

# **SITE PLAN REVIEW REGULATIONS TOWN OF TUFTONBORO, NEW HAMPSHIRE**

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**SITE PLAN REVIEW REGULATIONS  
TOWN OF TUFTONBORO, NEW HAMPSHIRE**

**SECTION I  
GENERAL PROVISIONS**

**1.1 AUTHORITY**

These regulations are enacted in accordance with the authority conferred in RSA 674:43-44 and based upon the authority given to the Planning Board at the Town Meeting held on March 10, 1987.

**1.2 PURPOSES**

The purposes of these Regulations are 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 groundwater;
  - 3** Undesirable and preventable elements of pollution such as noise, smoke, soot, particulates, or any other discharge into the environment which may prove harmful to persons, structures, or adjacent properties;
  - 4** Inadequate provisions for fire safety, prevention, and control;
- B** Provide for the harmonious and aesthetically pleasing development of the Town 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 Town;
- E** Require suitably located Streets of sufficient width to accommodate existing and prospective traffic and to afford adequate access for firefighting apparatus and equipment;
- F** Require in proper cases, that plats showing new Streets or narrowing or widening of 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 create conditions favorable for health, safety, convenience and prosperity.

### 1.3 TITLE

These Regulations shall be known as the “Site Plan Review Regulations of the Town of Tuftonboro, New Hampshire.”

## SECTION II DEFINITIONS

### 2.1 DEFINITIONS

Unless the context otherwise requires, the following definitions shall be used in the interpretation and construction of these Regulations. Words used in the present tense include the future; the singular number shall include the plural; and the plural the singular; the word “building” shall include the word “structure”; and the word “shall” is mandatory and not optional.

In general, words and terms used in these Regulations shall have their customary dictionary or statutory meanings. Definitions described in the existing Town of Tuftonboro Zoning Ordinance shall apply herein. The following words are specifically defined:

**2.1.1 Abutter** Any person whose property adjoins or is directly across the Street or stream from the land under consideration by the local land use board. For purposes of receiving testimony only, and not for purposes of notification, the term “abutter” shall include any person who is able to demonstrate that his/her land will be directly affected by the proposal under consideration. For purposes of receipt of notification by a municipality of a local land use board hearing, in the case of an abutting property being under a condominium or other collective form of ownership, the term Abutter means the officers of the collective or association, as defined in RSA 356-B:3 XXIII. (RSA 672:3) For notice purposes, Abutter also means any holder of conservation, preservation or agricultural preservation restrictions on the property under review. (RSA 676:4)

**2.1.2 Board** The Planning Board of the Town of Tuftonboro.

**2.1.3 Bond** Any form of security including cash deposit, surety bond, collateral, property, or instrument of credit in an amount and form satisfactory to the Planning Board and Board of Selectmen.

**2.1.4 Development** The construction of improvements on a tract or tracts of land which shall include the enlargement of the structure or physical changes to the site to accommodate the intended use.

**2.1.5 Enlargement** The increase in size or the Expansion of any structure or appurtenance, or the expansion of use of the same, whether said appurtenance exists alone or in service of a structure or other appurtenance.

**2.1.6 Expansion** Any increase in the intensity of the use of a lot, building or structure. This includes, but is not limited to, the addition of bedrooms to a dwelling; the addition of dwelling units to a lot; or the addition of seats to a restaurant.

**2.1.7 Frontage** The horizontal distance measured along a lot line dividing a lot from a street or a body of water. In the case of shore lots, frontage shall mean the dimension on the body of water only and shall be measured in fifty (50) foot chords. In the case of corner lots, Frontage and front lot lines shall mean the dimensions and lines on both intersecting streets.

**2.1.8 Multi-family Dwelling Units** Any structure containing more than two (2) dwelling units.

**2.1.9 Private or Individual Waste Disposal System** Any treatment system, other than a public sewer, which receives sewage or other wastes.

**2.1.10 Private or Individual Water Supply System** Any private system providing potable water.

**2.1.11 Nonresidential Use** Any use other than that of a dwelling, except that these Regulations and procedures shall not apply to the construction, Expansion, siting, or permitted use with respect to any accessory use buildings on the same site as a principal residence.

**2.1.12 Site Improvement** All changes to a site whether above or below the surface of the land, and including but not limited to buildings, construction of any kind, site grading, landscaping, street construction, and utilities (including water, sewer, electric, gas, storm drainage), whether proposed by the developer, or required by the Board under these Regulations.

**2.1.13 Street** A public or private way designed primarily for vehicular traffic, whether designated as a Street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, lane, place, or however else designated.

## **SECTION III SCOPE AND REQUIREMENTS**

### **3.1 SCOPE**

The Planning Board is hereby authorized to review, and approve or disapprove site plans for the development of tracts for Nonresidential Uses or for Multi-family Dwelling Units whether or not such development includes a subdivision or resubdivision of the site.

## **3.2 RELATIONSHIP TO OTHER REQUIREMENTS**

**3.2.1 Compliance with Other Regulations** The Site Plan Review procedure in no way relieves the applicant from compliance with or approval under the provisions of the Town's Zoning Ordinance, Subdivision Regulations, Building Codes, and/or other regulations which pertain to or govern the proposed development. No Site Plan will be approved unless it is in compliance with all pertinent ordinances and regulations.

### **3.2.2 Minimum Not Maximum**

These Regulations shall be interpreted as MINIMUM REQUIREMENTS and compliance with these minimum requirements in no way obligates the Planning Board to approve any particular application solely on that basis. The Planning Board will fully consider all aspects of an application before rendering its decision. This will include study of all site design and technical aspects of the proposal as well as consideration of the impact of the development on open space, wildlife habitat, other natural resources, local traffic patterns, and available public utilities, services, and municipal resources.

### **3.2.3 Conflicting Provisions**

If any provision of the Town, or any provision of State or federal law relates to any matter covered herein, the provision which imposes the greater restriction or higher standard shall govern.

## **3.3 SITE PLAN REVIEW REQUIRED**

The Planning Board requires site plans to be submitted to it for review by any applicant seeking any of the following:

- A** The construction of any new Nonresidential or Multi-family dwelling.
- B** The Enlargement or Expansion of any existing Nonresidential or Multi-family use.
- C** The construction or conversion of any Nonresidential or Multi-family use in which development of the site is contemplated or required by virtue of any other Town or State ordinance, statute, regulation or decision of the Town's Zoning Board of Adjustment.
- D** The change within a structure from one permitted use to another permitted use which will require development of the site including, but not limited to, improvement or alteration of the site required by virtue of any other Town or State ordinance, statute or regulation.

### **3.4 BUILDING PERMIT**

No building permit shall be issued by the Codes Enforcement Officer for the construction or Expansion of a building or other facilities subject to these regulations, until final approval is granted by the Planning Board and the Codes Enforcement Officer is so notified in writing by the Planning Board.

## **SECTION IV APPLICATION PROCEDURES AND REQUIREMENTS**

### **4.1 PRELIMINARY CONSULTATION**

#### **4.1.1 Preliminary Conceptual Consultation Phase**

Prior to the submission of a formal site plan, it is recommended, but not required, that an applicant submit a sketch showing preliminary information to the Planning Board for discussion purposes only. The preliminary conceptual plan is to be presented to the Planning Board for review during a regular monthly meeting, as a regular agenda item. No notification to Abutters or the public is required for such a review. The purpose of the preliminary consultation is to inform the Planning Board members on the background, scope and general intent of the proposal. It is also designed to apprise the Applicant of the procedures and the concerns of the Planning Board as well as allowing a process for offering suggestions which might be of assistance in resolving problems with meeting requirements during formal consideration. The Board and the Applicant may discuss proposals in conceptual form only and in general terms such as desirability of types of development and proposals under the master plan. Statements made by Planning Board members shall not be the basis for disqualifying said members or invalidating any action taken.

#### **4.1.2 Design Review Phase**

The Board or its designee may engage in non-binding discussions with the Applicant beyond conceptual and general discussions which involve more specific design and engineering details. Provided, however, that the design review phase may proceed only after identification of and notice to Abutters, holders of conservation, preservation, or agricultural preservation restrictions, and the general public. Statements made by Planning Board members shall not be the basis for disqualifying said members or invalidating any action taken.

The Board, at least ten (10) days in advance of the meeting, shall notify the Abutters, the Applicant, holders of conservation, preservation, or agricultural preservation restrictions, and everyone whose professional seal appears on any document submitted to the Board. This notice shall be by certified mail stating the date upon which the application will be formally submitted to the Board. Notice will be mailed at least ten (10) days prior to submission. The notice shall contain the following:

- A Name of the Applicant and owner of the property.
- B The location of the proposed project.
- C A general description of the proposed project.
- D The date, time and place of the meeting.

The Planning Board will post the information contained in this Section in the Town Office.

#### **4.1.3 Limits of the Review**

The Planning Board shall conduct the Design Review at a regularly scheduled meeting of the Board.

- A The Applicant shall make a presentation defining the general scope and concept of the project and how the land will be used.
- B Any documents presented to the Board shall be made a part of the record for purposes of future reference.
- C Neither the Applicant nor the Planning Board shall be bound by the discussions. However, the Planning Board shall be entitled to make recommendations with respect to the material presented to assist the Applicant in preparing a formal application that will meet the development standards of the Town as expressed in these Regulations and in other ordinances and/or regulations.
- D The Planning Board shall enter into the minutes and shall communicate to the Applicant any suggestions, recommendations, or other factors that the Board finds prudent and necessary.

#### **4.1.4 Time Limits Not Applicable**

If an Applicant elects to undertake a Preliminary Consultation, it is hereby declared that no processing time limits shall apply as defined in RSA 676:4. Such statutory time limits shall apply only when a formal application is submitted in accordance with Section 42 of these Regulations.

### **4.2 FORMAL APPLICATION REVIEW PROCESS**

Whether or not a Preliminary Consultation has been conducted, an Applicant shall prepare and submit a formal application for Site Plan Review approval in accordance with the standards set forth in these Regulations. The date of the Planning Board meeting which receives and accepts this formal application will become the official date of filing of the application.

This formal review process is designed to afford the Planning Board, the Applicant, Abutters, and parties in interest a clearly delineated method for examining the proposed Site Plan. This allows the Planning Board to make a timely and informed decision on the proposal.

#### **4.2.1 Submission Period**

An application for Site Plan Review approval shall be submitted to the Secretary of the Planning Board at least twenty-two (22) days in advance of a regularly scheduled Planning Board meeting. The exhibits to be submitted are described in Section 4.2.2 below.

#### **4.2.2 Exhibits Required at Time of Submission**

The Applicant shall submit the following information when a formal application is made for Site Plan Review approval. The Planning Board shall determine whether or not the application is complete at its next regularly scheduled meeting.

- A** A completely filled out form entitled "Application for Site Plan Review." Forms may be obtained at the Town Office or from the Town website.
- B** A list and two (2) sets of mailing labels containing the names and addresses of the Applicant, all owners and Abutters (obtained from the Town records not more than five (5) days before the date of submittal of the application), holders of conservation, preservation, or agricultural preservation restrictions, and all persons whose professional seal appears on any document submitted to the Board.
- C** Four (4) complete sets, (six (6) complete sets of final plat plus one (1) Mylar if plat is to be recorded) of blackline or blue-line prints drawn to scale and ten (10) 11"x17" sets of plans including the following:
  - 1** Sheet size of 22" x 34" preferred, but a maximum of 24" x 36" allowed.
  - 2** Scale appropriate to size of project and consistent throughout.
  - 3** Space for the Planning Board Chairperson to sign and date the approved plan.
  - 4** The plans shall contain the data and/or information delineated in Section 4.3 of these regulations.
- D** All required filing fees and notice costs per Section 4.2.3.
- E** Any supporting documentation necessary to explain the proposed plan to the Planning Board, Abutters, and the general public.

### 4.2.3 Fees and Charges

The Applicant shall pay the following fees and charges as are applicable:

- A Filing Fee.** The applicant will pay a filing fee of \$50.00 for the first \$50,000 of construction costs. In addition, there shall be an additional charge of \$1.00 for each \$1,000.00 of construction costs over \$50,000.00 up to a maximum fee of \$500.00.
- B Notice Costs.** The Applicant will pay \$15.00 for public notice and \$5.00 per Abutter and per Applicant for the costs of all notice requirements including postage for certified mail, reproduction and publication and/or posting.
- C Special Investigative Costs.** The Planning Board will require the Applicant to pay reasonable costs for special investigative studies which may be necessary for the Planning Board to evaluate the impact of proposed development. These studies may include, but not be limited to, an engineering review of proposed road construction and drainage designs. The Planning Board shall determine the methods for the conduct of the study and shall determine who is to conduct the studies under what condition.
- D Site Inspections.** The Applicant will be required to pay the cost of employing the Town Engineer or Building Code Officer to perform site inspections and any special tests deemed necessary by the Planning Board or Engineer.
- E Recording Fees.** Recording fees, if applicable shall be paid by the Applicant.

### 4.3 DATA REQUIRED

The following data or information is required on the Site Plan(s) or as part of the submission package showing existing and proposed features as described:

#### 4.3.1 Identifying Information

- A** Location of site, current names and addresses of developer, owners of record, and abutting land owners, zoning district, tax map and deed references.
- B** Name and address of person or firm preparing the plan, the scale of the plan, North arrow, date, and name and address of person or firm preparing other data and information if different from the preparer of the plan.

#### 4.3.2 Existing Conditions Data

The following existing site data shall be prepared and stamped by a New Hampshire licensed land surveyor or registered professional engineer, unless not appropriate for the specific project:

- A** The boundary lines of the area included in the site, including angles or bearings of the lines, dimensions and the lot area.
- B** Plan of the site showing existing natural features including watercourses and water bodies, trees and other significant vegetation, topographic features, and any other features which should be considered in the site design process.
- C** The existing grades, drainage systems, structures and topographic contours at intervals not exceeding two (2) feet with spot elevations where grade is less than three percent (3%).
- D** The shape, size, height and location of existing structures located on the site and within 200 feet of the site.
- E** All Easements and Rights of Way.
- F** Man-made features such as, but not limited to, existing roads, stonewalls, landscaping features, and structures indicating which of such features are to be retained and which are to be removed or altered.
- G** Abutting properties with approximate location of structures thereon including access roads.
- H** The size and location of all existing utilities, including but not limited to, wells, sewage disposal systems and utility poles, located on the site and within 100 feet of the site and the location and size of existing utilities to which connection is planned.
- I** A vicinity sketch (no smaller than one (1) inch equals 1000 ft.) showing the location of the site in relation to the surrounding public street system and the zoning districts and boundaries for the site and within 1,000 feet of the site. One hundred year flood elevation contour shall be included within floodplains.
- J** Soils map showing all soil types and delineating wetlands as defined by Tuftonboro Zoning Ordinance, Section XI.

#### **4.3.3 Proposed Plans**

The following site data for the proposed development shall be provided by a Licensed Land Surveyor, Professional Engineer and/or Architect, as appropriate, registered in the State of New Hampshire:

- A** Proposed grades, topographic contours at intervals not exceeding two (2) feet with spot elevations where the grade is less than three percent (3%).
- B** Plan view of the shape, size, height and location of the proposed structures, including expansion or other alterations of existing buildings.

- C** The location, size, direction of travel, if appropriate, curbing, paving and the radii of all streets, driveways, access ways, and sidewalks within the site and its relationship to the off-site street system.
- D** The size, location and layout of all on-site parking and loading facilities.
- E** The size and location of all public and private utilities including water lines, sewage facilities, gas lines, power lines, telephone lines, fire alarm connections, and other utilities.
- F** A storm drainage plan, performed by a Professional Engineer, registered in the State of New Hampshire, including a plan for the retention and slow release of storm water where necessary, together with supporting calculations.
- G** The location, type, and size of all proposed landscaping and screening as well as a plan for the retention of existing significant natural features (open spaces, green areas, etc.) on the site.
- H** The location, size, and design of proposed signs and other advertising or instructional devices.
- I** The location, type, and design of outdoor lighting.
- J** Surveyed property lines showing their bearings and distances and showing monument locations.
- K** Construction details, including but not limited to pavement, walks, steps, curbing, drainage structures, and erosion and sedimentation control techniques.
- L** Any other exhibits or data that the Planning Board may require in order to evaluate adequately the proposed development including, but not limited to:
  - 1** Calculations relating to storm water runoff.
  - 2** Information on the composition and quantity of wastewater generated.
  - 3** Information on air, water, or land pollutants discharged.
  - 4** Estimates of noise generation.
- M** **Traffic Impact Analysis:** All proposed commercial, industrial or residential development shall be reviewed by the Planning Board to ascertain that adequate provisions have been made by the owner or his/her authorized agent for traffic safety. To facilitate this review, the Planning Board may require the developer to provide a traffic impact analysis due to the size, location or traffic-generating characteristics of the development.

Traffic impact analyses shall address each of the following:

- 1 Traffic circulation and access, including adequacy of adjacent street and intersections, entrances and exits, traffic flow, sight distances, accident statistics, curb cuts, turning lanes, and existing or recommended traffic signalization.
- 2 Pedestrian safety and access.
- 3 Off-street parking and loading.
- 4 Emergency vehicle access.
- 5 Off-site improvements necessitated and to be constructed by the developer.

#### **4.3.4 Other Permits**

The Applicant may be required to secure permits from other levels of government as part of the approval process. The Applicant may submit approvals in any logical order. However, the Site Plan will not receive final approval until evidence is placed in the record that all other required federal, state and local permits have been obtained.

#### **4.4 FORMAL REVIEW PROCEDURE**

If, at its next regularly scheduled meeting, the application is found to be complete in accordance with Section 4.2.2 of these Regulations, then the Planning Board shall:

- A Note that it accepts the application for consideration by the Board.
- B Begin formal consideration of the application within thirty (30) days after the date of acceptance.
- C Act to approve or disapprove the application within sixty-five (65) days after the date of acceptance, unless an extension of time for action is granted.
- D Not take any action to approve or disapprove the application, until a public hearing on the application is held in accordance with the procedures in Section 4.4.1.

##### **4.4.1 Public Hearing and Notice**

The Planning Board, before taking action on the proposed development, shall hold at least one public hearing thereon. The Planning Board shall take testimony from the Applicant, Abutters, and parties in interest to the proposal either in person or in writing.

The Applicant and Abutters shall be notified of the public hearing and the time and place of such hearing by certified mail, not less than ten (10) days before the date of

the hearing. In addition, notice to the general public of the public hearing shall be posted in the Town Office at least ten (10) days before the date fixed for the hearing.

#### **4.5.1 Time For Approval/Disapproval**

The Planning Board shall act to approve, conditionally approve or disapprove the application within sixty-five (65) days of the formal acceptance as determined in Section 4.4.

The Planning Board may apply to the Board of Selectmen for an extension not to exceed ninety (90) days before acting to approve or disapprove an application. The Applicant may waive the requirement for Planning Board action within the time periods specified and consent to such extension as may be mutually agreeable.

Upon failure of the Planning Board to approve or disapprove within sixty-five (65) days (or within additional days, if granted by the Selectmen), the Applicant may obtain from the Selectmen an order directing the Planning Board to act within thirty (30) days.

Failure of the Planning Board to act upon such order shall constitute grounds for action in the Superior Court in accordance with RSA 676:4.

#### **4.5.2 Decision of the Board**

After the public hearing(s) at which testimony is presented by the Applicant, Abutters, and parties in interest, the Planning Board at a public meeting shall issue a decision on the application. The decision may be any one of the following:

##### **A Approval With or Without Conditions**

If the Board finds that the proposal meets the standards of these Regulations and other applicable State and local laws, then the Board may approve the application.

The Board may attach reasonable conditions to ensure that the public interest is upheld. Such conditions which are administrative in nature and do not involve discretionary judgment may include, but are not limited to, the following:

- 1** The posting of a performance guarantee in an amount and under the conditions satisfactory to the Planning Board.
- 2** The execution of a written agreement stating the nature, conditions, and time for performance of the approved application.
- 3** The phasing of the development approval providing that the portions approved and portions to be approved subsequently are clearly delineated on the documents to be filed with the Carroll County Registry of Deeds.

- 4 Any other conditions that the Planning Board finds necessary to secure the public interest.
- 5 The filing of permits required by other local, State and/or Federal agencies.
- 6 The payment of off-site improvements to road and/or utilities to the extent that the development creates a burden on such facilities in accordance with Section 7.5 of these regulations.

If conditions requiring discretionary judgment are imposed, the Planning Board shall hold another public hearing with notice to determine if the conditions have been met.

### **B Table**

If the Planning Board finds that certain administrative/procedural requirements have not been met or additional investigative studies are needed, the Planning Board may table the application to a time certain.

If such a finding is made, the Planning Board shall advise the Applicant in writing what is necessary to correct the administrative/procedural defect or what investigative studies are needed.

### **C Disapproval Without Prejudice**

In the event that defects found in the application can be remedied, a disapproval shall be “without prejudice” and a revised application may be submitted at any time. If a revised application is submitted after a vote of disapproval, it shall be treated as a new application and shall follow the same procedures spelled out in these Regulations.

If such a finding is made, the Planning Board shall advise the Applicant in writing what is necessary to correct the administrative/procedural defect.

### **D Disapproval**

If the Planning Board finds that the application does not meet the standards of these Regulations, or fails to comply with other local or State laws, or will have an adverse impact on surrounding areas or the community, the Planning Board may disapprove the application.

In the event of disapproval, the grounds for disapproval shall be specified in the records of the Board and communicated to the applicant in writing.

#### **4.5.3 Filing of Actions**

Copies of all Board actions under this Section shall be filed with the Board of Selectmen.

## **SECTION V DESIGN AND CONSTRUCTION REQUIREMENTS**

The layout of the proposed site plan is subject to the requirements and provisions of these Regulations. See also "Zoning Ordinance and Floodplain Development Ordinance, Tuftonboro, N.H."

### **5.1 ACCESS DESIGN**

Traffic access to the site from Town streets must ensure the safety of vehicles and pedestrians.

- A** The Planning Board must give its approval of the design for a proposed access/egress point onto the public way, which point shall provide adequate sight distance, grade, width and curb. In all cases, the number of points of access to a given street shall be held to a minimum, preferably one, in order to reduce traffic hazards from turning movements and installation of traffic control devices.
- B** The Planning Board may require improvement of existing access/egress point(s) to provide safe flow onto abutting Streets should increased traffic be generated by the development.
- C** Any approval or requirements above shall in no way be in lieu of or superior to any approval or permit which may be granted by the State of New Hampshire Department of Transportation in any case where that body has preemptive jurisdiction.
- D** Off-site improvements may be required, such as pavement width, deceleration and acceleration lanes, curbing or signal devices.
- E** Traffic circulation, pedestrian access, parking and loading facilities, emergency and fire access shall be designed and located to ensure safety on the site.
- F** Parking areas and drives shall be paved if public use is intended; however, the Planning Board may waive or modify paving to reduce runoff.
- G** Access to public streets will meet the requirements of the New Hampshire Department of Transportation and/or the Town, as adopted and amended, and shall conform to whichever standards are higher.

### **5.2 LANDSCAPING AND SCREENING**

- A** Landscaping and screening must be provided with proper regard to adjacent properties, the public highway and within the site, including interior landscaping of parking areas.
- B** Buffer strips of at least twenty-five (25) feet minimum width, or more if required by the Zoning Ordinance, must be provided where a proposed nonresidential

development abuts residential properties. Where appropriate, existing vegetative growth must be incorporated into the buffer strips or landscaping design. Buffer strips must contain vegetation which will screen the view from adjacent residential property during all seasons.

- C** A landscaping plan must be submitted and approved, showing locations and types of vegetation to be retained or established.

### **5.3 STORM DRAINAGE**

- A** An adequate surface storm water drainage system must be provided. Storm drainage shall be carried to existing watercourses, or connect to existing storm drains to the maximum extent feasible. No increase in surface runoff shall be permitted if such increased runoff may cause an adverse effect on adjacent properties.
- B** Storm sewers and drainage facilities must be based upon a design flow with a minimum return interval of a 10 year / 24 hour storm. Retention structures, such as holding ponds, sedimentation ponds, etc., must be designed to 50 year / 24 hour storm standards, in accordance with the Soil Conservation Service handbook entitled, "Urban Hydrology for Small Watersheds, Technical Release #55," as amended.

### **5.4 FLOOD CONTROL**

Provision shall be made to assure that the proposal is consistent with the need to minimize flood damage, that all public utilities and facilities, such as sewer, electrical and water systems, are constructed and that adequate drainage is provided so as to reduce exposure to flood hazards. Design provisions shall also be made to minimize or eliminate infiltration of flood waters into new or replacement water supply systems and/or sanitary sewage systems and discharges from these systems into floodwaters. On-site waste disposal systems shall be located so as to avoid impairment to them or contamination from them during flooding.

### **5.5 SNOW STORAGE**

Provision shall be made to store snow accumulation during the winter months, and such provisions shall be shown on the site plan.

### **5.6 SOLID WASTE DISPOSAL SCREENING**

The manner of waste disposal must be specified on the site plan and include areas for safe disposal. Litter and/or garbage collection and holding areas must be secured. All outdoor storage areas and trash receptacles must be located or screened to prevent visibility from neighboring properties. In addition, such design shall be sufficient to contain all litter. The use of either fencing or hedges is permitted for the foregoing purposes. However, as a condition of approval, the Planning Board may require earth berms and plantings of shrubs and/or trees.

## 5.7 SIDEWALKS

At the discretion of the Board, sidewalks may be required for pedestrian traffic to permit passageways between the entrances of commercial, housing or industrial establishments, and parking areas. All such sidewalks must be at least six (6) inches above grade and protected by curbing. The design shall comply with State and/or Federal guidelines for handicap accessibility and construction shall comply with 4.5.1 of Tuftonboro Subdivision Regulations.

## 5.8 ILLUMINATION

It is the intent of these Regulations to preserve, protect and enhance the lawful nighttime use and enjoyment of any and all property through the use of appropriate lighting practices and systems. Light pollution, a term describing the cumulative effects of inappropriate outdoor lighting, results in glare, sky glow, wasted energy, and, if not controlled, it can alter the rural character of Tuftonboro. Appropriately designed and properly installed outdoor lighting contributes to the safety and welfare of residents and visitors alike.

Individual fixtures and lighting systems shall be designed, constructed and installed so as to: control Glare and light trespass, minimize obtrusive light, conserve energy and resources while maintaining safety, security and productivity, and curtail the degradation of the nighttime visual environment.

### 5.8.1 Definitions

**Cut-off Angle (of a Luminaire):** The angle, measured up from the nadir, between the vertical axis and the first line of sight at which the bare source is not visible.

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

**Footcandle:** A unit of Illuminance amounting to one Lumen per square foot.

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

**Fully Shielded:** A fully shielded Luminaire is a Luminaire constructed or shielded in such a manner that all light emitted by the Luminaire, either directly from the lamp or indirectly from the Luminaire, is projected below the horizontal plane through the Luminaire's lowest light emitting part as determined by photometric test or certified by the manufacturer.

**Glare:** The sensation produced by luminance (within the visual field) that is sufficiently greater than the luminance to which the eyes are adapted and causes annoyance, discomfort, or loss in visual performance and visibility. Glare is excessive brightness that makes it difficult to see or that causes discomfort.

**Illuminance:** The quantity of light, or luminous flux, arriving at a surface divided by the area of the illuminated surface, measured in Lux or Footcandles.

**Indirect Light:** Direct light that has been reflected or has scattered off other surfaces.

**Light Trespass:** Light emitted by a lighting installation which falls outside the boundaries of the property on which the installation is sited.

**Lumen:** A unit of luminous flux. One Footcandle is one Lumen per square foot. For the purposes of these regulations, the Lumen output values shall be the initial Lumen output ratings of a lamp.

**Luminance:** The physical quantity corresponding to the brightness of a surface (e.g. a lamp, Luminaire, sky or reflecting material) in a specified direction. It is the luminous intensity of an area of the surface divided by that area. The unit is candela per square meter.

**Luminaire:** A complete lighting unit consisting of a lamp or lamps together with the parts designed to distribute the light, to position and protect the lamps and to connect the lamps to the power supply.

**Lux (lx):** the SI unit of Illuminance. One Lux is one Lumen per square meter.

**Obtrusive Light:** Spill light which, because of a quantitative, directional or spectral context, gives rise to annoyance, discomfort, distraction or a reduction in the ability to see essential information.

**Outdoor Lighting:** The night time illumination of an outside area or object by any man made device that produces light by any means.

**Spill light:** Light emitted by a lighting installation that falls outside the boundaries of the property on which the installation is sited.

## 5.8.2 Outdoor Lighting Design Factors

- A** Any Luminaire with a lamp or lamps rated at a total of more than 1800 Lumens and all flood or spot lights with a lamp or lamps rated at a total of more than 900 Lumens shall not emit any direct light above a horizontal plane through the lowest direct light emitting part of the Luminaire.
- B** Any Luminaire with a lamp or lamps rated at a total of more than 1800 Lumens and all flood or spot lights with a lamp or lamps rated at a total of more than 900 Lumens shall be mounted at a height equal to or less than the value  $3 + (D/3)$  where D is the distance in feet to the nearest property boundary. The maximum height of the Luminaire shall not exceed 20 feet.
- C** Any Luminaire with a lamp or lamps rated at 1800 Lumens or less and all flood or spot lights with a lamp or lamps rated at 900 Lumens or less may be used without

restriction to light distribution or mounting height except that if any flood or spot light is aimed, directed or focused such as to cause direct light from the Luminaire to be directed toward residential buildings on adjacent or nearby land or to create Glare perceptible to pedestrians or persons operating motor vehicles on public ways, the Luminaire shall be redirected or its light output controlled as necessary to eliminate such conditions.

- D** All hazard warning Luminaires required by State or Federal regulatory agencies are exempt from these requirements except that all such Luminaires used must be red and must be shown to be as close as possible to the State or Federally required minimum Lumen for the specific task.
- E** New outdoor lighting installations and expansions to outdoor lighting installations (including expansion of luminance) shall be designed to avoid harsh contrasts in color and/or lighting levels.
- F** Electrical service to outdoor lighting fixtures shall be underground unless the fixtures are mounted directly to utility poles.
- G** Outdoor lighting shall be kept to the minimum required for sign illumination and safety and security of the property. Whenever practicable, outdoor lighting installations shall include timers, dimmers, and/or sensors to reduce the overall energy consumption and eliminate unneeded lighting.
- H** All light sources shall be shielded so that they will not create a nuisance or hazard caused by Glare to neighbors, pedestrians, or drivers.
- I** Moving, fluttering, blinking, or flashing lights or signs shall not be permitted, except as temporary seasonal holiday decorations. Signs may be illuminated only by continuous white light with illumination confined to the area of the sign.

## **5.9 PARKING AREAS AND ACCESS DRIVES**

Drives and parking areas must be constructed to the following specifications:

- A** Loam and/or yielding material must be removed to a depth of no less than fourteen (14) inches below finished grade.
- B** A bank run gravel sub-base of six (6) inches must be applied or compacted, followed by a six (6) inch base of crushed gravel, then compacted and rolled true to grade lines with a roller weighing not less than 12 tons.
- C** The minimum grade for parking areas shall be one percent (1%); the maximum grade shall be five percent (5%).

## **D Finish Course**

- 1** A one (1) inch binder course and a one (1) inch wearing surface of bituminous concrete pavement must be installed with a self-propelled mechanical spreader and rolled by a tandem roller with not less than 285 pounds per inch of wheel width, OR
- 2** If appropriate, permeable pavement may be used which would promote groundwater replenishment and minimize dust, erosion, and runoff conditions that could have a detrimental effect on abutting or neighboring properties.

### **5.10 WATER AND SEWER SERVICE**

In areas of the Town where municipal water and sewer service is not provided, water supply and sewage disposal systems must be sized to meet the needs of the proposed use. Percolation tests and design of disposal systems shall comply with the Town of Tufonboro Subdivision Regulations and all applicable State standards and regulations.

### **5.11 FIRE PROTECTION**

Buildings to be used as Dwelling Units or by the public must contain an adequate fire alarm/warning system. Such fire alarms shall be indicated on the plans, installed by the applicant, and reviewed and approved by the Fire Chief. The Planning Board in consultation with the Fire Department, may in its discretion, require the installation of fire ponds and/or fire hydrants to provide fire protection for the project.

### **5.12 EROSION AND SEDIMENTATION PLANS**

The plan must provide methods to control erosion and sedimentation subject to the following provisions:

- A** Provision must be made to accommodate the increased runoff caused by changed soil and surface conditions during and after development. Sediment in the runoff water shall be trapped by the use of sediment basins or other acceptable methods until the disturbed area is stabilized. Diversions, sediment retention basins, and other such devices shall be constructed prior to any on-site grading or disturbance of existing surface material.
- B** The control plan must show measures both during construction and any permanent controls to remain after construction.
- C** The Site Plan must identify, locate and show elevation, grades and/or contours at intervals of not more than two (2) feet for the existing and proposed drainage ways, drainage easements, drainage structures and water bodies.
- D** Stripping of vegetation, re-grading or other development shall be done in such a way that will minimize soil erosion. The disturbed area shall be kept to a minimum and the duration of exposure shall be a maximum of six (6) months.

Temporary seedlings and/or mulching shall be used to protect exposed critical areas during development. Whenever practical, natural vegetation shall be retained, protected and supplemented.

- E A timing schedule shall be submitted indicating the anticipated starting and completion dates of the measures and the sequence and time of exposure of each area.

### **5.13 STREET CONSTRUCTION**

Streets and parking areas serving nonresidential and multi-family developments (unless a public roadway such as in an industrial park) shall remain in private ownership, and the applicant shall execute and provide legal instruments to insure their continued maintenance and ownership, with any such instruments being subject to approval by the Town Attorney.

**5.13.1 Design** The Applicant for Site Plan Review approval shall bear the burden of proof for the type of Street required by the application so that the Planning Board may determine the appropriate construction standards. The Applicant shall submit data explaining:

- A. What are the project's specific goals and how will the proposed design meet those needs?
- B. What design speed has been assumed? Why is it appropriate?
- C. What effect will this development have on existing Streets?
- D. What increases in traffic volume have been assumed? What is their basis?
- E. What impacts could be avoided if a lower design speed and lower sight distances were assumed?
- F. Since, in general, on-street parking is not permitted, how will the project design discourage on-street parking?
- G. What provisions have been made for pedestrians and bicyclists?
- H. Is the Street intended to become a town road or to remain private?

**5.13.2 Curbing** The Planning Board, in its discretion, may require the installation of curbing on Streets in order to channel surface water, to control vehicular traffic, to separate vehicular from pedestrian areas and/or to enhance the quality of the project. Curbing shall meet standards as set forth by the Town in accordance with accepted construction standards.

**5.13.3 Sidewalks** The Planning Board, in its discretion, may require the Applicant to install a sidewalk of a minimum of four (4) feet in width along each Residential Access Street in or adjacent to the project if it is likely that a reasonable amount of pedestrian traffic will use such sidewalks.

**5.13.4 Drainage Improvements** The Planning Board may require the Applicant to provide engineering studies to determine the effect of the project on adjacent properties and/or the existing downstream drainage facility(ies) outside the project boundaries. Where it is determined that the additional run-off incident to the development will affect adjacent property(ies) and/or overload existing downstream drainage facility(ies), the Planning Board may require the provision of water retarding/retention facilities, flowage easement, or other improvements to alleviate such problem.

#### **5.14 OFF-STREET PARKING**

All new structures and developments as well as additions to or changes in use of existing structures shall be provided with off-street parking spaces in accordance with the Tufonboro Zoning Ordinance

### **SECTION VI TELECOMMUNICATIONS FACILITY SITE REQUIREMENTS**

**6.1** In reviewing and approving the site plan, and in addition to other provisions contained herein, the Planning Board may impose conditions to the extent the Board concludes such conditions are necessary to minimize any adverse impact of the proposed facility on adjoining properties and preserve the intent of this ordinance. The following factors are to be considered when reviewing the application:

- A** Height and size of proposed facility or other structure, including antennas.
- B** Proximity of facility to residential development or zones and schools.
- C** Nature of uses on nearby and adjacent properties.
- D** Impact on identified historic uses.
- E** Surrounding topography.
- F** Surrounding tree cover and foliage.
- G** Design of the facility, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness.
- H** Proposed ingress and egress to the site.

- I Availability of suitable existing facilities and other structures as discussed in Section 13 of the Zoning Ordinance.

## **6.2 SUBMISSION REQUIREMENTS FOR TELECOMMUNICATIONS FACILITIES**

Each applicant requesting Site Plan Review approval for a telecommunication facility shall submit a plan in accordance with the requirements of the Zoning Ordinance, the Subdivision Regulations and the Site Plan Review Regulations. In addition, the applicant shall submit the following prior to any approval by the Board:

- A Names and addresses and other data required for regional notification pursuant to RSA 12:K:7. In addition, the applicant will provide a copy of the federal license from the FCC proving that they or their contracted client are eligible to deploy their system in this geographical area under the Federal Telecommunications Act of 1996.
- B Additional plat information: a scaled elevation view, topography, radio frequency coverage, facility height requirements, setbacks, access drives, parking, fencing, landscaping and adjacent uses (up to 200 feet away).
- C Written proof that the proposed use/facility complies or will comply with Federal Communications Commission (FCC) regulations on radio frequency (RF) exposure guidelines. Written proof that the facility will not generate more noise than 50 db at ground level at the property line.
- D Written proof that an evaluation has taken place, as well as the results of such evaluation, satisfying the requirements of the National Environmental Policy Act (NEPA) further referenced in applicable FCC rules.
- E An inventory of the existing facilities that are within the jurisdiction of the Town and those within five (5) miles of the border of the Town, including specific information about the location, height, and design of each facility, as well as economic and technological feasibility for collocation on the inventoried facilities. The Planning Board may share such information with other applicants applying for approvals or conditional use permits under this ordinance or with other organizations seeking to locate antennas within the jurisdiction of the Town.
- F Written evidence demonstrating that no existing structure can accommodate the applicant's proposed antenna if the applicant is proposing to build a new facility. This evidence may consist of an analysis of the location, height, strength, potential interference, and collocation costs which would make collocation impractical.
- G A written agreement with the Town specifying that the applicant agrees to provide for maximum shared use of the facility with other telecommunication providers and with governmental agencies at industry standard lease rates. The applicant shall also provide notice to all commercial carriers in the region that a new facility is to be erected and that an opportunity for collocation exists.

- H A viewshed analysis to include, at a minimum, a balloon test and/or crane test of at least three days duration accurately simulating the height and location of the proposed facility. Public notice shall be given of the date and time of such test not less than 10 days prior to the test. The applicant shall provide documentation of such test including photographs taken from locations around the town and within 20 miles from where the balloon or crane is visible.
- I Engineering information detailing the size and coverage required for the facility location. The Planning Board may have this information reviewed by a consultant for verification of any claims made by the applicant regarding technological limitations and feasibility for alternative locations. Cost for this review shall be borne by the applicant in accordance with RSA 676:4(g).
- J Any other information deemed necessary by the Planning Board to assess compliance with Section 13 of the Zoning Ordinance.

### **6.3 CONSTRUCTION PERFORMANCE REQUIREMENTS**

The guidelines in this section shall govern the location of all telecommunications facilities.

#### **6.3.1 Aesthetics and Lighting**

**6.3.1.1** Towers shall be maintained in a neutral, non-reflective color so as to reduce visual obtrusiveness.

**6.3.1.2** The design of the buildings and related structures at a facility site and supporting equipment on structures other than a tower shall use materials, colors, textures, screening, and landscaping that will blend the facilities with the natural setting and built environment.

**6.3.1.3** Towers shall not be artificially lighted, unless required by the Federal Aviation Administration or other applicable authority. If lighting is required, the Planning Board may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding properties and viewsheds. For other outdoor lighting requirements, see Section 6.8 herein.

**6.3.1.4** Towers shall not contain any permanent or temporary signs, writing, symbols, or any graphic representation of any kind unless required by state or federal laws or for safety purposes.

**6.3.1.5** Upon request, a description of why less visually intrusive alternatives for this facility were not proposed.

### **6.3.2 Security Fencing**

Ground mounted telecommunications facilities shall be enclosed by decay-resistant security fencing not less than 6 feet in height and shall also be equipped with an appropriate anti-climbing device or other similar device to prevent facility access and which creates a security barrier.

### **6.3.3 Landscaping**

**6.3.3.1** Ground mounted telecommunications facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the facilities from adjacent residential property. The standard buffer shall consist of a landscaped strip of at least 10 feet wide outside the perimeter of the security barrier.

**6.3.3.2** Natural vegetation is preferred, and existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible.

**6.3.3.3** In locations where the visual impact of the facility would be minimal or where natural growth provides a sufficient buffer, the landscaping requirement may be reduced or waived entirely.

## **6.4 BUILDING CODES AND SAFETY STANDARDS**

To ensure the structural integrity of telecommunications facilities, the owner shall ensure that a facility is maintained in compliance with standards by the International Code Council. Failure to bring a facility into compliance within 30 days of notice being provided to the owner by the Town shall constitute abandonment and grounds for removal of the facility in accordance with Section 13 of the Zoning Ordinance.

## **6.5 FEDERAL AND STATE REQUIREMENTS**

All telecommunications facilities must meet or exceed current standards and regulations of the Federal Aviation Administration, the Federal Communications Commission, and any other agency of the federal government with the authority to regulate towers and antennas. Failure to bring telecommunication facilities into compliance with revised standards and regulations within six (6) months of their effective date shall constitute grounds for the removal of the facility in accordance with Section 13 of the Zoning Ordinance. After construction is complete and the facility is operational, upon request the facility owner or operator shall provide the Town with written proof of compliance with all federal and state statutes, rules and regulations, including federal radio frequency emission regulations and the National Environmental Policy Act of 1969, as amended.

## SECTION VII SMALL WIND ENERGY SYSTEMS

### 7.1 Authority and Purpose

This small wind energy systems ordinance is enacted in accordance with RSA 674:62-66, and the purposes outlined in RSA 672:1–III-a. The purpose of this ordinance is to accommodate small wind energy systems in appropriate locations, while protecting the public’s health, safety and welfare. In addition, this ordinance provides a permitting process for small wind energy systems to ensure compliance with the provisions of the requirements and standards established herein.

### 7.2 Definitions

**7.2.1 Meteorological tower (met tower).** A temporary tower which includes the tower, base plate, anchors, guy wires and hardware, anemometers (wind speed indicators), wind direction vanes, booms to hold equipment for anemometers and vanes, data loggers, instrument wiring, and any telemetry devices that are used to monitor or transmit wind speed and wind flow characteristics over a period of time for either instantaneous wind information or to characterize the wind resource at a given location. For the purpose of this ordinance, met towers shall refer only to those whose purpose is to analyze the environmental factors needed to assess the potential to install, construct or erect a small wind energy system.

**7.2.2 Modification.** Any changes to the small wind energy system that materially alters the size, type or location of the small wind energy system. Like-kind replacements shall not be construed to be a modification.

**7.2.3 Net metering.** The difference between the electricity supplied to a customer over the electric distribution system and the electricity generated by the customer’s small wind energy system that is fed back into the electric distribution system over a billing period.

**7.2.4 Power grid.** The transmission system, managed by ISO New England, created to balance the supply and demand of electricity for consumers in New England.

**7.2.5 Shadow flicker.** The visible flicker effect when rotating blades of the wind generator cast shadows on the ground and nearby structures causing a repeating pattern of light and shadow.

**7.2.6 Small wind energy system.** A wind energy conversion system consisting of a wind generator, a tower, and associated control or conversion electronics, which has a rated capacity of 100 kilowatts or less and will be used primarily for onsite consumption.

**7.2.7 System height.** The vertical distance from ground level to the tip of the wind generator blade when it is at its highest point.

**7.2.8 Tower.** The monopole, guyed monopole or lattice structure that supports a wind generator.

**7.2.9 Tower height.** The height above grade of the fixed portion of the tower, excluding the wind generator.

**7.2.10 Wind generator.** The blades and associated mechanical and electrical conversion components mounted on top of the tower whose purpose is to convert kinetic energy of the wind into rotational energy used to generate electricity.

### **7.3 Procedure for Review**

**7.3.1 Permits.** Small wind energy systems and met towers are an accessory use permitted in all zoning districts where structures of any sort are allowed. The installation or modification of a small wind energy system or met tower shall require a building permit from the building inspector and a Conditional Use Permit from the Planning Board. The permits shall be applied for simultaneously. The Planning Board shall prepare a single permit application for this purpose. Met towers shall be permitted on a temporary basis, not to exceed three (3) years from the date of the issuance of the building permit.

**7.3.2 Conditional Use Permit.** Conditional Use Permit applications shall be processed in accordance with the Town of Tuftonboro Site Plan Review Regulations. Upon the request of the applicant, the Planning Board may grant waivers to its requirements for soils mapping, surface water drainage plans and storm drainage plans where such plans are not necessary in order to evaluate the application. Applications for a building permit and Conditional Use Permit shall include the following information:

- A.** A site plan stamped by a professional engineer or land surveyor, licensed by the State of New Hampshire, showing:
  - 1. Property lines and physical dimensions of the applicant's property.
  - 2. Location, dimensions and types of existing major structures on the property.
  - 3. Location of the proposed small wind energy system, foundations, guy anchors and associated equipment.
  - 4. Setback requirements as outlined in this ordinance.
  - 5. The right of way of any public road that is contiguous to the property.
  - 6. Any overhead utility lines.
  - 7. Any wetland, marsh, stream, pond or other water body within 150 feet of the tower.
- B.** Small wind energy system specifications, including manufacturer, model, rotor diameter, tower height, tower type, nameplate generation capacity.

- C. Small wind energy systems that will be connected to the power grid shall include a copy of the application for interconnection with their electric utility provider.
- D. Tower foundation blueprints or drawings.
- E. Tower blueprints or drawings.
- F. Sound level analysis prepared by the wind generator manufacturer or qualified engineer.
- G. Electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the NH State Building Code.
- H. Evidence of compliance or non-applicability with Federal Aviation Administration requirements.
- I. List of abutters.

**7.3.3 Abutter and Regional Notification.** In accordance with RSA 674:66, the building inspector shall notify all abutters and the Board of Selectmen by certified mail upon receipt of an application for a building permit to construct a small wind energy system. The public shall be afforded 30 days to submit comments to the building inspector prior to the issuance of a building permit. The building inspector's notice may be mailed concurrently with the Planning Board's notice of its hearing on the Conditional Use Permit.

An application for a small wind energy system shall be reviewed pursuant to RSA 36:56 to determine whether the system will have regional impact as defined in RSA 36:55. If the proposal is determined to have potential regional impacts, the regional planning commission and the affected municipalities shall be notified by certified mail and shall have 30 days to submit comments prior to final action on the applications for a building permit and conditional use permit, as provided in RSA 36:57.

All costs of abutter and regional notifications shall be borne by the applicant.

#### **7.4 Standards**

**7.4.1** Prior to approving an application for a Conditional Use Permit, the Planning Board shall determine that the small wind energy system complies with the following standards:

- A. Setbacks: The setback shall be calculated by multiplying the minimum setback requirement number by the system height and measured from the center of the tower base to property line, public roads, or nearest point of an occupied building.
  - 1. Small wind energy systems must meet all setbacks for structures for the zoning district in which the system is located.
  - 2. Guy wires used to support the tower are exempt from the small wind energy system setback requirements.

### MINIMUM SETBACK REQUIREMENTS

All Buildings on Participating Landowner Property	All Buildings on Abutting Properties	Property Lines of Abutting Property and Utility Lines	Public Roads
0	1.5	1.1	1.5

- B. System:** The maximum system height shall be restricted to 35 feet above the tree canopy within 300 feet of the small wind energy system or 150 feet, whichever is less.
- C. Sound Level:** The small wind energy system shall not exceed 60 decibels using the A scale (dBA), as measured at the site property line, except during short-term events such as severe wind storms and utility outages.
- D. Shadow Flicker:** Small wind energy systems shall be sited in a manner that does not result in significant shadow flicker impacts. Significant shadow flicker is defined as more than 30 hours per year on abutting occupied buildings. The applicant has the burden of proving that the shadow flicker will not have significant adverse impact on neighboring or adjacent uses. Potential shadow flicker will be addressed either through siting or mitigation measures.
- E. Signs:** All signs, including flags, streamers and decorative items, both temporary and permanent, are prohibited on the small wind energy system, except for manufacturer identification or appropriate warning signs.
- F. Code Compliance:** The small wind energy systems shall comply with all applicable sections of the New Hampshire State Building Code.
- G. Aviation:** The small wind energy system shall be built to comply with all applicable Federal Aviation Administration regulations including, but not limited to, 14 C.F.R. part 77, subpart B regarding installations close to airports, and the New Hampshire Aviation regulations including, but not limited to, RSA 422-B and RSA 424.
- H. Visual Impacts:** It is inherent that small wind energy systems may pose some visual impacts due to the tower height needed to access wind resources. The purpose of this section is to reduce the visual impacts without restricting the owner's access to the optimal wind resources on the property.
  - 1. The applicant shall demonstrate through project site planning and proposed mitigation that the small wind energy system's visual impacts will be minimized for surrounding

neighbors and the community. This may include, but not be limited to information regarding site selection, wind generator design or appearance, buffering, and screening of ground mounted electrical and control equipment. All electrical conduits shall be underground, except when the financial costs are prohibitive.

2. The color of the small wind energy system shall either be the stock color from the manufacturer or painted with a non-reflective, unobtrusive color that blends in with the surrounding environment. The owner shall be responsible for maintaining the color of the small wind energy system.
  3. A small wind energy system shall not be artificially lit unless such lighting is required by the Federal Aviation Administration (FAA). If lighting is required, the applicant shall provide a copy of the FAA determination to establish the required markings and/or lights for the small wind energy system.
- I. **Approved Wind Generators:** The manufacturer and model of the wind generator to be used in the proposed small wind energy system must have been approved by the California Energy Commission or the New York State Energy Research and Development Authority, or a similar list approved by the State of New Hampshire, if available.
  - J. **Utility Connection:** If the proposed small wind energy system is to be connected to the power grid through net metering, it shall adhere to RSA 362-A:9.
  - K. **Access:** The tower shall be designed and installed so as not to provide step bolts or a ladder readily accessible to the public for a minimum height of 8 feet above the ground. All ground-mounted electrical and control equipment shall be labeled and secured to prevent unauthorized access.
  - L. **Clearing:** Clearing of natural vegetation shall be limited to that which is necessary for the construction, operation and maintenance of the small wind energy system and as otherwise prescribed by applicable laws, regulations and ordinances.

## **SECTION VIII SUPPLEMENTARY PROVISIONS**

Site Plan Review applications shall also comply with the following provisions:

## **8.1 CONSTRUCTION STANDARDS**

Construction of improvements shall also comply with, and be inspected pursuant to, the requirements of the Building Code of the Town.

Unless otherwise specified on the site plan and approved by the Planning Board, roadway and ancillary improvements shall comply with the State of New Hampshire Department of Transportation manual, "Standard Specifications for Road and Bridge Construction" dated 1974, as amended.

## **8.2 AS-BUILT DRAWINGS**

Prior to the issuance of a Certificate of Occupancy, the applicant shall have prepared by a licensed surveyor or engineer registered in the State of New Hampshire, an "as-built plan" showing the accurate location of all above ground structures, parking, landscape areas and buffer zones. Three prints containing this information shall be submitted to the Planning Board.

In the event that the Planning Board or its agent shall determine that the as-built plans differ in any significant respect from the plans previously approved by the Planning Board, the Board shall decide whether such differences are sufficiently material as to require a re-submission of portions or all of the project plans to the Planning Board under these regulations or any part thereof.

## **8.3 SITE INSPECTIONS**

During the construction of the Development, the developer shall notify the Town Engineer and/or Codes Enforcement Officer to inspect all site improvements at periodic intervals.

## **8.4 MINOR FIELD AMENDMENTS**

If during the course of construction, it becomes necessary to make minor amendments to the development plan, the Applicant may seek approval for the amendments to the Town Engineer. The Town Engineer may approve such amendment providing that the approval does not nullify the intent of these regulations or the plan approved by the Planning Board. The Planning Board shall be notified in writing by the Town Engineer of any changes at the earliest possible date.

## **8.5 OFF-SITE CAPITAL IMPROVEMENTS**

The Planning Board, as a condition of site plan approval, may require the developer to pay proportionally for necessary off-site capital improvements to roads and/or utilities required by the Development. The developer may be required to pay that portion of the cost which bears a reasonable relationship to the needs created by and the special benefits conferred upon the Development. The Planning Board may require the developer to pay for specialized consulting services to ascertain the proportional costs attributable to the developer.

### 8.5.1 Conditions

If off-site improvement costs are required, the following conditions shall apply:

- A The Board must make findings, supported by evidence in the records, that the improvements are required to accommodate the needs generated by the proposed Development; the Board must determine the extent of the needed improvements; the Board must determine the anticipated costs of the improvements (including engineering and administration); and the Board must determine the proportionate share to be paid by the developer.
- B The Board shall establish with the Town Treasurer a dedicated fund into which the off-site improvement funds will be paid by the developer. The funds collected will be used only for the purpose collected.
- C The funds shall be spent or encumbered for the designated purposes within six (6) years of being collected or they shall be returned to the developer with interest paid at prevailing rates.

## SECTION IX AGREEMENTS AND BONDING

### 9.1 SITE REVIEW AGREEMENT

As a condition of the Planning Board's approval, the Applicant must execute a legal agreement which specifies the terms and conditions, and the understandings between the parties with respect to these Regulations. Terms and conditions of the Site Review Agreement shall indicate any stipulation or condition which may be necessary to secure the public health, safety, and welfare and insure compliance with all the Ordinances of the Town of Tufonboro, requirements of the Town's Building Code, and including the posting of a performance and/or guaranty bond to insure that all site development and construction is completed according to the plan approved. No building permit shall be issued until the Site Review Agreement is executed by both parties.

### 9.2 PERFORMANCE GUARANTEES

**9.2.1 Financial Guaranty** The Planning Board may require a performance bond for such facilities that it believes should be bonded, in a form to be approved by the Town Attorney, before any work commences on the Development. The steps for issuing and releasing a performance bond (or other surety) shall be the same as required in the pertinent Zoning Ordinance and Subdivision Regulations, including but not limited to determining the amount, the sufficiency, term and form of the bond (or other surety).

**9.2.2 Maintenance Bond** The Planning Board may require surety covering maintenance of roads and improvements for a period of two (2) years from date of completion, in an amount not to exceed fifteen percent (15%) of said cost of

improvements. If repair or unusual maintenance is needed or additional improvements required, then such costs shall be borne by the applicant or sought from said surety.

**9.2.3 Certificate of Occupancy** No development may be occupied or used unless a Certificate of Occupancy has been issued by the Codes Enforcement Officer. The Codes Enforcement Officer shall not issue such Certificate of Occupancy until these Regulations have been complied with and the improvements made or a performance bond (or other surety) provided to the Town for unfinished improvements.

## **SECTION X WAIVERS**

**10.1** The Planning Board may waive the requirements of these Regulations where it finds that extraordinary hardships, practical difficulties, or unnecessary and unreasonable expense would result from strict compliance with the foregoing terms, or the purposes of these Regulations may be served to a greater extent by an alternative proposal. The purpose of granting waivers shall be to insure that an applicant is not unduly burdened as opposed to merely inconvenienced by the terms of these Regulations. The Board shall not approve any waiver(s) unless a majority of those present and voting shall find that all of the following apply:

- A** The granting of the waiver will not be detrimental to the public safety, health, or welfare or be injurious to other property and will promote the public interest.
- B** The waiver will not, in any manner, vary the provisions of the Zoning Ordinance or Master Plan.
- C** The waiver will substantially secure the objectives, standards and requirements of these regulations.
- D** A particular and identifiable hardship exists or a specific circumstance warrants the granting of a waiver. Factors to be considered in determining the existence of a hardship shall include, but not be limited to:
  - 1** Topography and other site features.
  - 2** Available alternative site locations.
  - 3** Geographic location of the property.
- E** The size/magnitude of the project being evaluated and availability of colocation shall be considered, particularly with regard to telecommunication facilities.

## **10.2 CONDITIONS FOR GRANTING OF WAIVERS**

In granting waivers, the Board may impose such conditions as it deems appropriate to substantially secure the objectives of the standards of the requirements of this and other Town ordinances.

## **10.3 PROCEDURES**

A request for a waiver shall be submitted in writing by the Applicant and shall state fully the grounds for the waiver and all of the facts relied on by the Applicant.

## **SECTION XI AMENDMENTS**

### **11.1 AMENDMENTS**

The Planning Board may from time to time amend these Regulations. Such amendments shall only take effect after a public hearing on the proposed change(s) has been held. The Planning Board shall transmit copies of any regulations, revisions, or amendments thereto, certified by a majority of the Planning Board members, to the Registry of Deeds of Carroll County, the Town Clerk, and the Board of Selectmen.

## **SECTION XII ENFORCEMENT**

### **12.1 ENFORCEMENT PROVISIONS**

These Regulations shall be enforced by the Board or its duly authorized representative. In the event that the Board, or its representative, shall determine that these Regulations have not been complied with, or that the terms of any approval given under these Regulations have not been met or satisfied in a timely fashion, the Board shall have the authority to take such action as it shall deem lawful or necessary including, but not limited to, the revocation of any approval(s) granted, the withdrawal of any building permits which may have been issued, or the withholding of any building permit by request of the Selectmen.

The Board shall notify any offending person, firm or organization by certified mail. This notice shall contain the specifics of the Board's findings and, if necessary, shall contain a cease and desist order.

## **SECTION XIII PENALTIES**

### **13.1 PENALTIES**

Any violation of these Regulations shall be subject to a civil fine of \$275.00. Each day that such violation is found by a court to continue after the conviction date or after the date on which the violator receives written notice from the municipality that he/she is in violation of these Regulations, whichever date is earlier, shall constitute a separate offense.

## **SECTION XIV VALIDITY**

### **14.1 DECLARATION**

If any section, clause, provision or portion of these Regulations is held to be invalid or unconstitutional by any court of competent jurisdiction, such holdings shall not affect or impair any other section, clause, provision or portion of these Regulations.

### **14.2 EFFECTIVE DATE**

These Regulations are effective as of Mar. 8, 1988, on which day they were filed with the Tufonboro Town Clerk and Board of Selectmen.