading and land treatment plans) shall be submitted so as to allow a determination that:
- (a) All such proposals are consistent with the need to minimize flood damage;
 - (b) All public utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damage;
 - (c) Adequate drainage is provided so as to reduce exposure to flood hazards;
 - (d) Areas of Special Flood Hazard shall be preserved from any destruction or damage resulting from cleaning, grading, or dumping of earth, waste material, or debris; and
 - (e) There is no net loss of flood-storage area within the 100-year flood zone.

Notwithstanding the above requirements, the Board may, when deemed necessary for the public health, safety and welfare of present and future residents of the City, and when necessary for the conservation of water, drainage and sewer facilities, prohibit the subdivision of any portion of property which lies within the Area of Special Flood Hazard.

- (B) *Other Areas.* For any other brook, stream, or river not identified as a Special Flood Hazard Area, the Board may require the applicant to identify on the plan a channel encroachment line based on sound engineering calculations anticipating a 25-year storm or 100-year flood potential. Such areas shall be subject to the same restrictions as in (A) above.

5.5 *Natural Features and Amenities.* The Board may require that the applicant preserve and protect existing natural features and amenities that would add value to residential development or to the city as a whole, such as trees, scenic points, views, watercourses and falls, historic spots, rock-outcroppings, stone walls, and similar irreplaceable assets.

5.6 *Wetlands and Vernal Pools.* The location of all wetlands and vernal pools shall be shown on plans submitted for subdivision approval. Wetlands and vernal pools shall be field delineated and certified by a certified wetland scientist whose stamp shall appear on all plans showing wetlands and vernal pools.