

SITE PLAN REVIEW REGULATIONS of DURHAM, NEW HAMPSHIRE

SECTION 1: Authority and Purpose

1.01 Authority

Pursuant to the authority vested in the Durham Planning Board, by the legislative body of the Town of Durham, in accordance with previously adopted subdivision regulations under RSA 674:36, the Durham Planning Board is empowered under RSA 674:43 to review and approve or disapprove site plans. This review authority shall be applied to the development of tracts for non-residential uses and for multi-family dwelling units which are defined as any structure containing more than two (2) dwelling units per structure, whether or not such development includes a subdivision or re-subdivision of a site.

1.02 Purpose

The purpose of the Durham Site Plan Review Regulations, as authorized by RSA 674:44-II, is to:

A. Provide for the safe and attractive development 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 surface and groundwater;
- 3) Undesirable and preventable elements of pollution such as noise, smoke, soot, particulate or any other discharge into structures or adjacent properties;
- 4) Inadequate provisions for fire safety, prevention and control; and
- 5) Inadequate pedestrian and traffic plans.

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 to be of sufficient width to accommodate existing and prospective traffic and to afford adequate light, air and access for fire fighting 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; and

I. Prevent scattered and/or premature development.

SECTION 2: Title

These regulations shall be known and cited as the SITE PLAN REVIEW REGULATIONS OF DURHAM, NEW HAMPSHIRE, and supercede the Site Plan Regulations, Town of Durham, New Hampshire, Adopted December 12, 1990, as amended prior hereto, and such prior regulations are hereby rescinded.

SECTION 3: Words and Phrases

3.01 Word Usage

Words used in the present tense shall include the future; the singular includes the plural and the plural includes the singular; the word "building" shall include the word "structure", the word "shall" is mandatory; the word "may" is permissive. The word "person" includes an individual, partnership, firm, association, corporation, organization, or institution.

3.02 Definitions (Amended July 14, 2010)

Best Management Practices (BMP): Methods and means that have been determined to be the most effective, practical approaches of preventing or reducing pollution and detrimental impacts from stormwater runoff.

Buffer: A vegetated area or zone separating a development from a sensitive resource or neighboring property in which proposed development is restricted or prohibited.

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.

Disconnected Impervious Cover: The sum of the proposed areas of impervious cover and pavement that receive runoff and, by means of implementing BMPs and LID strategies, is designed to capture and filtrate the precipitation from a 1-inch 24-hour rain event.

Disturbance: Any activity that significantly alters the characteristics of the terrain in such a manner as to impede or alter the hydrology or natural runoff pattern, or creates an unnatural runoff.

Effective Impervious Area (EIA): The total impervious surface areas less the area of disconnected impervious cover.

Hydrologic Soil Group (HSG): A Natural Resource Conservation Service classification system in which soils are categorized into four runoff potential groups. The groups range from "A" soils, with high permeability and little runoff production, to "D" soils, which have low permeability rates and produce much more runoff.

Impervious Surface: A material with low permeability that impedes the natural infiltration of moisture into the ground so that the majority of the precipitation that falls on the surface runs off or is not absorbed into the ground. Common impervious surfaces include, but are not limited to, roofs, concrete or bituminous paving such as sidewalks, patios, driveways, roads, parking spaces or lots, and storage areas, compacted gravel including drives and parking areas, oiled or compacted earthen materials, stone, concrete or composite pavers, wood, and swimming pools.

Low Impact Development (LID): Site planning and design strategies intended to maintain or replicate predevelopment hydrology through the use of source control and relatively small-scale measures integrated throughout the site to disconnect impervious surfaces and enhance filtration, treatment, and management of stormwater runoff as close to its source as possible. Examples of LID strategies are pervious pavement, rain gardens, green roofs, bioretention

basins and swales, filtration trenches, and other functionally similar BMPs located near the runoff source.

Maximum Extent Practicable (MEP): To show that a proposed development has met a standard to the maximum extent practicable, the applicant must demonstrate the following: (1) all reasonable efforts have been made to meet the standard, (2) a complete evaluation of all possible management measures has been performed, and (3) if full compliance cannot be achieved, the highest practicable level of management is being implemented.

Native plants: Plants that are indigenous to the region, adapted to the local soil and rainfall conditions, and require minimal supplemental watering, fertilizer, and pesticide application.

Pavement: Areas of a site that are covered with pervious and/or impervious asphalt and concrete.

Porous Media: Material with open connected pore spaces that allows water to percolate through it such as granular soils, gravel, crushed stone, pervious pavements, and woven and non-woven geosynthetics.

Redevelopment: Any man-made change to previously improved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, and drilling operations.

Riparian: Referring to anything connected or immediately adjacent to the shoreline or bank of a stream, river, pond, lake, bay, estuary or other similar body of water.

Riparian buffer: The naturally vegetated shoreline, floodplain or upland forest adjacent to a surface water body. Riparian buffers provide stormwater control flood storage and habitat values. Wherever possible, riparian buffers should be sized to include the 100-year floodplain as well as steep banks and freshwater wetlands.

Runoff: Stormwater that does not infiltrate into the ground and flows toward a below-ground or surface discharge location.

Site: A lot, tract or parcel of land on which a development is located that includes but is not limited to the proposed area of disturbance and development activities.

Stormwater: Water that originates from precipitation events and accumulates on land.

Stormwater Management Plan: A written plan describing the proposed methods and measures to be implemented to prevent or minimize water quality and quantity impacts from stormwater associated with a development or redevelopment project both during and after construction. It identifies selected BMPs, LID source controls, and treatment practices to address those potential impacts, and contains the engineering design plans, specifications, and calculations of the management and treatment practices, and maintenance requirements for proper performance of the proposed practices.

Water Quality Treatment: the capture of sediment, nutrients, metals and hydrocarbons suspended in stormwater runoff from impervious surfaces before being conveyed to a storm sewer network or to another water quality treatment system. In most cases where no other local water body impairments exist, adequate treatment refers to documenting the treatment systems ability to remove 80% of the total suspended solids (TSS) on an annual basis. Where water quality impairments do exist adequate treatment refers to a system's ability to meet maximum load allocations or not further impair the receiving water.

Water Quality Volume (WQv): The storage volume needed to capture and treat the runoff from the 1-inch 24-hour rainstorm for a specific contributing area. WQv shall be calculated using the following equation:

$WQv = (P)(Rv)(A)$, where: $P = 0.083$ ft, $Rv =$ the unitless runoff coefficient, $Rv = 0.05 + 0.9(I)$, where $I =$ the percent impervious surface draining to the discharge point, in decimal form, and $A =$ total site area in square feet draining to the discharge point

SECTION 4: Interpretation

These Site Plan Review Regulations in no way relieve the developer or his/her agent from compliance with the Zoning Ordinance, Subdivision Regulations or any other ordinance which pertains to the proposed development.

The standards contained in these regulations shall be interpreted as minimum requirements, and compliance with said minimum requirements shall in no instance obligate the Planning Board to approve any particular application solely on that basis. Only after the Planning Board is fully satisfied that a proposed application is in accordance with the Master Plan and Town Ordinances will the application be approved.

SECTION 5: Application Procedures

5.01 Preapplication Review Phases (RSA 676:4II) An applicant may elect to forego or engage in preapplication review or either phase thereof.

A. Preliminary Conceptual Consultation Phase

- 1). The applicant may request a meeting with the Board to discuss a proposal in conceptual form and in general terms. Such preapplication consultation shall be informal and directed toward:
 - a. reviewing the basic concepts of the proposal,
 - b. reviewing the proposal with regard to the Master Plan and Zoning Ordinance,
 - c. explaining the local regulations that may apply to the proposal, and,
 - d. guiding the applicant relative to state and local requirements.
- 2). Preliminary conceptual consultation shall not bind the applicant or the Board. Such discussion may occur without formal public notice, but must occur only at a posted meeting of the Board.

B. Design Review Phase

- 1). Prior to submission of a completed application for Planning Board action, an applicant may request to meet with the Board for non-binding discussions beyond the conceptual and general, involving more specific design and engineering details of the potential application.
- 2). The Design Review phase may proceed only after identification of and notice to abutters; holders of conservation, preservation, or agricultural restrictions; and the general public as required by RSA 676:4 I(d).
(Amended July 15, 1998)
- 3). Persons wishing to engage in preapplication Design Review shall submit a "Request for Preapplication Review" (Attachment 2) and associated fees not less than 20 days before the regularly scheduled meeting of the Board. The request shall include:
 - a. a list of abutters and their addresses from municipal records not more than five days before submission,
 - b. a list of all holders of conservation, preservation, or agricultural preservation restrictions on the subject property, and
 - c. a check or cash to cover mailing and advertising costs.

(Amended July 15, 1998)

4). All discussion in the Design Review Phase shall be informal and non-binding. Statements made by Board members shall not be the basis for disqualifying said members or invalidating any action eventually taken on the application.

5). The Board shall not accept any submissions by the applicant at this time.

5.02 Formal Application

A. A formal application shall consist of the forms and data as shown in Section's 7, 9, and 10 of these regulations. It shall also include all fees required by the Town under the provisions of RSA 676:4, I(g).

B. Upon receipt of a formal application, the Director of Planning and Community Development will review it using the Site Plan Application Checklist. Within five (5) business days of submitting a formal application, the applicant shall meet with the Director of Planning and Community Development to discuss issues related to completeness and acceptance of the application. If this review discloses that all requirements specified on the Site Plan Application Checklist have not been met, the applicant will be notified in writing what specific items are still needed. When all requirements have been met, the application will be scheduled for submission to the Planning Board by placing it on the Board's agenda. (Amended May 8, 2002)

C. A formal application shall only be submitted to the Planning Board at a regular meeting after notification has been given as required by RSA 676:4,I(d). The Planning Board shall consider the application, and act to accept, reject or table it within 30 days of receipt of the completed application by the Board or its designee. Such action shall be by a majority vote of those Board members present. (Amended July 15, 1998)

D. Prior to the next regularly scheduled meeting of the Planning Board, the applicant, at the discretion of the Director of Planning and Community Development, shall meet with the appropriate Department Heads of the Town of Durham to discuss the implications the application will have on the various Departments of the town. (Amended May 8, 2002)

5.03 Action on a Formal Application

A. Once a formal application is accepted, the Planning Board must act on it within 90 days after receipt of the completed application by the Board or its designee. The Board shall consider the application at its regular meetings, or at workshop meetings if required, and a site visit will be scheduled. Additional reports or studies may be required by the Board, including but not limited to, high intensity soil survey, traffic, school, fiscal, and environmental

impact analyses, to allow the Board to make an informed and educated decision concerning the application. (Amended July 15, 1998)

- B. Prior to the approval of a site plan application, a public hearing shall be held as required by RSA 676:4 I(d) with notice given to the applicant; holders of conservation, preservation, or agricultural preservation restrictions; every engineer, architect, land surveyor, or soil scientist whose professional seal appears on the plan submitted to the Board; abutters, and the public.

(Amended July 15, 1998)

- C. The Board may apply to the Town Council for an extension of the 90 day time period, not to exceed an additional 90 days, before acting to approve, conditionally approve, or disapprove an application. An applicant may waive the requirement for Board action within the time period specified in these regulations and consent to such an extension as may be mutually agreeable.

- D. If the Board has not taken action on the formal application within 90 days after receipt of the completed application by the Board or its designee, and the Board has not obtained an extension, the applicant may obtain from the Town Council an order directing the Planning Board to act within 15 days. Failure of the Board to act on the order shall constitute grounds for the applicant to petition the Superior Court as provided in RSA 676:4,I(c).

(Amended July 15, 1998)

- E. The Board shall act to approve, conditionally approve, or disapprove the formal application within 90 days of receipt of the completed application by the Board or its designee. (see Attachment 4a). A conditional approval will be stated in the form of "Findings of Fact and Conditions of Approval" (see definitions). (Amended July 15, 1998)

- F. Approval of the application shall be certified by written endorsement on the plan and signed and dated by the Chair of the Board.

- G. A financial surety, adequate to cover the construction of all infrastructure improvements approved as part of the site plan application, shall be posted with the Town prior to signing the plan. The following financial sureties are acceptable to the Town: cash, passbook savings account in the Town's name, letter of credit, or a bond.

- H. If any application is disapproved, the grounds for such disapproval shall be adequately stated in the records of the Board and in written notice given to the applicant within 72 hours (see Attachment 4b). Applications may be disapproved by the Board without public hearing on the grounds of failure by the applicant to supply information or to pay fees as required by these regulations.

5.04 Notices

- A. Notice of a Design Review, submission of a formal application, or of a public hearing, shall be given by the Board to the abutters; holders of conservation, preservation, or agricultural preservation restrictions; every engineer, architect, land surveyor, or soil scientist whose professional seal appears on the plan submitted to the Board; and the applicant. The notice shall be provided by certified mail, and mailed at least ten (10) days prior to the meeting (see Attachment 3a). (Amended July 15, 1998)
- B. The public shall be given notice at the same time, by posting in two public places and in a paper of general circulation in the Town.
- C. The notice shall give the date, time, and place of the Planning Board meeting at which the application or other item(s) will be formally submitted to the Board, shall include a general description of the proposal which is to be considered, and shall identify the applicant and the location of the proposal (see Attachment 3b).
- D. If the notice for the public hearing was included in the notice of submission or any prior notice, additional notice of the public hearing is not required. Additional notice is not required of an adjourned session of a public hearing provided that the date, time and place of the adjourned session was made known at the prior public hearing.

SECTION 6: Fees

6.01. A formal application for site plan approval shall be accompanied by an initial filing fee.

6.02. Pursuant to RSA 676:4 I(g), it shall be the responsibility of the applicant, if the Board deems it necessary, to pay reasonable fees for special investigative studies, environmental assessments, legal review of documents, administrative expenses, and other matters which may be required to make an informed decision on a particular application.

6.03. The application submittal fees are adopted by reference as part of these regulations.

SECTION 7: Application Submission Requirements

7.01.A Formal Application shall be filed with the Planning Board or its designated agent at least twenty-one (21) calendar days prior to a regularly scheduled meeting of the Board. (Amended May 8, 2002)

7.02. Formal Application Content: A Formal Application shall be submitted using the form available from the Planning Office (Attachment 1), and shall be accompanied by:

- A. a letter of intent detailing the proposal;
- B. a list of the names and addresses of all the abutters, as shown in town records not more than five (5) days before the day of filing; and a listing of all holders of conservation, preservation, or agricultural preservation restrictions on the subject property; (Amended July 15, 1998)
- C. additional documents, as requested by the Planning Office; and
- D. five copies, 24" x 36" and ten additional copies, 8.5" x 11", 8.5" x 14", or 11" x 17", of the plan. However, the Planning Board or its designee may require the ten additional copies to be 24" x 36", as deemed necessary. The plan shall be prepared by a land surveyor, using a scale of 1 inch equals 100 feet or larger (i.e. 1 inch equals 50 feet, 1 inch equals 20 feet, etc) and shall include:

(Amended July 15, 1998)

- 1) A Title Block, including:
 - a) Title of plan;
 - b) Owner's name and address, and name of agent, if any
 - c) The date the plan was prepared and date of subsequent revisions;
 - d) Scale of the plan; and
 - e) Name, address and seal of the preparer of the plan.
- 2) North arrow and bar scale.
- 3) A location plan at a minimum scale of one (1) inch equals one thousand (1,000) feet, showing:
 - a) Property lines of the parcel being developed in relation to the surrounding area within a radius of two thousand (2,000) feet.
 - b) Names and locations of existing town streets including the nearest intersection of said streets;
 - c) Names and locations of streets within the proposed development;
 - d) Names and location of watercourses and water bodies on and adjacent to the site;
 - e) Area of entire parcel in acres and square feet.

4) The plan of the site itself shall show:

- a) Surveyed property lines of the parcel showing their bearings;
- b) Names of all abutting property owners;
- c) Location and layout of existing and proposed structures and buildings;
- d) Existing and proposed contours at two (2) foot intervals for the entire site. Where a change in grade is proposed, existing contours shall be dotted lines and finished elevations solid;
- e) Area of entire parcel in acres and square feet;
- f) Zoning and special district boundaries;
- g) Deed reference and tax map number;
- h) Location width, curbing and paving of access ways, egress ways and streets within the site;
- i) Location and layout of all on-site parking and loading facilities;
- j) Location and size of all municipal and non-municipal utilities and appurtenances including: water, sewer, electric, telephone, gas lines and fire alarm connections, indicating whether overhead or underground, and the location of wells and septic systems;
- k) Type and location of solid waste disposal facilities;
- l) Location, elevation and layout of catch basin and other surface drainage features;
- m) Location of all physical/natural features including: water bodies, watercourses, wetlands, vegetation/foilage lines, soil types, railroads, rock outcroppings and stone walls;
- n) Dimensions and area of all property to be dedicated for public use of common ownership;
- o) Location of 100 year flood hazard boundaries;
- p) Date and permit numbers of all required state and federal permits.
- q) Location of all buildings, wells and leach fields within one hundred and fifty (150) feet of the parcel;
- r) Dimensions, area and minimum setback requirements on all existing and proposed lots;
- s) Proposed landscaping plan including size and type of plant material;
- t) Pedestrian walks providing circulation through the site;
- u) Location and size of proposed and existing signs, walls and fences;
- v) Location and type of lighting for outdoor activities; and
- w) Location, widths and purposes of any easements or rights-of-way.
- x) Total on-site square footage of impervious surfaces.

E. Copies of the current deed, purchase and sale agreement, and copies of all easements, deed restrictions, rights-of-ways, or other encumbrances currently affecting the property. (Amended May 8, 2002)

7.03 *Additional Application Submission Requirements - All Personal Wireless Service Facilities*

A. General Filing Requirements

- 1) Written statement signed by the landowner and carrier that the lease between the carrier and the landowner of the subject property contains the following provisions:
 - a) Landowner or carrier can enter into leases with other carriers for co-location.
- 2) A written and signed statement from the landowner and applicant that he/she agrees that the Town may enter the subject property to obtain RFR measurements, to ensure conformance with the FCC Guidelines, and to obtain noise measurements, all at the expense of the applicant, but not necessarily accompanied by, the applicant and/or landowner.

B. Location Plan Filing Requirements

- 1) A town-wide map showing the other existing personal wireless service facilities in the Town and outside the Town within one (1) mile of its corporate limits.
- 2) A town-wide map that shows all existing and reasonably foreseen or contemplated personal wireless service facilities operated by the carrier in the Town.
- 3) Proof by the carrier of adequate comprehensive general public liability insurance for the proposed personal wireless service facility that provides coverage for damage or injury to persons or property caused by the carrier or its facility.

C. Site Plans for All Personal Wireless Service Facilities Shall Indicate:

- 1) Outlines of all existing buildings, including their purpose (e.g. residential buildings, garages, accessory structures, etc.) on the subject property and within three hundred (300) feet from the subject property boundary on adjacent properties.
- 2) Proposed location of antenna(s), mount(s), and equipment shelter(s).

- 3) Proposed security barrier, indicating type and extent as well as point of controlled entry.
- 4) The proposed lease area for the personal wireless service facility.
- 5) Location and type of electrical and telephone service. Underground service shall be provided, unless waived by the Planning Board.
- 6) Location of all roads, public and private, on the subject property including driveways proposed to serve the personal wireless service facility and the type of surface proposed for the driveway.
- 7) Distances, at grade, from the proposed personal wireless service facility to each building shown on the site plan.
- 8) All proposed changes to the existing property, including but not limited to grading, vegetation removal, and temporary or permanent roads and driveways.
- 9) Representations, dimensioned and to scale, of the proposed mount(s), antennas, equipment shelters, cable runs, parking areas and any other construction or development attendant to the personal wireless service facility. (Amended January 7, 1998)

7.04 Additional Site Plan Submission Requirements - Ground Mounted Personal Wireless Service Facilities:

Excluding the reconstruction of existing facilities, the following shall be shown on a site plan for all ground mounted personal wireless service facilities, in addition to those items listed under Sections 7.02 and 7.03 of the Site Plan Review Regulations:

- A. Tree cover by forest type and approximate height on the subject property and within three hundred (300) feet from the subject property boundary on adjacent properties.
- B. Average tree canopy height within a one hundred and fifty (150) foot perimeter of the mount, security barrier, or designated clear area for access to equipment, whichever is greatest.
- C. Any proposed landscape easement that includes the bearings and distances of the easement and general conditions of the easement.

(Amended January 7, 1998)

7.05 *Application Submission Requirements-Recreational Playing Fields, Outdoor*

A. Policy

It is the policy of the Durham Planning Board to support and encourage outdoor recreation, and to facilitate the safe and reasonable use of private lands for non-commercial outdoor playing fields. It is recognized that this use may raise issues including but not limited to noise, traffic and traffic safety, parking, fertilizer, pesticide and herbicide use. It is also recognized that, unlike many other uses, this use is primarily intended to create a public benefit, and; this use does not require a long-term or irreversible commitment of land or capital.

B. Waiver

The Planning Board may, in order to implement the policy expressed in 7.05 A. above, and exercising reasonable discretion, waive or modify any or all of the provisions of Section 7.02 above, with the exception of 7.02 A.-C.; Section 8; and Section 9.

C. Unique Requirements

Given the intermittent and seasonal nature of this use, and the variability that may characterize impacts on abutters and the community at large, the Planning Board may impose conditions controlling timing (hours of use, frequency of use, start, end and duration of season), intensity (number of participants, noise restrictions, whether practice sessions, organized games, tryouts, tournaments are allowed), in addition to any design standards and required improvements that may be authorized under Section 9 and deemed necessary by the Planning Board. (Amended May 15, 2002)

SECTION 8: Construction Guarantee

8.01. The applicant shall post an acceptable financial surety prior to final Site Plan approval by the Planning Board. The financial surety shall be in an amount sufficient to ensure the completion of all roads (public or private), water service, sewage disposal, drainage, landscaping and/or any other improvements required by the Town. The financial surety shall be effective for a period mutually agreed upon by the Planning Board and the applicant. (Amended July 15, 1998)

8.02. The financial surety shall be approved by the Town as to the form and type. The Town will accept cash, pass book savings in the Town's name, letter of

credit or a construction surety bond. At its discretion, the Planning Board may require approval of the construction guarantee by the Town Attorney. A sample Construction Guarantee contract is included as attachment 5. (Amended July 15, 1998)

8.03. The construction guarantee shall be released in phases as portions of the secured improvements or installations are final in accordance with the plan approved by the Board.

SECTION 9 - Design Standards and Required Improvements

9.01 General Requirements

- A. Conformance to Applicable Laws, Rules and Regulations - In addition to the requirements established herein, all developments shall comply with the applicable provisions of the Zoning Ordinance, Subdivision Regulations, and all other applicable Town ordinances.
- B. Self Imposed Restrictions - If the owner places restrictions on any of the land contained in the development greater than those required by the Zoning Ordinance or these regulations, such restrictions or reference thereto may be required to be indicated on the site plan, or the Planning Board may require that restrictive covenants be recorded with the Strafford County Registry of Deeds in form to be approved by the Board.
- C. Specification References -
 - 1) Reference to State specifications shall mean Standard Specifications for Road and Bridge Construction of the New Hampshire Department of Transportation, approved and adopted 1992 as amended.
 - 2) Reference to Uniform Traffic Control Devices shall mean the Manual on Uniform Traffic Control Devices for Streets and Highways, published by the U.S. Department of Commerce, Bureau of Public Roads.

9.02 Streets and Access

- A. Roads and/or driveways from development abutting the following main roads shall be spaced not less than 1,200 feet apart: Routes 4, 108, 155-A, Durham Point Road, Mill Road, Bennett Road, and Packers Falls Road. Where such spacing would cause undue hardship, the Board may modify this requirement. (For the purposes of these regulations Durham Point Road shall extend to the Newmarket Town line.)

- B. All other roadway related regulations are contained in: Road Construction Regulations of the Town of Durham, New Hampshire, adopted by the Durham Planning Board

9.03 Stormwater Drainage *(Amended July 14, 2010)*

A. General Requirements - All developments shall provide adequate management of stormwater runoff and prevent the discharge of stormwater runoff from creating or contributing to a water quality impairment. All applications shall be accompanied by a completed Site Plan Review Checklist (provided in Attachment 6 of these regulations) to the Planning Board prior to consideration for review. Developments that disturb 10,000 or more square feet must submit to the Planning Board for review and approval, a Stormwater Management Plan (Plan) describing all proposed stormwater management system elements, practices, and associated designs, including all calculations and analyses of said designs. However, if the applicant submits an approved Alteration of Terrain (AOT) permit, there would be no need for the town requiring a Stormwater Management Plan. The applicant must still provide an operation and maintenance plan as provided for in (C) (5) below. The Planning Board reserves the right to require any development that disturbs less than 10,000 square feet to submit and then implement an approved Stormwater Management Plan (complete as described below or abbreviated) to prevent degradation of local water resources. All elements of the Plan must be designed/prepared by a New Hampshire Registered Professional Engineer in accordance with the Design Standards below. The Plan must contain the following parts and presented in the order listed below:

B. Stormwater Management Plan - Part I

- 1) An Existing Conditions Site Plan showing all pre-development surface water bodies and wetlands, drainage patterns, and watershed boundaries, buffer zones, topographic contours with minimum 2-foot intervals, scale bar, north arrow, title block with project name, applicant's name, and map and parcel number, designer's stamp and wetland scientist's stamp (if applicable), legend, locus plan, benchmarks, and appropriate notes with datum and other plan references, instructions, and detail descriptions. The Existing Conditions Site Plan shall be provided in hard copy (minimum 22-inch by 34-inch) at an appropriate scale in tens of feet per inch (maximum of 100 feet per inch) such that all important site and hydrologic features are easily recognized. Existing buildings, structures, pavement, utilities, and soils information with coding as HSG-A, B, C, or D shall be included on the Existing Conditions Site Plan. High Intensity

Soil Survey (HISS) mapping may be required per request by the Planning Board.

- 2) A Proposed Conditions Site Plan showing all proposed post-development temporary and permanent stormwater management system elements and erosion and sediment control BMPs and all important hydrologic features. The Proposed Conditions Site Plan must be at the same scale as the Existing Conditions Site Plan with consistent title block, plan features, and descriptors including but not limited to the following:
 - a. Existing and proposed topographic contours (2-foot minimum contour interval; 1-foot contour intervals may be required for sites with limited relief and/or where proposed stormwater outfalls are located adjacent to buffer zones)
 - b. Proposed areas of disturbance with total area of disturbance clearly labeled in square feet
 - c. Existing and proposed buildings and structures
 - d. Stormwater discharge locations keyed to drainage analyses
 - e. Wells and sanitary protective radii
 - f. Septic systems
 - g. Plan references and notes (including sequence of soil disturbance)
 - h. Proposed and existing public and private utilities
 - i. Proposed project components to become property of or the responsibility of the Town shall be labeled as such
 - j. Existing and proposed impervious surfaces and pavements with areas used to calculate EIA clearly identified and the square footage of each type identified and labeled.

- 3) Details of individual design elements shown on separate plan sheets following the Proposed Conditions Site Plan.

C. Stormwater Management Plan - Part II

- 1) Drainage Analysis that includes calculations comparing Pre- and Post-Development stormwater runoff rates (cubic feet per minute) and volumes (cubic feet) based on a 1-inch rainstorm, and the 2-year, 10-year, and 25-year 24-hour frequency storms. Calculations shall include, but not be limited to, the sizing of all structures and BMPs including of sizing of emergency overflow structures based on assessment of the 100-year 24-hour frequency storm discharge rate. Phased applications for the original parcel apply as though the development of the entire parcel were proposed in one application at one time.

- 2) Drainage Analysis Results Summary tabulated for each proposed outfall or catchment outlet point including runoff rates and volumes for each storm event analyzed above.
- 3) An Erosion and Sediment Control Plan for all proposed construction activities in accordance with the most current New Hampshire Stormwater Manual.
- 4) Copies of any additional permits or plans required for compliance with Environmental Protection Agency (EPA) and/or New Hampshire Department of Environmental Services (NHDES).
- 5) A comprehensive Operation and Maintenance Plan for long-term maintenance of all proposed stormwater management elements and BMPs including the proposed schedule of inspections and anticipated maintenance.

9.03.1 Design Standards

A. The Stormwater Management Plans submitted to the Planning Board shall meet the following minimum requirements:

- 1) Where applicable, the Plan must comply with the EPA Phase II Stormwater Rules and the Town's MS4 Stormwater Discharge Permit, as amended.
- 2) All proposed measures shall be in accordance with the NH Stormwater Management Manual volume (December 2008 or current revision) a copy of which is available from NHDES:
des.nh.gov/organization/divisions/water/stormwater/manual.htm
- 3) Water Quality Protection: All aspects of the application shall be designed to protect the water quality of the Town of Durham's water bodies as follows:
 - a. No person shall locate, store, discharge, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quantity, noxiousness, toxicity, or temperature that may run off, seep, percolate, or wash into surface or groundwaters so as to contaminate, pollute, harm, impair or contribute to an impairment of such waters.

- b. All storage facilities for fuel, chemicals, chemical or industrial wastes, and biodegradable raw materials shall meet the standards of the New Hampshire Department of Environmental Services (NHDES).
- c. All projects under review by the Planning Board of such magnitude as to require a stormwater permit from EPA or NHDES shall comply with the standards of EPA and/or NHDES AOT program, with respect to the export of total suspended solids and other pollutants.

4) Stormwater Management For New Development: All proposed stormwater management and treatment systems shall meet the following performance standards:

- a. Existing surface waters, including lakes, ponds, rivers, perennial and intermittent streams (natural or channelized), and wetlands (including vernal pools) shall be protected by the minimum buffer setback distances specified in the Zoning Ordinance. Stormwater and erosion and sediment control BMPs shall be located outside the specified buffer zone unless otherwise approved by the Planning Board. Alternatives to stream and wetland crossings that eliminate or minimize environmental impacts shall be considered whenever possible. When necessary, as determined by the Planning Board or their representative, stream and wetland crossings shall comply with state recommended design standards to minimize impacts to flow and enhance animal passage (see University of New Hampshire Stream Crossing Guidelines May 2009, as amended http://www.unh.edu/erg/stream_restoration/nh_stream_crossing_guidelines_unh_web_rev_2.pdf).
- b. LID site planning and design strategies must be used to the MEP in order to reduce the generation of the stormwater runoff volume for both new and redevelopment projects. An applicant must document why LID strategies are not appropriate if not used to manage stormwater.
- c. All stormwater treatment areas shall be planted with native plantings appropriate for the site conditions: grasses, shrubs and/or other native plants in sufficient numbers and density to prevent soil erosion and to promote proper treatment of the proposed runoff.

- d. All areas that receive rainfall runoff must be designed to drain within a maximum of 72 hours for vector control.
- e. Salt storage areas shall be covered or located such that no direct untreated discharges to receiving waters are possible from the storage site. Snow storage areas shall be located such that no direct untreated discharges to receiving waters are possible from the storage site. Runoff from snow and salt storage areas shall enter treatment areas as specified above before being discharged to receiving waters or allowed to infiltrate into the groundwater.
- f. Runoff shall be directed into recessed vegetated and landscape areas designed for treatment and/or filtration to the MEP to minimize Effective Impervious Cover (EIC) and reduce the need for irrigation systems.
- g. The Plan shall make provisions to retain stormwater on the site by using the natural flow patterns of the site. Effort shall be made to utilize natural filtration and/or infiltration BMPs (i.e., bioretention areas, subsurface filtration/infiltration systems, ponds, swales, etc). Proof of such effort shall be provided to the Planning Board.
- h. Measures shall be taken to control the post-development peak rate runoff so that it does not exceed pre-development runoff for the 2-year, 10-year and 25-year, 24-hour storm events. Similar measure shall be taken to control the post-development runoff volume to filtrate the WQv according to the following ratios of Hydrologic Soil Group (HSG) type versus infiltration rate multiplier: HSG-A: 1.0; HSG-B: 0.75; HSG-C: 0.4; HSG-D: 0.15. For sites where infiltration is limited or not practicable, the applicant must demonstrate that the project will not create or contribute to water quality impairment. Infiltration structures shall be in locations with the highest permeability on the site. Measures shall be taken to protect against on and off-site peak flow to prevent overloading of existing downstream facilities.
- i. The biological and chemical properties of the receiving waters shall not be degraded by the stormwater runoff from the development site.
- j. The design of the stormwater drainage system shall provide for the disposal of stormwater without flooding or functional impairment

to streets, adjacent properties, downstream properties, soils, or vegetation.

- k. The design of the stormwater management systems shall take into account upstream and upgradient runoff that flows onto, over, or through the site to be developed or re-developed and provide for this contribution of runoff.
 - l. Appropriate erosion and sediment control measures shall be installed prior to any soil disturbance such that the area of disturbance shall be kept to a minimum. Disturbed areas shall be stabilized within thirty (30) days.
 - m. Measures shall be taken to control erosion within the project area. Sediment in runoff water shall be trapped and retained within the project area using approved measures. Wetland areas and surface waters shall be protected from sediment.
 - n. All temporary control measures shall be removed after final site stabilization. Trapped sediment and other disturbed soil areas resulting from the removal of temporary measures shall be permanently stabilized prior to removal of temporary control measures.
 - o. Every effort shall be made to use pervious parking surfaces as an alternative to impervious asphalt or concrete for general and overflow parking areas. Pervious pavement shall be appropriately sited and designed for traffic and vehicle loading conditions.
 - p. Whenever practicable, native site vegetation shall be retained, protected, or supplemented. Any stripping of vegetation shall be done in a manner that minimizes soil erosion.
 - q. Whenever practicable, all subsurface filtration BMPs shall include perforated underdrains positioned a minimum of 8-inches above the bottom of the filter bed to prevent extended periods of saturated conditions.
- 5) Redevelopment Project Requirements: Because redevelopment may present a wide range of constraints and limitations, an evaluation of options may be proposed to work in conjunction with broader state watershed goals and local initiatives. Stormwater requirements for redevelopment vary based upon the surface area of the site that is covered by existing impervious surfaces. In order to determine the stormwater

requirements for redevelopment projects, the percentage of the site covered by existing impervious areas must be calculated.

For sites meeting the definition of a redevelopment project and having less than 40% existing impervious surface coverage, the stormwater management requirements will be the same as other new development projects with the important distinction that the applicant can meet those requirements either on-site or at an approved off-site location, within the same watershed within the Town of Durham, provided the applicant satisfactorily demonstrates that impervious area reduction and LID strategies and BMPs have been implemented on-site to the MEP.

For redevelopment sites with more than 40% existing impervious surface coverage, stormwater shall be managed for water quality in accordance with one or more of the following techniques, listed in order of preference:

- a. Implement measures onsite that result in an EIA of at least 30% of the existing impervious surfaces and pavement areas, and 50% of the additional proposed impervious surfaces and pavement areas through the application of porous media; or
 - b. Implement other LID techniques onsite to the MEP to provide treatment for at least 50% of the redevelopment area; or
 - c. Implement off-site BMPs to provide adequate water quality treatment for an area equal to or greater than 50% of redevelopment areas may be used to meet these requirements provided that the applicant satisfactorily demonstrates that impervious area reduction, LID strategies, and/or onsite BMPs have been implemented to the MEP. An approved off-site location must be identified, the specific management measures identified, and an implementation schedule developed in accordance with local review. The applicant must also demonstrate that there is no downstream drainage or flooding impacts as a result of not providing on-site management for large storm events. To comply with local watershed objectives the mitigation site should be situated in the same subwatershed as the development and impact the same receiving water.
- 6) Responsibility for Installation and Construction: The applicant shall bear final responsibility for the installation, construction, inspection, and disposition of all stormwater management and erosion control measures required by the provisions of these regulations. Site development shall not

begin before the Stormwater Management Plan receives written approval by the Planning Board. Best Management Practices shall be installed as designed and scheduled as a condition of final approval of the plan.

- 7) Plan Approval and Review: The Planning Board shall approve the Stormwater Management Plan if it complies with the requirements of these regulations and other requirements as provided by law. At the discretion of the Planning Board, a technical review by a third party may be required of any stormwater management and erosion control plan prepared under these regulations. The technical review shall be performed by a qualified professional consultant, as determined by the Planning Board, and the expense of which shall be the full responsibility of the applicant.

- 8) Maintenance and Inspection:
 - a. After final Planning Board approval and as a condition precedent thereto, the owner of record of the property shall cause notice of the requirements for maintenance pursuant to the stormwater management and erosion and sediment control plans, as approved by the Planning Board, to be recorded at the Registry of Deeds sufficient to provide notice to all persons that may acquire any property subject to the stormwater management and sediment control plans. See RSA 477:3-a. The notice shall comply with the applicable requirements for recording contained in RSA 477 and 478. The notice need not set forth the requirements at length, so long as it is sufficient to provide notice to prospective purchasers of the requirements for maintenance pursuant to the stormwater management and erosion and sediment control plans as approved by the Planning Board. The Planning Board may require routine inspections to insure compliance with the Stormwater Management, Groundwater Protection, Impervious Surfaces, and Erosion and Sedimentation Control sections of these regulations. Such inspections shall be performed by a designated agent with appropriate certifications at reasonable times to the landowner.
 - b. If permission to inspect is denied by the landowner, the designated agent shall secure an administrative inspection warrant from the district or superior court under RSA 595-B.

9.03.2 - Reimbursement

The applicant shall reimburse the Town for the Planning Board's administrative expenses and costs of special investigation and the review of documents and other matters that may be required by particular applications. This includes, but is not limited to, review by consulting engineers or other consultants to assess the environmental impact, hydrological impact, ground water quality impact, traffic impact, or any other study deemed necessary by the Planning Board in order to make an informed decision."

9.03.3 Waivers & Exceptions

For reasons heretofore well demonstrated, the Planning Board may waive one or more of these regulations. The following activities are considered exempt from preparing and submitting stormwater management plans:

1. Agricultural practices located outside the wetland and surface water buffers
2. Road and parking lot resurfacing.

9.04 Water Supply

A. General Requirements - All developments in the state of New Hampshire shall make adequate provision for a water supply of potable water for domestic consumption and for water supply for fire protection purposes. All water supply systems and facilities shall be designed and stamped by a registered engineer.

B. Required Improvements

- 1) The location of individual private wells shall comply with all standards of the New Hampshire Water Supply and Pollution Control Commission.
- 2) A private central water system, serving two or more lots or users, shall conform with and meet all standards set for community water services as established by the New Hampshire Water Supply and Pollution Control Commission (WSPCC) even though the WSPCC may not invoke jurisdiction in all cases.

9.05 Sewerage

A. General Requirements - All developments shall make adequate provision for sanitary sewage disposal facilities. The facilities shall be designed and stamped

by a registered engineer. Sanitary sewage disposal shall be accomplished through the provision of individual waste disposal systems or a private central sewerage system.

- B. Design Standards - Sanitary waste disposal may be accomplished by either of the following methods:
- 1) Individual disposal systems, the design and location of which shall be approved by the State of New Hampshire Water Supply and Pollution Control Commission. The systems shall be located on private property, no closer than seventy-five (75) horizontal feet to a watercourse, a waterbody, a wetland, or a well that is being used as a source of individual water supply.
 - 2) A private central sewerage system, the design and location of which shall be approved by the State of New Hampshire Water Supply and Pollution Control Commission. Maintenance and operating costs of the system shall be borne by the developer.

9.06 *Non-Municipal Utilities*

- A. General Requirements - The applicant is responsible for all coordination with utility companies to assure that non-municipal utilities are installed in accordance with plans approved by the Board pursuant to these regulations.
- B. Design Standards - All utility facilities, including but not limited to electric power and telephone shall be located underground throughout the development. Whenever existing utility facilities are located above ground, they shall be removed and placed underground. Existing utilities which are located within public rights-of-way are exempted from this provision. The Board shall review and approve the location of all non-municipal utility lines.

9.07 *Signs*

- A. General Requirements - Signs are intended for the identification of the use on the site on which they are located. Signs shall not be a hazard or nuisance by virtue of their location or illumination.
- B. Design Standards - Sign size, type, location, height, and illumination shall conform to the requirements of Durham Zoning and Land Use Ordinance.

9.08 *Preservation of Natural Features and Amenities*

A. General Requirements

- 1) Grading and clearing should be minimized so as to avoid creating undue erosion or interruption of natural drainage ways. Particular attention should be given to natural features suitable as buffer strips between residential subdivisions abutting commercial or industrial areas. Similar natural features that provide buffers between lots, or sections of a development should be preserved to enhance privacy and attractiveness. Provision for clearing may be made for southerly exposure for solar access to dwellings or buildings.
- 2) Developers shall use construction methods which cause the least disturbance to the environment possible. No cut trees, stumps, debris, junk, rubbish, or other waste materials of any kind shall be buried in any land, or left or deposited on any lot or street at the time of issuance of a certificate of occupancy, and removal of same shall be required prior to issuance of any certificate of occupancy. Nor shall any debris be left or deposited in any area of development at the time of expiration of the performance bond or dedications of public improvements, whichever is sooner.

9.09 *Special Flood Hazard Areas:*

All site plan proposals governed by these regulations having lands identified as Special Flood Hazard Areas in the "Flood Insurance Study for the Town of Durham, N.H." together with the associated Flood Insurance Rate Maps and Flood boundary and Floodway maps of the Town of Durham shall meet the following requirements:

- A. Site Plan proposals, including their utilities and drainage, shall be located and designed to be consistent with the need to minimize flood damage.
- B. All public utilities and facilities, such as sewer, electrical and water systems shall be located and constructed to minimize or eliminate flood damage.
- C. Adequate drainage shall be provided to reduce exposure to flood hazards.
 - 1) New and replacement water systems (including on-site systems) shall be located, designed and constructed to minimize infiltration and avoid impairment.

- 2) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.
- D. Within the altered or relocated portion of any watercourse, the applicant shall submit to the Planning Board certification provided by a registered professional engineer assuring that the 100 year flood carrying capacity of the watercourse has been maintained.
 - E. All site plan proposals shall include 100-year flood elevation data.

9.10 Design Submittal Standards - All Personal Wireless Service Facilities

- A. Brochures. Equipment brochures for the proposed personal wireless service facility such as manufacturer's specifications or trade journal reprints shall be provided for the antennas, mounts, equipment shelters, cables as well as cable runs, and security barrier, if any.
- B. Materials. Materials of the proposed personal wireless service facility specified by generic type and specific treatment (e.g., anodized aluminum, stained wood, painted fiberglass, etc.). These shall be provided for the antennas, mounts, equipment shelters, cables as well as cable runs, and security barrier, if any.
- C. Colors. Colors of the proposed personal wireless service facility represented by a color board showing actual colors proposed. Colors shall be provided for the antennas, mounts, equipment shelters, cables as well as cable runs, and security barrier, if any.
- D. Dimensions. Dimensions of the personal wireless service facility specified for all three directions: height, width and breadth. These shall be provided for the antennas, mounts, equipment shelters and security barrier, if any.
- E. Photographs. Appearance shown by at least two (2) photographic superimpositions of the personal wireless service facility within the subject property. The photographic superimpositions shall be provided for the antennas, mounts, equipment shelters, cables as well as cable runs, and security barrier, if any, for the total height, width and breadth.
- F. Lighting. If lighting of the site is proposed, the applicant shall submit a manufacturers computer-generated point-to-point printout, indicating the horizontal foot-candle levels at grade, within the property to be developed

and twenty-five (25) feet beyond the property lines. The printout shall indicate the locations and types of luminaries proposed.

- G. Co-location. Carriers shall share personal wireless service facilities and sites where feasible and appropriate, thereby reducing the number of personal wireless service facilities that are stand-alone facilities.
- 1) All applicants for site plan review for a personal wireless service facility shall demonstrate a good faith effort to co-locate with other carriers. Such good faith effort includes contact with all the other carriers for personal wireless services operating in the Town of Durham or in adjoining or nearby jurisdictions.
 - 2) If the applicant intends to co-locate or to permit co-location, drawings and studies which show the appearance and operation of the personal wireless service facility with maximum co-location shall be provided.
 - 3) If the Planning Board approves co-location for a personal wireless service facility site, the site plan shall indicate how many facilities and of what type shall be permitted on that site. Facilities specified in the site plan approval shall require no further zoning approval, but shall require a Building Permit. However, the addition of any facilities not specified in the approved site plan shall require a new site plan.

(Amended January 7, 1998)

9.11 Noise Standards - All Personal Wireless Service Facilities:

The applicant shall provide a statement listing the existing and maximum future projected measurements of noise from the proposed personal wireless service facilities, measured in decibels Ldn (logarithmic scale, accounting for greater sensitivity at night). Such statement shall be certified and signed by an acoustical engineer, stating that noise measurements are accurate and meet the Noise Ordinance of the Town of Durham and such statements shall include the following:

- A. Existing, or ambient: the measurements of existing noise.
- B. Existing plus the proposed personal wireless service facilities: maximum estimate of noise from the proposed personal wireless service facility plus the existing noise environment.
- C. Existing plus the proposed personal wireless service facilities plus cumulative: maximum estimate of noise from the proposed personal wireless service facility plus the maximum estimate of noise from the total

addition of co-located personal wireless service facilities plus the existing noise environment.

9.12 Radio Frequency Radiation (RFR) - All Personal Wireless Service Facilities:

The applicant shall provide a signed and stamped certificate by an RF Engineer stating that the maximum radio frequency radiation of the personal wireless service facility and the cumulative RFR of any existing personal wireless service facilities at the site will not exceed the FCC Guidelines. The FCC Guidelines shall be incorporated as part of this certification. (Amended January 7, 1998)

9.13 Environmental Filing Requirements - All Personal Wireless Service Facilities

A. The National Environmental Policy Act (NEPA) applies to all applications for personal wireless service facilities. NEPA is administered by the FCC via procedures adopted as Subpart 1, Section 1.1301 et seq. (47 CFR Ch. I). The FCC requires that an environmental assessment (EA) be filed with the FCC prior to beginning operations for any personal wireless service facility proposed in or involving any of the following:

- 1) Wilderness area.
- 2) Wildlife preserve.
- 3) Threatened or endangered species.
- 4) Historical site.
- 5) Native American religious site.
- 6) Floodplain.
- 7) Wetland.
- 8) High intensity white lights in residential neighborhoods.
- 9) Excessive radio frequency radiation exposure.

B. At the time of application filing, an EA that meets FCC requirements shall be submitted to the Town for each personal wireless service facility site that requires such an EA to be submitted to the FCC. In addition, a letter of concurrence substantiating the finding of the applicant for each of the NEPA checklist items shall be provided with the site plan application.

- C. The applicant shall list the location, type, and amount (including trace elements) of any materials proposed for use within the personal wireless service facility that are considered hazardous by the federal, state, or county government, or by the Town of Durham.

(Amended January 7, 1998)

9.14 *Structural Report for All Ground Mounted Personal Wireless Service Facilities:* The applicant shall provide a report prepared by a licensed professional civil engineer describing the facility and specifying the maximum number and types of antennas the facility is designed to accommodate. The report shall bear the seal of the engineer that prepared the report.

(Amended January 7, 1998)

9.15 *Visibility Standards for Ground Mounted Personal Wireless Service Facilities, Excluding Reconstruction of Existing Facilities*

- A. Sight Lines. Lines representing the sight line showing the viewpoint (point from which view is taken) and visible point (point being viewed) as described below:

- 1) Sight line representation. A sight line representation shall be drawn from any public road within three hundred (300) feet and the closest facade of each residential building (viewpoint) within three hundred (300) feet to the highest point (visible point) of the personal wireless service facility. The three hundred (300) foot measure shall be measured from the subject property boundary. Each sight line shall be depicted in profile, drawn at one inch equals forty (40) feet. The profiles shall show all intervening trees and buildings. In the event there is only one (or more) residential building within three hundred (300) feet, there shall be at least two sight lines from the closest habitable structures or public roads, if any.
- 2) Existing (before condition) photographs. Each sight line shall be illustrated by one (1) four-inch by six-inch or larger color photograph of what can currently be seen from any public road or residential building identified above.
- 3) Proposed (after condition). Each of the existing condition photographs shall have the proposed personal wireless service facility superimposed on it to show what will be seen from public roads and residences if the proposed personal wireless service facility is built.

- B. Elevations. Siting elevations, or views at-grade from the north, south, east and west for a fifty (50) foot radius around the proposed personal wireless service facility plus from all existing public and private roads that serve

the subject property. Elevations shall be at either one-quarter inch equals one foot or one-eighth inch equals one foot scale and show the following:

- 1) Antennas, mounts and equipment shelter(s), with total elevation dimensions and AGL of the highest point.
 - 2) Security barrier. If the security barrier will block views of the personal wireless service facility, the barrier drawing shall be cut away to show the view behind the barrier.
 - 3) Any and all structures on the subject property.
 - 4) Existing trees and shrubs at current height and proposed trees and shrubs at proposed height at time of installation, with approximate elevations dimensioned.
 - 5) Grade changes, or cuts and fills, to be shown as original grade and new grade line, with two-foot contours above mean sea level.
- C. Balloon Test. Within fourteen (14) days of the acceptance of the site plan application by the Planning Board, the applicant shall arrange for a balloon or crane test at the proposed site to illustrate the height of the proposed facility. The date, time and location of such test shall be advertised in a newspaper of general circulation in the Town at least ten (10) days prior to the test. (Amended January 7, 1998)

SECTION 10: Independent Studies and Investigations

10.01. The Planning Board reserves the right to require additional studies to determine the potential impact of the proposed site development. Studies may include, but are not limited to, Traffic Impact Analysis, Fiscal Impact Analysis, and Environmental Impact Analysis.

- A. All Traffic Impact Analysis shall be presented in accordance with the "Strafford Regional Planning Commission's Guidelines for Traffic Impact Analysis 1986," incorporated into these regulations by reference. The Planning board reserves the right to retain the services of an outside agency for the purposes of reviewing any traffic impact analysis submitted.
- B. All Fiscal Impact Analysis shall be presented in accordance with the "Strafford Regional Planning Commission's Guidelines for Fiscal Impact Analysis 1988," incorporated into these regulations by reference. The Planning board reserves the right to retain the services of an outside agency for the purposes of reviewing any fiscal impact analysis submitted.

C. The Environmental Impact Statement specifications will be dictated on a case by case basis. (Amended January 7, 1998)

10.02. Wherever, in the opinion of the Board, traffic generated by a development will adversely impact existing public streets, the Board may require improvements to be made to such streets and intersections in an effort to mitigate such impacts. (Amended January 7, 1998)

SECTION 11: Post Construction Requirements

11.01. All deeds covering land to be used for public purposes, easements, and right-of-ways over property to remain in private ownership, and rights of drainage across private property shall be submitted in a form satisfactory to the Town Attorney. (Amended January 7, 1998)

11.02. As-built construction drawings, plan and profile, of all infrastructure improvements at a scale of 1" to 20', including, but not limited to:

A. Underground Utilities (sewer lines, storm drains, water lines, electrical, phone, cable, natural gas lines, etc.)

B. Drainage ways, ditching, impoundments, swales, etc.

C. Road construction. (Amended January 7, 1998)

11.03. Maintenance Guarantee--a financial surety to guarantee that all site work was properly done shall be posted by the applicant with the Town. Such maintenance guarantee shall be in an amount of two percent of the estimated project cost and shall remain in force for two (2) years after site improvements are completed. If such repairs are needed and are not satisfactorily installed by the developer, then such guarantee shall be used to complete and/or install such improvements. (Amended January 7, 1998)

SECTION 12: Administration and Enforcement

12.01 Administration

These regulations shall be administered by the Planning Board. The enforcement of these regulations is vested in the Town Council.

12.02 Waivers

The requirements of the foregoing regulations may be waived when, in the opinion of the Board, specific circumstances surrounding a site plan application, or a condition of the land of such application, indicate that such waivers will insure that the purpose and intent of the Master Plan and these regulations will be properly carried out.

12.03 Penalties and Fines

Any violation of these regulations may be subject to a civil fine as provided in RSA 676:16 and 676:17, as amended. The Town Council and the Code Enforcement Officer are designated as the local authorities to institute appropriate action under the provisions of RSA 676:17.

SECTION 13: Conflicting Provisions

Where these regulations are in conflict with other local, state, or federal ordinances, the more stringent shall apply.

SECTION 14: Validity

If any section or part of section or paragraph shall be declared invalid or unconstitutional, it shall not be held to invalidate or impair the validity, force, or effect of any other section or sections or part of a section or paragraph of these regulations.

SECTION 15: Amendments

These regulations may be amended by the Planning Board following a public hearing on the proposed changes. Such changes shall not take effect until a copy of said changes, as approved by a majority of the Board, are filed with the Town Clerk.

The following attachments are incorporated into these regulations:

Attachment 1: Formal Application for Site Plan Review

Attachment 2: Request for Preapplication Review (optional)

Attachment 3: Notices

- a) Design Review
- b) Submission of Formal Application

Attachment 4: Notice of Decision

- a) Approval

- b) Disapproval

Attachment 5: Sample Construction Guarantee Contract.

SECTION 16: Modifications to Personal Wireless Service Facilities

16.01 A modification of a personal wireless service facility is considered equivalent to an application for a new personal wireless service facility and requires a site plan review when any of the following events apply:

- A. The applicant and/or co-applicant wants to alter the terms of the site plan by changing the personal wireless service facility in one or more of the following ways:
 - 1) Change in the number of facilities permitted on the site; or
 - 2) Change in technology used for the personal wireless service facility that will affect the visible elements of the facility, or that would alter the amount(s) and/or type(s) of hazardous materials used at the facility.
- B. The applicant and/or co-applicant wants to add any exterior visible equipment or additional height not specified in the approved site plan.

(Amended January 7, 1998)

Attachment 1

APPLICATION FOR SITE PLAN REVIEW

Note: This form and all required information must be filed at least 21 days before the date of the meeting at which it is to be submitted to the Board. Filing is to be done at the Planning Office, Durham Town Office Building or by mail to 15 Newmarket Road, Durham NH 03824.

1. Name, mailing address and telephone number of applicant

2. Name, mailing address and telephone number of owner of record if other than applicant

3. Location of Proposed Project _____

Tax Map _____ Lot Number _____ Zoning District _____

4. Name of Proposed Project _____

5. Number of units for which approval is sought _____

6. Name, mailing address and telephone number of surveyor and/or agent

7. Abutters: Attach a separate sheet listing the Durham Tax Map number, Lot number, name, and mailing address of all abutters, including those across a street, brook or stream. The list of abutters must also include any holders of conservation, preservation, or agricultural preservation restrictions in accordance with RSA 676:4(I)(d). Names should be those of current owners as recorded in the tax records five (5) days prior to the submission of this application. *Note: Names submitted on the Request for Preapplication Review may not be current. No application shall be heard unless all abutters as described herein have been notified.*

8. Items on the attached Site Plan Review Application Submission Checklist

| | |
|---|----------|
| 9. Payment of all applicable fees: | |
| submittal fees | \$ _____ |
| advertising/posting costs | _____ |
| abutter notification (each) | _____ |
| proposed road (per foot) | _____ |
| administrative and technical review costs | _____ |
| TOTAL | \$ _____ |

10 The applicant and/or owner or agent*, certifies that this application is correctly completed with all attachments and requirements, and that any additional costs for engineering or professional services incurred by the Planning Board or the Town of Durham, in the site plan review process of this property, shall be borne by the applicant and/or owner.

11 Within five (5) business days of submitting a formal application, the applicant shall meet with the Director of Planning and Community Development to discuss issues related to completeness and acceptance of the application. If this review discloses that all requirements specified on the Site Plan Application Checklist have not been met, the applicant will be notified in writing what specific items are still needed.

12 Prior to the next regularly scheduled meeting of the Planning Board, the applicant, at the discretion of the Director of Planning and Community Development, shall meet with the appropriate Department Heads of the Town of Durham to discuss the implications the application will have on the various Departments of the town.

13 If this application is determined by the Planning Staff to be complete, it will be placed on the Planning Board agenda on _____ for acceptance.

***If the applicant is an agent of the owner, a separate signed letter from the owner of record is required which clearly states the authority of the agent or representative for this application. If the agent does not have the power of attorney of the owner, all documents shall be signed by the owner.**

“I hereby authorize the Durham Planning Board and its agents to access my land for the purpose of reviewing the proposed site plan, performing road inspections and any other inspections deemed necessary by the Board or its agents, to ensure conformance of the on-site improvements with the approved plan and all Town of Durham ordinances and regulations.”

Date _____ Applicant, Owner, or Agent _____

Attachment 2

REQUEST FOR PREAPPLICATION REVIEW (OPTIONAL)

1. Name, mailing address and telephone number of applicant

2. Name, mailing address and telephone number of owner of record if other than applicant

3. Location of Proposed Development _____

4. City/Town of _____ Tax Map _____ Lot Number _____
5. Type of development _____
6. Is this a request for _____ Conceptual Consultation _____ Design Review

Note: If this is a request for Design Review, the applicant and the public must be notified. (See Site Plan Review Regulation, Section 5.04.)

7. Abutters: Attach a separate sheet listing the Durham Tax Map, Lot number, Name and Mailing Address of all abutters, including those across a street, brook or stream. The list of abutters must also include any holders of conservation, preservation, or agricultural preservation restrictions in accordance with RSA 676:4(I)(d). Names should be those of current owners as recorded in the Tax Records five (5) days prior to the submission of this application.

Advertising Costs _____

Abutter Notification (each) _____

(Including applicant and/or owner)

Owner/Agent

Date

File # _____

Attachment 3a

NOTICE OF DESIGN REVIEW

Planning Board, Town of Durham

Notice to Applicant: _____

Notice to Abutter: _____

Location of Proposal: _____

Signed: _____

Chairman or Secretary
Durham Planning Board

Date:

NOTE: The applicant has requested preapplication discussion with the Board concerning the above proposal. The posted agenda will list the proposal when it is to be discussed. No public hearing is required. No material is submitted. No decisions are made. You will be notified when, and/or if, a formal application is submitted for review.

File # _____

Attachment 3b

**ABUTTER'S /LEGAL NOTICE
SUBMISSION OF FORMAL APPLICATION FOR
SITE PLAN REVIEW**

Planning Board, Town of Durham

Date _____

Notice to Applicant: _____

Notice to Abutter: _____

Location of Proposed Site: _____

Description of Proposed Development: _____

Public meeting Date: _____

Public Meeting Time and Place: _____

This is a meeting to decide acceptance of the application **only**, no public comment will be solicited. If the Planning Board chooses to accept the application, the Board will schedule a site walk of the property and a Public Hearing. A separate notice of the Public Hearing will be sent and public comments will be solicited during the Public Hearing.

Signed: _____

Director of Planning, Zoning, and Code Enforcement

Date: _____

NOTE: Abutters are invited to attend for their own benefit and information. They are not required by law to attend. Planning Board meetings are scheduled for the first and third Wednesdays of each month.

File # _____

Attachment 4a

NOTICE OF DECISION - APPROVAL

Planning Board, Town of Durham

You are hereby notified that the application of

to develop the site located on Tax Map _____, Lot # _____; with an address of _____ in the Town of Durham has been approved by majority vote of the members of the Planning Board on _____ with the following conditions:

Chairman

Date: _____

File # _____

Attachment 4b

NOTICE OF DECISION - DISAPPROVAL

Planning Board, Town of Durham

You are hereby notified that the application of _____ for a site plan, located on Tax Map _____, Lot # _____; with an address of _____ in the Town of Durham has been disapproved by majority vote of the members of the Planning Board on _____.

As stated in the Planning Board Minutes the motion to disapprove stated that the application was disapproved for the following reasons:

Chairman

Date: _____

File # _____

Attachment 5

SAMPLE

CONSTRUCTION GUARANTEE

KNOW ALL MEN BY THESE PRESENT THAT _____,
_____ Street, _____NH, "Developer" of
_____, is held and firmly bound unto the
_____ Planning Board in the sum of _____
(\$_____), for the payment of which Developer binds himself, his heirs,
executors, and successors in interest and assigns by these present.

The Condition of this obligation is such that, if the Developer, his assigns or successors
in interest, shall in all things, well and truly and properly perform and complete the
following improvements and to be constructed on a Site Plan known as
"_____" Tax Map_____,
Lot(s)_____, to which conditional approval was granted by the
Durham Planning Board on _____, 199__, then this obligation shall be void;
otherwise to remain in full force.

| <u>Bond</u> | <u>Required Date of</u> | <u>Amount of</u> |
|---------------------|-------------------------|----------------------|
| <u>Improvements</u> | <u>Final Completion</u> | <u>Bond Required</u> |

- 1.
- 2.
- 3.

| | | |
|--|--------|----------|
| | Total: | \$ _____ |
|--|--------|----------|

Final Completion Date:_____

Signature of Developer:_____ Date:_____¹

¹ This Construction Guarantee shall not be effective until a financial surety acceptable to the Town has been posted with the Town in the amount set forth above. Additionally, the Construction Guarantee shall not expire and will be available to the Town as security for the proper performance of the Guarantee until sixty (60) days following the final completion date.